

PROPOSED MICRO AND SMALL ENTERPRISES (EMPLOYMENT RELATIONS)ACT

(In line with the SMALL ENTERPRISES (EMPLOYMENT RELATIONS)ACT-2002 - As recommended by the Second National Commission for Labour)

Chapter	Sections, subsections as stated in the Small Enterprises (Employment Relation) Act 2002 (SE Act-2002)	COMMENTS for Change in SE Act 2002
Chapter-1	PRELIMINARY	
	1. Short Title, Extent, Commencement and Operation:-	
	1. This Act may be called The Small Enterprises (Employment Relations) Act 2002.	1.This Act may be called the Micro and Small Enterprises (Employment Relations) Act .
	2. It extends to whole of India.	O.K
	3. It shall come into force on _____ or from the date notified by the Central Government in this behalf.	O.K
	4. It shall apply to all establishments or enterprises in which not more than 19 workers are employed.	4.It shall apply to all the Micro and Small Enterprises as defiend in the MSMED Act.2006
	Provided that nothing in this Act shall apply to an establishment of a Government.	O.k
	2. Definitions: - In this Act unless there is anything repugnant in the subject or context	
	a. Appropriate Government in respect of an establishment under this Act shall mean the Government of the State in which the establishment is situated	o.k
	b. Charitable institution: A Charitable institution means an institution which is established for the purpose of charity to any living being or formed for not any profit motive or formed for the welfare of living beings or for preservation of environment or of heritage or for religious purposes.	o.k
	c. Child: Child means a person who has not completed his 14th year of age.	o.k
	d. Day: Day means a period of 24 hours beginning at mid night.	o.k
	e. Worker: Worker means a person who is wholly or principally employed directly for wages or reward in connection with the work of any small enterprise or establishment to which this Act applies but does not include a supervisor or manager.	Worker: Worker means a person who is wholly or principally employed directly for wages or reward in connection with the work of any micro and small enterprise or establishment to which this Act applies but does not include a

		supervisor or manager.
	f. Employer: Employer means an owner or who has the ultimate control over the affairs of the small enterprise or establishment.	f. Employer: Employer means an owner or who has the ultimate control over the affairs of the Micro and small enterprise or establishment.
	g. Establishment: An establishment or enterprise means manufacturing (except of hazardous nature), or mining (except underground mining) activity, plantation, construction, service, transport or other enterprises and include hospitals, dispensaries, nursing homes, restaurants, eating houses, hotels, shops and establishments, charitable, research, training and educational institutions, consultancy and solicitors or lawyer organizations and other professions such as C.As., Architects, etc.	g. Establishment: An establishment or enterprise means manufacturing (except of hazardous nature for which exclusive negative list shall be defined), or mining (except underground mining) activity, plantation, construction, service, transport or other enterprises and include hospitals, dispensaries, nursing homes, restaurants, eating houses, hotels, shops and establishments, charitable, research, training and educational institutions, consultancy and solicitors or lawyer organizations and other professions such as C.As., Architects, etc. OR As defined in MSMED Act 2006
	h. Factory: A factory means a place where any manufacturing process is carried on and wherein not more than 19 workers are employed.	Factory: A factory means a place where any manufacturing process is carried on
	i. Hotel: Hotel means any premises in which business is carried on for the supply of dwelling accommodation and meals on payment of a sum of money by a traveller or any member of the public or a class of the public and includes a club.	o.k
	j. Inspector: Inspector means a person appointed as inspector by the Government for securing the compliance of this Act, and the Chief Inspector and the Dy. Chief Inspector mean the Chief Inspector and the Dy. Chief Inspector of small enterprises appointed under this Act.	Inspector: Inspector means a person appointed as inspector by the Government for securing the compliance of this Act, and the Chief Inspector and the Dy. Chief Inspector mean the Chief Inspector and the Dy. Chief Inspector of micro and small enterprises appointed under this Act.
	k. Restaurant: Restaurant means any premises in which is carried on wholly or principally the business of the supply of meals or refreshment to the public or a class of the public for consumption on the premises.	o.k
	l. Shop: Shop means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store-room, godown, warehouse or workhouse or work place, whether in the same premises or otherwise, used in or in connection with such trade or business but does not include a factory or commercial establishment.	o.k
	m. Weekly Off: Weekly Off means a day on which a worker shall be given a holiday under the provisions of this Act.	o.k
	n. Wage: Wage means the basic wage, dearness allowance, city compensatory allowance or house rent allowance or overtime wages or wages for	o.k

	leave period or bonus.	
	o. Young Person: Young person means a person who has not completed his eighteenth year of age.	o.k
	The terms used in this Act but not defined shall have the same meaning as assigned in the relevant laws.	o.k
Chppter-II	<u>REGISTRATION OF SMALL ENTERPRISES</u>	
	3. Procedure for Registration:	
	1. Within 30 days of commencement of this Act, every employer shall furnish an affidavit on a non-judicial stamp paper of Rs.10/- to the Chief Inspector or Dy. Chief Inspector of the State appointed for the area or district where the small enterprise is located along with the information in Form 'A' appended to this Act and the fee for registration of his establishment.	Within 30 days of commencement of this Act, every employer shall furnish an affidavit on a non-judicial stamp paper of Rs.10/- to the Chief Inspector or Dy. Chief Inspector of the State appointed for the area or district where the micro and small enterprise is located along with the information in Form 'A' appended to this Act and the fee for registration of his establishment.
	2. The affidavit shall contain the name and address of the employer, the name and address of small enterprise and such other information as may be prescribed and an undertaking that information furnished by him in the Form is correct to his knowledge and belief and nothing material has been concealed.	The affidavit shall contain the name and address of the employer, the name and address of micro and small enterprise and such other information as may be prescribed and an undertaking that information furnished by him in the Form is correct to his knowledge and belief and nothing material has been concealed.
	3. A fee as may be prescribed shall be payable by an employer along with affidavit filed by him for seeking registration.	o.k
	4. If an employer seeking registration under this Act has furnished the information and fee as required in Sections (1) to (3) above, the Chief Inspector shall forthwith issue the certification of registration and make an entry in this behalf in a register maintained for the registration of small enterprises and If at any time any change occurs subsequently in the information submitted by an employer along with the affidavit, the same shall be intimated by the employer within 30 days of occurrence of such change by a written communication by the Chief Inspector.	If an employer seeking registration under this Act has furnished the information and fee as required in Sections (1) to (3) above, the Chief Inspector shall forthwith issue the certification of registration and make an entry in this behalf in a register maintained for the registration of micro and small enterprises and If at any time any change occurs subsequently in the information submitted by an employer along with the affidavit, the same shall be intimated by the employer within 30 days of occurrence of such change by a written communication by the Chief Inspector.
	5. A registration granted under Section (4) shall be valid for five years and the registration may be renewed by following the procedure provided in Section (1) to (3) by making an application within 30 days before the expiry of registration and if an employer fails to make an application before 30 days of expiry of the registration his registration may be renewed provided he pays double the fee for registration prescribed in Sub Section (3).	o.k
Chppter-III	<u>CONDITIONS FOR EMPLOYMENT OF CERTAIN PERSONS</u>	
	4. Prohibition of Employment of Children:	

	No child below the age of 14 years shall be permitted to work in any establishment and a young person who has completed 14 years but not completed 18 years of age may be employed after he has been declared fit by a qualified medical practitioner. In mining establishments any person who has not completed 18th years of his age shall not be employed.	o.k
	5. Non-Discrimination against female workers	
	The female workers shall not be discriminated against in matters of recruitment, training, transfers or promotions.	o.k
Chapter-IV	<u>CONDITIONS OF WORK</u>	
	6. Health	
	1. Every employer shall ensure to keep the enterprise clean and free from harmful material including gases, dust and fumes. He shall ensure that there is no overcrowding and there is proper light and ventilation at the place of work and shall provide facilities such as toilets, drinking water and for washing either individually or collectively.	o.k
	2. He shall ensure disposal of wastes and effluents properly and in case he is not able to arrange the disposal of wastes and effluents by himself he shall with the cooperation of other enterprises in the same area take effective steps for disposal of wastes and effluents.	o.k
	3. The State Government may provide facilities for toilets common for a cluster of shops or establishments by seeking cooperation of local bodies.	o.k
	7. Safety	
	1. Every employer of the enterprise where manufacturing, construction or mining activity is carried on shall ensure the following safety measures at the work place	
	a. Every employer shall ensure that all moving parts of the machines are properly secured, fenced and guarded.	o.k
	b. Every employer shall ensure that Lubrication or adjusting operation or mounting or shipping of belts and other hazardous work near or on the machinery in motion is not allowed except by a specially trained male worker and proper care of the safety of the operator is taken.	o.k
	c. Safety measures in respect of the hoists, lifts, chains, ropes and tackles shall be taken wherever the same are used and it shall be ensured that they are of good mechanical construction and safe for working at the rated capacity.	o.k
	d. Young persons are not allowed to work on dangerous machines or engaged in actual mining of the minerals.	o.k
	e. The equipment using/operating at more than	o.k

	atmospheric pressure shall be ensured to be safe for working.	
	f. Wherever there is danger of injury or irritation taking place to the eyes of the operator/worker proper protective equipment shall be provided to prevent the eye injury.	o.k
	g. In mining activity the working is done by making benches of not more than 6 metres height from the superjacent ground.	o.k
	h. In case of construction work proper scaffolding is provided where the construction of building is being done at the height of 6 ft. or above and in roofing no substandard material shall be used.	o.k
	2. Every Employer of the enterprise shall ensure that	
	a. Necessary fire-fighting equipment and arrangements for the safe exit of the persons employed in the event of the fire is provided.	o.k
	b. First aid facilities within the enterprises and the medical care in case of accidents requiring immediate medical attention is provided.	o.k
	c. Where in any enterprise an accident occurs resulting in death or bodily injury to any person which prevents the concerned person from working for a period of 48 hours or more, the same shall be reported by sending a notice to the Deputy Chief Inspector in form 'E' with a copy to the Commissioner for Workmen's Compensation.	o.k
	8. Application of Factories Act and Other Laws	
	The Factories Act and other relevant laws shall apply to small enterprises wherever storage and handling of hazardous acids, chemicals, gases or explosives material is involved	The Factories Act and other relevant laws shall apply to small enterprises wherever storage and handling of hazardous acids, chemicals, gases or explosives material is involved (Negative List of such hazardous acids, chemicals, gases or explosives material shall be provided).
	9. Welfare 1.The employer shall provide shelters/rest rooms/lunchrooms for the workers if employing 10 or more workers. 2.In case of a cluster of establishments the employer may in cooperation and combination with other employers in the area take steps to provide measures for the welfare of the workers such as latrine and urinals, canteen, crèche for the children below the age of 6 years of the women workers and a local dispensary or hospital for the immediate medical care of the workers.	This section is to be deleted for Micro and Small Enterprises as it is not feasible for them.
	10. Hours of Work	
	1. No adult worker shall be required to work for more than 48 hours in a week and 9 hours in a day and no worker shall be asked to work continuously for more than 5 hours unless he has been given a	o.k

	break of not less than half an hour provided that limit of working hours or of weekly rest may be relaxed in case of urgent repairs.	
	2. The total number of hours of work including the rest interval shall not exceed 10½ and in case a worker is entrusted with intermittent nature of work, urgent repairs and for shops the spread over shall not exceed 12 hours.	o.k
	3. Women workers shall not be asked to work normally between 9 pm and 6 am and during these hours women workers can be asked to work only if not less than five women are working during this period at the workplace and the employer takes proper steps for the security of the women workers and provides a transport from the place of work to their residences.	o.k
	4. The total number of hours of work including overtime shall not exceed 60 hours in a week.	o.k
	6. Annual Leave & Holidays	
	1. Every worker shall be allowed a weekly holiday with wage for the whole day as may be fixed by the employer in respect of the worker and any change in the weekly holiday shall be notified to the worker at least a day in advance provided that State	o.k
	2. Government may fix different days as weekly holidays for different establishments or areas.	o.k
	3. Every worker shall be entitled to eight days casual and sick leave with wages every year. A worker who has joined after 1st January shall be entitled to casual leave pro-rata.	o.k
	4. Every worker who has worked for at least 240 days in a calendar year shall be entitled to 15 days earned leave in the following calendar year and a worker who has put in less than 240 days work in the previous calendar year shall be entitled to earned leave proportionate to his attendance.	o.k
	5. A worker shall be permitted to accumulate leave upto 45 days in addition to the leave entitlement of the current year earned on the basis of the work done by him in the previous year and he shall be entitled to encashment of entire accumulated earned leave including leave earned during the current year pro rata in case his services are terminated or he quits the service.	o.k
	6. A worker shall be entitled to three holidays in a calendar year, namely, Independence Day, Republic Day and Gandhi Jayanti.	o.k
Chapter-V	<u>WAGES, BONUS & SOCIAL SECURITY</u>	
	12. Wages	
	1. The State Govt. may fix the minimum rates of wages	o.k

	<p>in respect of the enterprises covered under this Act. The Minimum Wages may be fixed area wise if required and the minimum wages shall be revised once in five years. However, the State Govt. may declare DA twice a year on the minimum wages. All the minimum wages shall be fixed or revised after consulting the committee or an advisory board set up in this behalf for the purpose and any contract or agreement whereby a worker agrees to work for less than minimum wages shall be void ab initio.</p>	
	<p>2. A female worker shall be paid same wages as are paid to a male worker if the work performed by the female worker is same or similar as that performed by the male worker.</p>	o.k
	<p>3. Nothing shall prevent the employer from paying better wages than the minimum fixed by the State Government by mutual agreement with the workers.</p>	o.k
	<p>13. Payment of Wages and Deductions from Wages</p> <p>1. Every employer, manager or occupier shall be responsible for payment of wages to all person employed by him before the expiry of the 7th day after the completion of the wage period.</p>	o.k
	<p>2. No wage period shall exceed one month.</p>	o.k
	<p>3. All the wages shall be paid in current currency and coin and it may be paid by cheque drawn in favour of the worker or by transfer to his account in the bank.</p>	o.k
	<p>4. All wages shall be paid on a working day during the working hours and every employer shall issue a wage slip to every worker containing the wage period, name, token number, designation, number of days worked or units produced, gross wages payable, deductions and net wages payable at least 24 hours in advance.</p>	o.k
	<p>5. The wages of a person whose employment has been terminated shall be paid before the expiry of the second working day after the day on which his employment is terminated.</p>	o.k
	<p>6. Where a worker has worked for more than 48 hours in a week or 9 hours in a day the employer shall pay extra wages at the rate one and half times of the ordinary wages and where the total hours worked by an worker exceeds 9 hours in a day and 56 hours in any week the wages for the hours of work put in by the worker above 56 hours he or she shall be paid at the rate of twice his ordinary wages.</p>	Where a worker has worked for more than 48 hours in a week or 9 hours in a day the employer shall pay extra wages at the rate one and half times of the ordinary wages.
	<p>7. The employer shall keep a record of all wages paid by him to his workers including the signature/thumb impressions obtained by him while making the payment of wages. Such records shall be maintained for a period of three years.</p>	o.k
	<p>8. Deductions may be made from the wages or bonus payable to workers on account of the following: -</p>	

	a. For absence from duty in proportion to the period of absence (in terms of hours or days).	o.k
	b. For causing loss or damage to the property of the employer specifically entrusted to him and in such a case the employer shall issue a prior notice to the worker and give him an opportunity to be heard.	o.k
	c. For recovering the installments of loans or advances given by the Employer to the worker.	o.k
	d. On account of subscription of the worker towards social security under this Act or subscription to any welfare fund constituted by the state govt.	o.k
	e. On account of Income Tax or any other tax payable by the worker to the extent the employer is responsible to recover the same from the worker from his wages under the relevant tax law.	o.k
	f. The cost of any amenity such as electricity or water supplied at the residence of the worker by the employer or the rental of accommodation provided by the employer.	o.k
	g. The subscription or recovery of loans/advances of any cooperative credit and thrift society or cooperative store or any other cooperative for which the worker has authorized the employer.	o.k
	h. Any donation to Prime Minister Relief Fund or any other relief fund if so authorised by the worker.	o.k
	i. Any subscription made by the worker to a union if so authorized by the worker.	o.k
	9. The employer shall ensure that the recoveries/deductions from wages of workers are so arranged that a worker receives at least 50% wages in cash after such recoveries or deductions.	o.k
	14. Bonus	
	1. Every worker who has put in at least 90 days work in a calendar year shall be entitled to annual minimum bonus at the rate of 8.33% of wages earned by him during the previous year.	o.k
	2. The bonus will be disbursed to the workers within three months from the close of the accounting year of the enterprise and where the workers desire that the same may be paid to them at the time of mutually agreed festival the employer shall pay the bonus at the time of the festival.	The bonus will be disbursed to the workers at the time of mutually agreed festival
	3. An enterprise which has not been established with a view to make profits and which is in the nature of charitable or religious institution, educational training and research institutions, a construction establishment shall be exempt from payment of bonus.	o.k
	4. Any new establishment will be exempt for first three years from payment of bonus.	o.k

	5. A worker who has put in 90 days or more but has not worked for all the days worked by the establishment in the previous calendar year shall be paid bonus proportionately to the wages earned by him during the calendar year.	o.k
	6. The salary limit for eligibility or for calculation of bonus as prescribed in the general law shall apply to small enterprises.	7. The salary limit for eligibility or for calculation of bonus as prescribed in the general law shall apply to micro and small enterprises.
	15. Recovery of unpaid wages, illegal deductions etc.	
	1. Where a worker (including a worker who has been retrenched, removed/dismissed or who has resigned) has not been paid wages on the due date, or has been paid less wages than that are payable as per this Act or has not been paid over time wages, leave wages, bonus, retrenchment compensation or any other dues by his employer he may himself or a union of which he is a member or an inspector appointed under this Act may file a claim before the prescribed authority within a period of one year from the date such unpaid dues became payable or came to be detected and the application shall contain the name of the employer and his address, the name and address of the enterprise, the name and address of the manager if any, the nature of dues which are unpaid or have been paid less, the period to which such dues pertain, or illegal deductions if made from the wages and wage period to which the illegal deduction pertain.	o.k
	2. The authority shall immediately proceed to hear the claim by calling the employer or the manager of the enterprise and the complainant and pass an order rejecting or upholding the claim. Any person aggrieved by the order of the authority may file on appeal before the Labour Court.	o.k
	3. Where an authority upholds the claim either wholly or in part it shall require the employer to make payment to worker and furnish proof of making the payment or require the employer to deposit the amount by cheque or demand draft of the amount ordered drawn in favour of the worker with the authority.	o.k
	4. If the employer fails to make payment as prescribed in Sub-Section (3) the authority shall issue a certificate to the collector of the district who shall recover the same and send it to the authority for payment to the concerned worker.	o.k
	5. The State Government shall designate one of the official of the Labour Department not below the rank of an Asstt. Labour Commissioner to be authority to hear the claim cases under this Section.	o.k
	16. Social Security	
	1. Every worker shall be entitled to following social security benefits	
	a. Medical Care for self and dependents	
	b. Compensation in respect of employment injury as prescribed under the Workmen's Compensation Act or	

	according to law on social security applicable to the worker.	
	c. Provident Fund equal to 8% of wages of employers and 8% of wages as his own contribution plus interest and/or a pension at the prescribed rate.	
	d. In case of a female worker the maternity benefit i.e. 12 weeks leave with wages upto two surviving children.	
	e. Gratuity at the rate of 15 days of wages for every completed year of service provided the worker has put in uninterrupted service for at least five years provided further that the condition of completion of five years shall not be necessary for receiving gratuity in case of death or permanent total disablement of the worker.	
	f. Any other benefit such as unemployment insurance or pension, as may be introduced under the social security law by the government.	
	2. The social security benefits mentioned at sub section (1) above will be provided out of the fund consisting of contributions from the employer @ 16% of wages paid by him to the workers, contributions by workers @ 12 % of the wages and contributions equal to 2% of the wages by the State Government .	The social security benefits mentioned at sub section (1) above will be provided out of the fund consisting of contributions from the employer @ 14% of wages paid by him to the workers, contributions by workers @ 12 % of the wages and contributions equal to 2% of the wages by the State Government and 2% of the wages by Central Govt.. The workers may be provided unique social Security number similar to smart card as is being provided to BPL families under Rastriya Swasthya Beema Yojana (RSBY)
	3. The implementation of social security programme will be on the lines of the recommendations made by the National Commission on Labour on social security.	
	4. Till such time the new social security system is set up the present system will continue.	
	<u>Explanation 1</u> - for the purpose of this section the dependents include the spouse, dependant children below 18 years of age, dependant parents or parents-in-laws, unmarried daughter and invalid children.	
	<u>Explanation 2</u> - Wages for the purpose of this section means the basic wages and dearness allowance but does not include any house rent allowance, C.C.A. or leave encashment money received from the employers w/o actually availing the leave or any travelling allowance or bonus or overtime wages.	
Chapter-VI	<u>LAY OFF, REMOVAL FROM SERVICE & SETTLEMENT OF DISPUTES & CLOSURE</u>	
	17. Lay Off:	
	An employer may lay off his workers for the reasons of shortage of power, coal, raw material, accumulation of stocks, break down of machinery, natural calamity or for	o.k

	lack of orders. He shall pay to his workers lay off compensation at the rate of 50% of wages for the period of lay off and unless mutually agreed a worker shall be entitled to lay off compensation if he presents himself daily at the appointed time at the gate of the enterprise/establishment. If the lay off continues for more than 45 days , it shall be lawful for the employer to retrench the workers.	
	18. Separations/Removals from Service	
	1. An employer may dispense with the services of a worker who has been in his employment for five years or more by giving one months notice or wages in lieu of the same and by paying separation compensation calculated @ 20 days wages for each completed year of service and a worker who has not completed five years of service shall be entitled to one-month notice or notice pay in lieu and separation compensation of 15 days wages for each completed year of service.	o.k
	2. The employer may dismiss or remove the worker from service without giving any notice or paying any compensation on account of proven misconduct which may include absence from duty without notice or without sufficient reasons for more than ten days, for going on or abetting a strike which is illegal prima-facie or for grave violent behaviour at the workplace or for causing wilful	o.k
	damage or loss to the property of the employer or for misappropriation or theft.	
	3. A worker who is retrenched as per provisions of sub-section (1) or is dismissed by the employer or resigns from service by the employer shall be paid his wages and other dues if any and retrenchment compensation within 48 hours of such retrenchment removal/dismissal or resignation.	o.k
	4. If a dispute arises between the worker and the employer on account of any condition of service excluding wages but including removal or dismissal from service the same shall be resolved as under: -	o.k
	a. The aggrieved worker will first approach his immediate superior who in consultation with the head of the establishment will try to resolve the grievance and give a suitable reply to the worker within 15 days.	o.k
	b. If the worker is not satisfied with the reply received from the immediate superior he shall make an application within 10 days to the head of the establishment for personal hearing and on receipt of such application the head of the establishment will give a personal hearing to the worker and also give his decision, after personal hearing within 10 days of making of application by the worker.	o.k
	c. In case the worker is not satisfied with the decision of the head of the establishment he may approach the conciliation officer of the appropriate Government within 45 days who shall hold conciliation proceedings in the	o.k

	matter to resolve the grievance of the worker and make efforts to resolve the same within three months.	
	d. If the conciliations fail the dispute shall be referred to a mutually agreed arbitrator and where there is no agreement regarding the appointment of an arbitrator, the appropriate Government shall appoint the arbitrator who shall give his award within a period of four months.	o.k
	5. An aggrieved worker may be represented in any conciliation or arbitration proceedings by a trade union registered under the general law, provided such a union has at least 30% membership amongst the workers of the establishment where such aggrieved workman is or was employed.	An aggrieved worker may be represented in any conciliation or arbitration proceedings by a trade union registered under the general law, provided such a union has at least 51% membership amongst the workers of the establishment where such aggrieved workman is or was employed.
	19. Closure	
	Where an employer intends to close down his establishment he shall serve one month's notice to the workers before the intended date of closure or pay wages in lieu thereof and he shall also have to pay compensation @ 15 days wages for every completed year of service to his workers.	o.k
	20. Collective Disputes	
	1. Any collective dispute between the workers and an employer or employers arising out of employment, non-employment, terms of employment or conditions of labour of the workers may be settled between the workers and the employer by negotiations between the employer and the trade union if there is a union in existence in the establishment failing which the employer or union may take the help of conciliation officer of the state government for resolution of their collective dispute.	o.k
	2. If the collective dispute is not resolved bilaterally or in conciliation the same shall be required by the employer and the workers to be referred to a mutually agreed arbitrator.	o.k
	3. The bilateral settlement will be valid for a minimum period four years or for a period mutually agreed upon by the parties.	
	4. Where the dispute has been referred to an arbitrator the arbitrator shall give his award within six months from the date of reference. If there is no mutual agreement regarding appointment of the arbitrator the same shall be appointed by the Appropriate Government. 5. In any collective dispute in a small enterprise the workers may be represented in conciliation or arbitration proceedings by a union which has at least 51% membership amongst workers of the establishment to which such dispute pertains.	o.k
Chapter-VII	<u>MISCELLANEOUS</u>	
	21. Registers/Records	
	1. Every employer shall maintain a register of workers, in	o.k

	form 'B', a register of leave in form 'C' and a register of muster roll cum wages in form 'D' which will also show the attendance put in by the workers during the wage period, the total wage earned and the deductions made from the wages of the workers.	
	2. The employer shall exhibit at a prominent place in his establishment in the language understood by the majority of his workers, the notice/ notices containing information on registration number and date of registration of the establishment, the hours of work and the weekly off, the list of holidays, the wage period, the wages and allowances payable to workers and the date of payment and the name and address of the employer and the manager and name and address of inspector under the Act.	The employer shall exhibit at a prominent place in his establishment in the language understood by the majority of his workers, the notice/ notices containing information on registration number and date of registration of the establishment, the hours of work and the weekly off, the list of holidays, the wage period. Display of rest of the information as in sub section 2 will create disputes in the organisation
	3. Every employer shall submit a return to the authority with whom the enterprise is registered within 30 days after the close of the calendar year. The return shall contain the following information:	Every employer shall submit a return to the authority with whom the enterprise is registered within 60 days after the close of the calendar year. The return shall contain the following information:
	a. Name of the establishment and its complete address	o.k
	b. Name and address of the employer	o.k
	c. Name and address of the manager (if employed)	o.k
	d. The nature of business, occupation, trade or industry	o.k
	e. The date of commencement of the business, occupation, industry or trade	o.k
	f. Average number of persons employed including the break up of male, female and young persons (above 14 years but below 18 years of age).	o.k
	g. The number of man-days actually worked during the calendar year	o.k
	h. The number of persons taken on rolls as new recruits during the year	o.k
	i. Number of persons whose services were dispensed with during the year	o.k
	j. The number of accidents that have taken place during the year (fatal and non fatal)	o.k
	k. The total wages paid to the workers during the year	o.k
	l. Information on the strike or lockout if it has taken place or was declared during the year under report and the period of strike or lockout, the nature of loss of production and loss of wages to the workers.	o.k
	m. Any other information as may be prescribed.	o.k
	4. The employer shall issue an identity card to every worker employed by him containing such details as may be prescribed.	o.k
	22. Self Inspection / Inspection	
	1. Every employer, within 30 days after the end of the calendar year shall certify confirming in form 'F' that all requirements of safety, health, welfare and payment of wages have been complied with by him and the certificate will be sent by the employer to the Dy. Chief Inspector with a copy to the Inspector of the area by registered post and	Every employer, within 60 days after the end of the calendar year shall certify confirming in form 'F' that all requirements of safety, health, welfare and payment of wages have been complied with by him and the certificate

	where the employer fails to send the self certificate the Deputy Chief Inspector shall direct the Inspector concerned to carry out the inspection of the enterprise and the inspector shall after carrying out the inspection furnish a report of the violations committed by the employer to the Chief Inspector who shall issue a show cause notice to the employer to rectify the same specifying the period for carrying out rectification.	will be sent by the employer to the Dy. Chief Inspector with a copy to the Inspector of the area by registered post and where the employer fails to send the self certificate the Deputy Chief Inspector shall direct the Inspector concerned to carry out the inspection of the enterprise and the inspector shall after carrying out the inspection furnish a report of the violations committed by the employer to the Chief Inspector who shall issue a show cause notice to the employer to rectify the same specifying the period for carrying out rectification.
	2. Any complaint about violation of this law received from the workers shall be taken note of by the Deputy Chief Inspector himself whereupon he shall direct an Inspector to look into the complaint and furnish a report to him and in case the Deputy Chief Inspector finds that the employer has violated any provisions of the law he shall call upon the employer by a written communication to rectify the same within the specified period.	o.k
	3. In case the employer fails to rectify the same in spite of the show cause notice of the Deputy Chief Inspector as provided in sub section (1) or sub section (2) in writing the Deputy Chief Inspector will take up the matter with the trade or business organisation of which the employer is a member. In case it is still not rectified within 30 days, the Deputy Chief Inspector shall be free to take steps to prosecute the employer and where the employer is not a member of any trade or business organisation the Deputy Chief Inspector may take steps to prosecute the employer if the employer has not rectified the violations in spite of issue of show cause notice.	o.k
	4. The State Government shall appoint the Chief Inspector, Joint Chief Inspector, Deputy Chief Inspectors and Inspectors of Micro and Small Enterprises area-wise or district-wise as deemed appropriate and may distribute the work jurisdiction amongst them.	o.k
	5. The officials mentioned in sub sec (4) shall be deemed to be public servants within the meaning of sec 21 of IPC (Act XLV of 1860).	o.k
	23. Non Application of Certain Laws	
	1. Subject to the provisions contained in sub sec (4) of Sec 1 and Sec 8 of this Act where this Act applies to an establishment nothing in the following laws shall apply to that establishment.	o.k
	i. The Factories Act, 1948 (except those covered by Sec.8)	
	ii. The Industrial Disputes Act, 1947	
	iii. The Industrial Employment (SO) Act, 1946	
	iv. The Minimum Wages Act, 1948	
	v. The Payment of Wages Act, 1936	
	vi. Payment of Bonus Act, 1965	
	vii. The EPF& Misc. Provisions Act 1952	
	viii. The Employees State Insurance Act	
	ix. The Maternity Benefit Act	
	x. The Workmens' Compensation Act	

	xi. The Equal Remuneration Act, 1976	
	xii. The Contract Labour (R&A) Act, 1972	
	xiii. The Interstate Migrant Workmen (RE&CS) Act 1979	
	xiv. The Shop & Establishment Act	
	xv. The Mines Act 1951 (except the mines where work is being carried on below	
	If the Shops & Establishment Act of a State confers better benefits than provided under this Act, the State may make amendments in this Act.	o.k
	24. Penalties	
	1. Fines may be imposed by Chief Inspector or the Joint Chief Inspector as specified below:	Before imposing the fine the Chief Inspector or the Joint Chief Inspector should discharge their advisory role for implementation of the provisions of this act. As such on first inspections the Inspector should advise the MSE to take corrective actions in a specified period. If MSE fails to comply with the advise the Inspector may issue a show cause notice in writing to rectify the situation. If the MSE fails to comply with the written instructions also only then the fines may be imposed.
	a. Any person who violates any provisions of this Act as mentioned in Part I of the Form F shall be punishable with a fine which shall not be less than Rs. 1000/- but which may extend to Rs. 2,500/-.	
	b. For any second or subsequent offence of the same nature and where an employer is held guilty of furnishing false information as contained in Part I of Form 'F' a fine may be imposed which shall not be less than Rs. 2,000/- but which may extend to Rs. 5,000/-.	o.k
	c. Where a violation as mentioned in Part I of Form F has not been rectified by an employer in spite of the notice issued by the Deputy Chief Inspector or Inspector for rectification of any violation, a fine of Rs.100/ per day for each violation may be imposed for the period till the violation is rectified .	Where a violation as mentioned in Part I of Form F has not been rectified by an employer in spite of the notice issued by the Deputy Chief Inspector or Inspector for rectification of any violation, a fine of Rs.100/ per day for each violation may be imposed for the period till the violation is rectified subject to maximum Rs 5000/-.
	2. Before imposing fine the Chief Inspector or as the case may be the Joint Chief Inspector shall give an opportunity to the person or the employer concerned to show cause why the fine as proposed should not be imposed on him.	o.k
	Without prejudice to any other provision contained in this Act, the Chief Inspector or the Joint Chief Inspector shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while exercising any powers under this section, in respect of the following matters, namely: -	o.k
	a. summoning and enforcing the attendance of witnesses;	
	b. requiring the discovery and production of any document;	
	c. requisitioning any public record or copy thereof from any court or office;	

	d. receiving evidence on affidavits; and	
	3. Nothing contained in this section shall be construed to prevent the person concerned from being prosecuted under any other provision of this Act or any other law for any offence made punishable by this Act or by that other law, as the case may be, or for being liable under this Act or any such law to any other or higher penalty or punishment than is provided for such offence by this section.	o.k
	25. Trial of Certain Offences	
	1. Whosoever willfully obstructs the Chief Inspector, the Jt. Chief Inspector, the Dy. Chief Inspector or the Inspector in the exercise of any power under this Act or in carrying out the purposes of this Act including by prevention of any worker from appearing before the above mentioned authorities shall be punishable with a fine which shall not be less than Rs. 5000/ but which may extend to Rs.10,000/- or with imprisonment for one month or both.	Whosoever willfully obstructs the Chief Inspector, the Jt. Chief Inspector, the Dy. Chief Inspector or the Inspector in the exercise of any power under this Act or in carrying out the purposes of this Act including by prevention of any worker from appearing before the above mentioned authorities shall be punishable with a fine which shall not be less than Rs. 1000/ but which may extend to Rs.2,000/- .
	2. Whosoever furnishes false information as given in Part II of Form 'F' shall be punishable with fine which shall not be less than Rs.10,000 but which may extend to Rs.20,000/ or with imprisonment which may extend to one year or both.	Whosoever furnishes false information as given in Part II of Form 'F' shall be punishable with fine which shall not be less than Rs.2,000 but which may extend to Rs.4,000/ .
	26. Cognizance of offences and competence of courts	
	1. No court shall take cognizance of any offence under this Act unless it is filed by a Deputy Chief Inspector or an Inspector appointed under this Act.	To be deleted , as there should not be any need to go to the court when sufficient provisions are built in the Act and the Chief Inspector or the Joint Chief Inspector have all the powers of a Civil Court
	2. No court lower than that of a Metropolitan Magistrate or a First Class Magistrate shall try any offence as prescribed under Section 25 of this Act.	To be deleted, as there should not be any need to go to the court when sufficient provisions are built in the Act and the Chief Inspector or the Joint Chief Inspector have all the powers of a Civil Court
	27. The State Government may grant exemption to any establishment from any provision of this Act in any case of emergency occurring in an establishment or in case of hardship.	o.k
	28. Rules under Act	
	State Government may make rules in respect of any provision of the Act for securing the implementation of this Act.	State Government may make rules in respect of any provision of the Act for securing the implementation of this Act.in consultation with MSME Associations.
	29. Protection to Official Persons Acting Under This Act	
	No suit, prosecution or other legal proceedings shall lie against any public servant or any other person in the service of a Government acting under the direction of any such public servant for anything done in good faith or intended to	o.k

	be done in pursuance of the provisions of this Act, rule or order made there under.	
	30. Power to Remove Difficulties	
	The Central Government shall have powers to remove difficulties if any that arise in the implementation upto a period of 3 years.	o.k

FORM "A"

Format for furnishing information while applying for registration

1. Name of the establishment, if any :
2. Postal address and situation of the establishment :
3. Whether the establishment falls under Public Sector or Private Sector :
4. Situation of office, store-room, godown, warehouse, or Workplace, if any, attached to shop but situated in premises different from those of the shop or the enterprise :
5. Name of the employer :
6. Residential address of the employer :
7. Name of the Manager, if any and his residential address :
8. Category of the establishment, i.e. whether a shop, commercial or other place of public amusement or entertainment or any other :
9. Nature of business :
10. Date of commencement of business :
11. Names of members of employer's family employed in the establishment -

	Adults	Young persons	Total
Male			
Female			
Total			

12. Names of other persons occupying position of management or workers engaged in

confidential capacity. (Indicate sex and age in case of young persons)

13. Total number of workers (Including part-time workers)

	Adults	Young persons	Total
Male			
Female			
Total			

14. The trade or business association of the area of which the employer is a member :

Note: Any change if it occurs in the above mentioned particulars it shall be the duty of the employer of the establishment to inform the Dy. Chief Inspector by a registered post within 30 days of occurrence of such change.

Dated:

(Signature of employer)

FORM "B"

Register of Persons Employed

Name of the establishment & Address

Location of Work

Name & Address of Employer

1. Name, Father/Husband's name & address of the worker (Permanent & Temporary)
2. Designation/Category
3. Date of Birth
4. Age
- 4 A. If the employed person is below 18 years, whether a certificate of fitness is maintained
5. Date of Joining
6. Sex: Male or Female
7. Nationality
8. Date of termination of Employment with reason
9. Specimen signatures/thumb impression
10. Remarks

FORM "C"

Leave Register

1. Name of the worker and his token number
2. Date of entry into the service
3. Calendar year of service for which leave is earned
4. The balance leave brought forward at the beginning of the calendar year as at 3 above
5. Number of days earned leave availed during the calendar year as at 3 above
6. Number of days work performed during the calendar year as at 3 above
7. Number of days leave earned during the calendar year as at 3 above
8. Total number of days leave to credit of the worker at the beginning of the current calendar year (4-5+6)
9. Number of days earned leave availed during the current year
10. Any other kind of leave availed during the current year (e.g. casual leave, maternity leave, etc.)

FORM "E"

Report of the Accident by the Employer

1. Name & Address of the occupier/employer
2. The Registration Number of the Occupier/employer
3. Name & Address of the premises of the establishment/enterprise
4. Nature of work/business/activity carried on in the enterprise/establishment
5. Name(s) of the injured person/persons & their token/insurance number, their sex, age and designation
6. Addresses of the Injured person(s)
7. Date and hour of the accident
8. The time at which he/they had started work on the day of accident
9. Cause of Accident including the nature of work being done by the injured person/ persons at the time of accident
10. In case the accident occurred while travelling in the transport
 - a. whether the injured person(s) was/were travelling as passenger(s) to and from his/her/their residence to place of work
 - b. whether the injured person(s) was/were travelling with the expressed or implied permission of the occupier/employer
 - c. whether the transport vehicle was provided by the occupier/employer or it was a public transport vehicle
11. Names and addresses of the witnesses

12. Nature and extent of injury
 - a. Whether fatal
 - b. Location of injury i.e. the part of the body injured
 - c. In case of non fatal accident whether the worker(s) has/have returned to work
 - d. If not the approximate period the worker(s) is/are likely to take for returning to work

13. The clinic or dispensary or the hospital where the treatment of the injured worker(s) was arranged

14. Whether the expenses for the treatment were borne by the employer or not.

FORM "F"

As prescribed under Small Enterprises (Employment Relations) Act.

Form for Self-Certification by an Employer.

Name of Enterprise _____
Address of the Enterprise _____

PART I

I certify that the status of compliance of Labour Laws in my enterprise mentioned above during the year _____ is as under:

1. (i) Number of persons employed as on 1.1. _____ was _____.
- (ii) Number of persons terminated/left employment during the year _____
- (iii) Number of persons who joined the employment during the year _____

2. That I have complied with the provisions of this Act pertaining to payment of wages and bonus. The wages were paid as per law and no deductions that are not authorized under the law have been made from the wages thereof of the workers.

3. That no child below the age of 14 years has been employed in the enterprise and women workers have not been discriminated against in any manner.

4. That I have provided health and welfare measures as prescribed under the Act.

5. That I have observed the provisions of the Act as pertaining to the hours of work, leave, and holidays.
6. That I have complied with the provisions of the Act pertaining to the Social Security.
7. That _____ workers were removed or retrenched during the year and I have cleared their dues including the prescribed compensation.
8. That I have maintained the registers/records prescribed under the Act, displayed the required notices and sent the Annual Return to the prescribed authority.

PART II

I Certify that:

- i. No hazardous substances like acids, chemicals, gasses and explosives are used, handled or stored in my establishment; and
- ii. I complied with all the provisions pertaining to safety as prescribed under the Act.

Signature of the Employer
And his office seal

Dated: