




# FACTORIES ACT, CONTRACT LABOUR AND CHILD LABOUR




## Unit 1 - Factories Act 1948

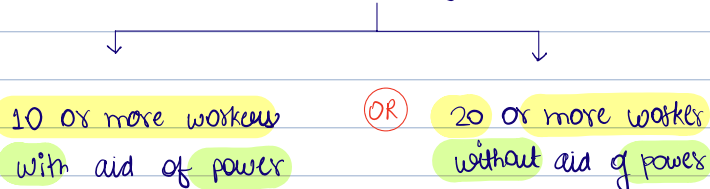



# FACTORIES ACT, 1948

What - Factories Act 1948 is a labour law that ensures safety, health and welfare of workers working in factories. It regulates - working condition, working hours, safety measures, cleanliness and hygiene, machine safety.

What do we mean by factory?

Factory means a premises, where a manufacturing process is carried on by



Definition of factory excludes

- Mines
  - Mobile units of armed force
  - Railway running sheds
  - Hotel, Restaurant, or eating place
- } Subject to other laws

Occupier

Occupier is the person who has ultimate control over factory's affairs. This individual is responsible for managing operation and ensuring compliance with act.

For partnership → Partner

For company → Any director

For govt authority → Person appointed

Occupier has strict liability under the act.

However section 101 provides an important exemption from liability for an occupier or manager.



The occupier must demonstrate that they have exercised due diligence to enforce the act. They must prove that offence was committed without their knowledge or consent or connivance.

Measures to be taken by factories for health, safety and welfare of workers

### Health Measure

CLEANLINESS (Section 11)							
Inside walls / partitions/ ceilings / passages and staircases							
Sweeping/ Dusting	Floor Wash	Wet Floor due to Manufacturing	Doors/ Windows	Varnish	Washable Water Paint	Smooth impervious surfaces	Any other case
Daily	Every Week	Proper Drainage	Paint in 5 years	Once in 5 years	Wash in 6 months + paint in 3 years (1 coat)	Clean once in 14 Months	Once in 14 Months

Disposal of wastes (Section 12)	Ventilation and temperature (Section 13)	Dust and fume (Section 14)	Artificial humidification (Section 15)
effective arrangements for the treatment of wastes and effluents	<ul style="list-style-type: none"> <li>adequate ventilation</li> <li>temperature reasonable</li> <li>Measures to reduce excessive/y high temperature</li> <li>walls and roofs of such material that reduce temperature</li> <li>In excessively high temperatures, adequate measures</li> </ul>	exhaust in open air	as per standards

Overcrowding (Section 16)	Lightening (Section 17)	Drinking water (Section 18)	Latrines and urinals (Section 19)
<ul style="list-style-type: none"> <li>14.2 cubic meters of space per worker</li> <li>space more than 4.2 meters above the level of the floor, will not be taken into consideration</li> </ul>	<ul style="list-style-type: none"> <li>sufficient and suitable lighting, natural or artificial</li> <li>Windows kept clean</li> </ul>	<ul style="list-style-type: none"> <li>Convenient points</li> <li>legibly marked</li> </ul>	<ul style="list-style-type: none"> <li>6 meter away from drinking water</li> <li>1 seat for 20 workers</li> <li>separate for male and female workers</li> <li>washed once in 7 days with detergents</li> </ul>

## Safety Measures

Fencing of machinery (Section 21)	moving part of a prime mover	Pits, sumps, opening in floors, etc. (Section 33)	source of danger shall be either securely covered or securely fence
Work on or near machinery in motion (Section 22)	No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime-mover if risky for them	Excessive weights (Section 34)	no person shall lift, carry or make any load as to be likely to cause him injury
Employment of young persons on dangerous machines (Section 23)	Young person only allowed to work on dangerous machine if <ul style="list-style-type: none"> <li>received training</li> <li>under supervision</li> </ul>	Protection of eyes (Section 35)	effective screens or suitable goggles for the protection
Striking gear and devices for cutting off power (Section 24)	suitable striking gears shall be provided and maintained and used to move driving belts to and from fast and loose pulleys	Precautions against dangerous fumes, gases, etc. (Section 36)	special measures have been taken under the Factories Act
Self-acting machines (Section 25)	No traversing part of a self-acting machine in any factory be allowed to run on its outward or inward traverse	Precautions regarding the use of	prohibits use of portable electric light or any other
	within a distance of forty-five centimeters from any fixed structure which is not part of the machine	portable electric light (Section 36-A)	electric appliance of voltage exceeding 24 volts
Casing of new machinery (Section 26)	all machinery driven by power and installed in any factory encased or otherwise effectively guarded as to prevent danger	Explosive or inflammable dust, gas, etc. (Section 37)	measures to prevent any such explosion
Prohibition of employment of women and children near cotton-openers (Section 27)	No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work	Precautions in case of fire (Section 38)	measures shall be taken to prevent outbreak of fire and its spread
Hoists and lifts (Section 28)	<ul style="list-style-type: none"> <li>good mechanical construction, adequate strength</li> <li>properly maintained</li> <li>examined once in 6 months</li> </ul> sufficiently protected by an enclosure fitted with gates	Power to require specifications of defective parts or tests of stability (Section 39)	If Inspector feels that any building, machinery or plant in a factory is in condition dangerous to human life or safety, Inspector serve order on the occupier or manager or both of the factory to furnish such drawings & conduct test
Lifting machines, chains, ropes and lifting tackles (Section 29)	<ul style="list-style-type: none"> <li>lifting machine shall be of good construction, adequate strength and free from defects;</li> <li>properly maintained; and thoroughly examined</li> </ul>	Safety of buildings and machinery (Section 40)	If Inspector feels that any building, machinery or plant in a factory is in condition dangerous to human life or safety, inspector serve order on the occupier or manager or both of the factory specifying the measures, which in his opinion should be adopted
Revolving machinery (Section 30)	placing a notice in every factory in which process of grinding is carried on	Maintenance of buildings (Section 40-A)	If Inspector feels that any building is in a state of disrepair, he may serve on the occupier or manager or both of the factory an order of maintenance
Pressure plant (Section 31)	atmospheric pressure, does not exceed the limits		wherein 1000 or more workers are employed
Floors, stairs and means of access (Section 32)	sound construction and properly maintained and shall be kept free from obstruction	Power to make rules to supplement this Chapter (Section 41)	State Government has authority to make rules

govt. has used the power granted vis 41 and gave following rules:

## S-41C - Specific Responsibility of occupier in Relation to Hazardous Process

- Occupier must maintain accurate and upto medical record of worker exposed to hazardous substances.
- Appoint person with qualification to oversee workers.
- Conduct medical test of workers once in 12 months.

## Welfare Measures

Washing facility (Section 42): Provide suitable washing facility for workers

Showering and Drying Cloth (S-43): Provide suitable place for showering cloth not worn, and Drying wet cloth

Facility for Sitting (S-44): Suitable arrangement for workers in a standing position.

First Aid Appliance (S-45): Factory must have first aid boxes. Atleast one first aid for every 150 workers.

Canteen (S-46): If workers exceed 150, maintain canteen a dining facility, at affordable price.

Shelter, Rest Room, Lunch Room (S-47): If workers exceed 150, provide shelter room, lunch room with drinking water.

Nurses (S-48): If woman worker exceed 30, maintain suitable room for children under age of 6 years.

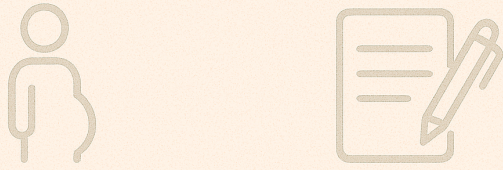
Welfare officer (S-49): Factories employing 500 or more worker must have welfare officer.

Safety officer (S-40B): Factory with more than 1000 worker or those involving hazardous processes, occupier is directed to employ safety officer.

Inspector (Section 8): To regulate this act, govt appoint Inspector, Chief Inspector.

Power of Inspector: Enter any premise  
Examine and inquire  
Search and seize  
Can ask information

## Unit 2 - Contract Labour Act 1970



# CONTRACT LABOUR ACT, 1970

What: An act to regulate employment of contract labour in establishment and protect their rights.

### Example 1: Wedding Contractors

Mr. Sharma is hosting a wedding at his house. For managing food arrangements, he asks Mr. Verma to supply 50 workers to work as waiters at the event.

Here, 50 workers = Contract labour

Mr. Verma = Contractor

Mr. Sharma = Principal employer (for whom or upon whose instruction contractor works)

### Example 2: Event Security Guard

A company organizing large corporate event and needs 50 security guards. To fulfill this requirement, company hires Mr. Laha, a contractor and asks him to provide 50 guards for event.

Here, 50 guards = Contract labour

Mr. Laha = Contractor

Company = Principal Employer

Applicability: All establishments where 20 or more workers are employed.

### Section 6 - Appointment of Registering Officers

The appropriate govt shall appoint a registering officer for this chapter.

### Section 7 - Registration of Certain Establishment

- Every principal employer of an establishment must submit an application for registration to Registering Officer.
- Govt will fix a time period for making such application.
- Registering officer may entertain late application if the applicant can prove sufficient cause in delay.
- If application is complete in all respects, officer shall register establishment and issue Certificate of Registration.

### Section 8 - Revocation of Registration in certain cases

- Registration granted vis 7 may be revoked if it is satisfied that registration was obtained by Misrepresentation, false statement or concealment.
- No action shall be taken unless opportunity of being heard is provided to principal employer.

### Section 9 - Effect of Non-Registration

NO principal employer can employ contract labour unless establishment is not registered or its license is revoked.

Imp:**Section 10 - Prohibition of Employment of Contract labour**

- Appropriate govt may after consulting with Central Board or State Board, prohibit employment of Contract labour in any process, operation or work in any establishment by issuing a notification.
- Before issuing any such notification, govt must consider:
  - Whether work is incidental or necessary to main object
  - Whether it is of perennial (continuous) nature
  - Whether work is ordinarily performed by regular workman in similar establishment
  - Whether there is sufficient number of whole time workman available.

**Example :**

A large automobile factory employs contract labour for daily cleaning and housekeeping inside the production area. The workers clean machines, floors, and waste generated from production.

When the Government examines whether contract labour should be prohibited for this work, it looks at the following:

**(a) Incidental or necessary**

Cleaning of the production area is essential for smooth manufacturing. Without cleaning, machines may get damaged. So, the work is necessary for the industry.

**(b) Perennial nature**

Cleaning is required every day throughout the year, so the work is perennial.

**(c) Ordinarily done through regular workmen**

In most similar factories, such cleaning is done by regular employees, not by contract labour.

**(d) Requires considerable number of whole-time workers**

Maintaining such a large unit requires a permanent team of full-time workers.

**Conclusion:**

Since all four factors indicate that the work is essential, perennial, usually done by regular workers, and requires full-time staff, the Government may issue a notification prohibiting contract labour for cleaning work in this factory.

**Regularisation of Contract labour**

When Contract labour are prohibited are prohibited us to or when it is found that Contract is not real contract but only a sham or camouflage (fake agreement to avoid giving employees right), then those workers can seek Regularisation.

Regularisation is governed by following principles :

1. Nature of work: Contract labour shall not be employed for work which is casual (main/primary).
2. Contract labour who perform tasks that are ongoing and permanent nature may always for regularisation.
3. Employers must not deny regularisation to workers who perform same task as regular employees.
4. Sometimes judicial precedents are set out when worker are regularised.

**Section 11 - Appointment of Licensing officer**

The appropriate govt shall appoint a licensing officer for this chapter.

**Section 12 - Licensing of Contractors**

No Contractor shall undertake any work through Contract labour unless they have obtained license from licensing officer.

License may include condition like working hours, wages, and other amenities provided to contract labour.

**Health and Welfare Measure for Contract labour****Section 16 - Canteen**

If the number of Contract labour to be employed in establishment is 100 or more, contractor shall maintain a canteen with dining facility. Govt will issue rules for operation of canteen.

**Section 17 - Rest Room**

Contractor must provide rest room for contract labour to rest at night (take break / sleep) with sufficient lighting, ventilation and clean condition.

**Section 18 - Other facilities**

Provide and maintain sufficient supply of drinking water, washrooms and washing facility.

**Section 19 - First Aid facilities**

- Contractor must provide first aid boxes at all working hours.
- At least one first aid box for every 150 contract labour.
- factories with more than 500 workers must have ambulance room.

## Section 20- Liability of Principal Employer

- If Contractor fails to provide any amenity on 16-19, the principal employer must provide it.
- Principal employer may recover all expense from Contractors.
- This provision makes principal employer responsible for ensuring that amenities are provided when Contractors fail.

## Section 21- Responsibility for Payment of Wages

- Contractor is statutorily responsible for payment of wages to each contract labour, within a prescribed time period.

### Contravention of this act

Imprisonment upto 3 months, or ] Both.

Fine upto ₹ 1000, or

Additional fine upto ₹ 100/day in case of continuing default.

### Offence by Companies

If a company commits an offence under this act, both company and every person in charge (director, manager) are deemed guilty and punished.

A person (director/manager) may be exempt if they prove that offence was committed without their knowledge or they have exercised due diligence.

If offence is committed with consent or negligence of director, manager, they are liable.

## Section 28- Inspecting Staff (Inspectors)

- Appropriate govt. shall appoint inspector to administer this act.
- Any person found obstructing inspector to perform his duty shall be liable for imprisonment upto 3 months or fine upto ₹ 500 or both.
- Power of Inspector
  - Inspector may enter any premises where contract labour is employed.
  - Can examine register, records, or notices
  - Can inspect any person found in premises
  - may require any person to provide information.
  - Can seize or take copies of registers, wage records.
  - have other powers as may be prescribed.

## The Advisory Boards

### (1) Central Advisory Board

- **Constitution of Central Board:** Central Government shall, constitute a board to be called the Central Advisory Contract Labour Board.
- **Function of the Central Board:** Board shall perform function of advising the Central Government on administration of this Act.
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- **Function of the Central Board:** Board shall perform function of advising the Central Government on administration of this Act.

### (2) State Advisory Board

- **Constitution of the State Board:** State Government to constitute a board to be called the State Advisory Contract - Labour Board.
- **Function of State Board:** To advise State Government on administration of this Act.
- **Composition of the State Board:**
  - (a) Chairman appointed by State Government;
  - (b) Labour Commissioner
  - (c) number, not exceeding eleven but not less than nine, as the State Government may nominate to represent Government.

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## Registers and Other Records to be Maintained (Section 29)

- **Obligation of Principal Employers and Contractors:**
  - Every principal employer and contractor must maintain registers and records detailing:
    - Particulars of contract labour employed (number of workers, names, etc.)
    - Nature of work performed by the contract labour (e.g., type of work, tasks)
    - Rates of wages paid to the contract labour (payment details)
    - Any other prescribed particulars as required by the rules.
- **Exhibition of Notices:**
  - These employers must display (keep exhibited) notices in the prescribed form within the establishment.
  - Notices must contain information about:
    - Hours of work
    - Nature of duty
    - Other relevant details as prescribed by the Act.

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## Unit 3 - Child and Adolescent Labour Act 1986



## CHILD AND ADOLESCENT LABOUR ACT, 1986

Who is Child?

A person who has not attained age of 14 years.

Who is Adolescent?

A person who has completed age of 14 but not completed age of 18.

### Prohibition of Employment of Children (Section 3)

No child shall be allowed or employed to work in any occupation or process.

However,

- A child may help his family or family enterprises, after school hours or vacation.
- A child may work as Artist in entertainment industry or in sport activity **except Circus**.

Such work shall not interfere with child education.

### Prohibition of Employment of Adolescent (Section 3A)

No adolescent (14 to 18) shall be allowed to work in any hazardous occupation or process listed in first schedule.

FYI: Mines, Construction work are considered to be hazardous.

### Hours and Period of work (Section 7)

- No adolescent is allowed to work for more than 3 hours continuously before 1 hour rest.
- No children shall work for more than 6 hours in day (including break).
- No adolescent may be permitted to work between 7pm to 8 AM. Nightwork is prohibited.
- Overtime is not permitted.
- An adolescent can't work in more than one establishment on same day.
- Every adolescent shall have one full day holiday in a week that should not change frequently.

### Display of notice

- Every railway authority, post authority must display a notice regarding prohibition of employment of children and adolescent for public awareness.

### Penalty

#### For Employing or Permitting a Child (Section 3):

- Penalty:**
  - Imprisonment: Not less than 6 months and up to 2 years
  - Fine: Not less than ₹20,000 and up to ₹50,000, or both
- Note:**
  - Parents/Guardians are not punished unless they knowingly permit a child for commercial purposes. 😞😞😞😞 X

#### For Employing or Permitting an Adolescent in Hazardous Work (Section 3A):

- Penalty:**
  - Same as for children: Imprisonment (6 months to 2 years) and/or a fine (₹20,000 to ₹50,000)

#### Repeat Offences:

- If an offender is convicted and then commits a similar offence:
  - Imprisonment: Not less than 1 year and up to 3 years
- If parents/guardians who have been convicted commit a similar offence again, they may be fined up to ₹10,000. 🚫🚫