

List of the various legislations regarding MSMEs mentioned in this book.

Labour laws

**I. Laws related to industrial relations**

- The Industrial Employment (standing Orders) Act, 1946
- The Industrial Disputes Act, 1947

**II. Laws related to Wages**

- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- 

**III. Laws related to Equality and Empowerment of Women**

- The Maternity Benefit Act, 1961
- The Equal Remuneration Act, 1976

**IV. Laws related to Deprived & Disadvantaged Sections of the Society**

- The Child Labour (prohibition & regulation) Act, 1986

**V. Laws related to Social Society**

- The Employees State Insurance Act, 1948
- The Employees Provident Fund & Miscellaneous Provisions Act, 1952
- The Payment of Gratuity Act, 1972
- The Unorganised Workers Social security Act 2008

**VI. Laws related to Employment & Training**

- The Apprentices Act, 1961

**VII. Laws related to Safety And Security of Employees**

- Factories Act, 1948

## **VIII. Others**

- The Weekly Holiday Act, 1942
- The Labour Law (exemption from furnishing returns and maintaining registers by certain establishment Act) ,1988

### **Environment related Laws**

- The Air (Prevention and Control of Pollution) Act, 1981
- The Environment (Protection) Act, 1986
- The Water (Prevention and Control of Pollution) Act, 1974
- 

### **Taxation Laws**

- Income Tax Act,1961
- The Central Excise Act,1944
- Service Tax : Statutory Provisions (1994)(chapter V of Finance Act)
- Central Sales Tax, 1956
- Wealth Tax,1957

### **Corporate laws**

- The Sale of Goods Act,1930
- The Industrial (development and regulation) Act,1951
- Societies Registration Act
- Companies Act,1956
- The Partnership Act,1932

### **Other Important Statutes**

- Essential Commodities Act, 1954
- Legal Metrology Act
- The Prevention of Food Adulteration Act, 1954
- Drugs and Cosmetics Act, 1940
- Competition Act 2002
- MSME development Act, 2006
- Indian Explosive Act, 1884

### **Laws on electricity**

- Electricity Act, 2003

### **Intellectual Property Laws**

- Trade and Merchandise Marks Act 1958
- The Trade Marks Act 1999
- The copyrights Act 1957

## Labour Laws

### I. Laws related to Industrial Relations

#### Industrial Employment (standing orders) Act, 1946

##### Applicability:

- Applicable to all industrial establishments employing 100 or more than 100 people and to every other establishment which the appropriate government may specify by a prior notification. It further applies units which are under the control of central government.

##### Main provisions:

- Section 3 prescribes for submission of 5 copies of the draft containing standing orders which he would like to adopt in his establishment to the certifying officer. The draft is to be framed and all particulars are to be mentioned as per procedure in the schedule and in section 3(1) & (3).
- The conditions and procedure for certification of the draft are further enumerated in section 4 & 5. Section 6 provides the procedure for remedy in form of appeals in case of any grievances against the certifying authority. Appeals of such nature can be made by the employer, trade union or any worker or any representative.
- The procedure for operation, registration, notification and modification in the standing orders are provided in section 8, 9 & 10.

##### Appeals and other provision:

- The certifying officers and concerned authority shall have the powers of civil court. Penalties in case of any wrong as committed in respect of the standing orders or violation of orders
- Under section 13 –All the labour courts shall serve the purpose regarding interpretation of this act.
- Certain establishments are excluded from the purview of this Act which is mentioned in section 13 B. The central government may exempt an institution from the provisions of this Act and has the power to make and amend the provisions of this Act. The schedule enlists the matters to be provided in the standing order.

#### Industrial Disputes Act, 1947

##### Applicability:

This act applies to all establishments.

##### Objective:

It provides for the authorities ,their powers, jurisdiction, extent of control ,penalties and punishments in case of any industrial dispute ,i.e. any dispute arising between employer and employee, workmen and workmen, employer and workmen.

## II. Laws related to Wages

### The Payment of Wages Act

#### Applicability:

All workshops, manufacturing, processing establishments, or an establishment where any work relating to construction development or regarding maintenance of infrastructure or work related to irrigation or generation, transmission or distribution of power takes place are governed by the provisions of this Act.

The Central government may extend its applicability to any other establishment by providing a notification in this respect.

#### Main provisions:

- ✓ This Act relates to fixation and payment of wages.
- ✓ Payment is to be made very every month and before the seventh day of every month in case of establishments where workers are less than 1000 and before the expiry of tenth day of every month in case of establishments where number of workers is more than 1000.
- ✓ Section7 of this act states conditions in which reasonable deductions can be made from the salary of an employee.
- ✓ The person responsible for payment of wages in an establishment has to display the abstract of this Act in English and any other language which majority of the employees can read and write.

### The Minimum Wages Act

#### Applicability

This Act is applicable to all industries, under this rights of the workers to descent wages is protected.

#### This Act provides for:

The state government from time to time keeps updating the minimum wage is to be given to an employed person. Dearness Allowance appreciation is added to wages is every wages.

### Payment of Bonus Act

#### Applicability:

This Act applies to:

- Every factory
- Every other establishment in which 20 or more workers are employed.

#### Calculation of Bonus:

- ✓ Bonus is to be calculated by the prescribed formula, by which the amount of bonus would lie between 8.33% and 20% of the annual wage.
- ✓ The amount of wage to be considered for calculating bonus cannot be more than Rupees 3,500. Bonus is paid once in a year and last date of such payment is the last day of seventh month after the close of the financial year.

### III. Laws related to Equality and Empowerment of Woman

#### Maternity Benefit Act

##### Applicability:

This Act applies to every establishment wherever woman are employed.

#### Equal Remuneration Act

##### Applicability:

All kinds of establishments, factories, shops, institutions, industries etc., wherever people may be or are governed under the purview of this Act.

##### Summary:

Upholding the principle of article of the Indian Constitution this act provides for equal pay for equal amount of work, this Act abolishes any kind of discrimination between workers while payment of any remuneration for equal work done by them.

It also provides for appeals, penalties and punishments in case of contravention of provisions of this act.

### IV. Laws related to Deprived section of the Society

#### Child Labour Act

This act abolishes employment of children in any form.

##### Applicability:

This Act applies to all establishments wherever people are employed irrespective of their terms and conditions of employment.

##### Main Provision:

No child up to the age 14 can be employed or be allowed to work in any establishment. Any such kind of employment is a punishable offense.

##### Related provision:

Children belonging to the age group 14 to 18 years may be employed, provided that they would not work for more than six hours a day and any kind of deduction in this regards cannot be made from their wages. Thus such workers are entitled to full wages equivalent to other workers for same work.

## V. Laws related to Social Security

### Employees State Insurance Act

#### Applicability:

- ✓ It applies to all factories except seasonal factories.
- ✓ This Act applies to Factories employing 10 or more people where manufacturing is done with power and to factories employing 20 or more people in where manufacturing is done without use of power.
- ✓ It has also been extended to shops, hotels, restaurants, motor transport undertakings, hospitals, and coverage of employees drawing salary up to 10,000.

#### Objectives and terms of liability of the employer and employee:

- ✓ The total contribution by employer would be 4.75% and of the employee shall be 1.75% .

The basic objective is to offer social insurance to workers in respect of three contingencies 1. Sickness 2. Employment and injury 3. Child birth.

#### Benefits to employees:

- ✓ Benefits to the employees under this act are medical, sickness, extended sickness for certain disease, enhanced sickness, depended maternity, funeral expenses, rehabilitation allowance, benefits to insured person and his spouse.

### Employees Provident Fund Act

#### Applicability:

This act applies to all factories where 20 or more workers are employed. (Note) A establishment once under the purview of this act shall always be even if the number of employees falls below 20.

#### Objective of this Act:

This Act to provides for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments.

#### Procedure and other provision:

The employer's contribution to the fund shall be 12%, which may be changed from time to time. Section 7 of this act deals with dispute redressal. Section 14 A deals with offences by companies.

### Gratuity Act

### Applicability:

All factories, mines, oilfields, plantations, ports, railway companies and every other shop and establishments where ten or more person are employed shall be under the purview of this Act.

### Main Provision:

- ✓ Gratuity shall be paid to an employee for a continuous service for net less than 5 years on account of:
  - (a) On his superannuation, or
  - (b) On his retirement or resignation, or
  - (c) On his death or disablement due to accident or disease,
  
- ✓ The term continuous should be considered as explained in section 2A of this Act.
- ✓ The Gratuity shall be not be more than 3 lakhs 50 thousands. Section 7 states provisions regarding Determination of amount of gratuity.
  
- ✓ The central govt. shall from time to time make changes regarding limit and method of computing of gratuity and also regarding other provisions of this Act.

## The Unorganized Worker's Social Security Act

### Applicability:

This Act is applicable to all establishments.

### Objective:

This act aims at the providing social security and welfare to the unorganized worker.

### Provisions:

- ✓ The central govt. shall make welfare schemes regarding subjects mentioned in section3 (1) (2) (3).All such schemes shall be wholly or partly funded by the central government.
- ✓ A National Social Security Board shall be constituted by the Central govt. which would recommend suitable schemes, advice the central govt. on administration of schemes, review the work, expenditure and all such functions which would be assigned to it.
  
- ✓ Section10 mentions the eligibility requirements and registration of every unorganized worker and conditions for receiving social security benefits. Chapter VI lays down the power of the Central govt. for making amendments to the provision of this act.

## VI. Employment and Training

### Apprentices Act, 1961



### Applicability:

This act applies to all those industries and establishments which would be specified by the central govt. in the official gazette. The provisions of this act would apply on the date as specified in the notification. It provides for regulation and control of training of apprentices.

### Deals with:

Section 3 enlists qualifications for being engaged as a apprentice whereas section 4, 5, 6, formation of the contract its conditions, time period, novation and termination of the contract of apprenticeship.

### Other important provisions:

- ✓ Apart from various rules and procedure mentioned in this act in respect to Apprenticeship following are some which are important for an employer.

Section (11): states about the obligations of employers.

Section (13): states about any payment to be made to the apprentices.

Section (14) describes the Health Safety and welfare of apprentices.

Section (15): hours of work, overtime, leaves and holidays

Section (16): States about the Employers liability for compensation of injury that may occur to the apprentice in the establishment.

Section (20): settlements of disputes.

Section (30): offences and penalties.

- ✓ Chapter III describes about the various concerned governing authority, their constitution rights duties and powers.

## VII. Safety and Security of the Employees

### Factories Act

#### Objective:

This Act aims at providing greater security to the workers in a factory and increasing liability of their employers to take care of them.

#### Applicability:

This Act applies to all establishments.

#### “Fatory” defined:

This Act defines Factory as a unit where 10 or more workers are or were working, on any day in the preceding twelve months and in any part of which a manufacturing work process was carried out with aid of power and 20 or more workers in case where manufacturing process was carried out without power.

#### Key notes of chapters and certain sections:

- ✓ Section 6 is related to licensing and registration.
- ✓ Chapter II (section7to10) relates to the inspecting staff.

- ✓ Chapter II (section 7 to 10) relates to the inspecting staff.
- ✓ Section 7 deals with general duties of an occupier and manufacturers. Other provision relating Inspectors their appointment, powers and duties are also mentioned in this chapter.
- ✓ Chapter III (sections 11 to 20) this chapter contains provision regarding maintenance of health and hygiene and steps to be taken by the employer to ensure maintenance of proper health and hygiene conditions for the workers.
- ✓ Chapter IV (sections 21 to 41) these contain provisions regarding Safety of workers at the workers.
- ✓ Chapter IVA (section 41A to 41H) states regulations regarding Hazardous processes.
- ✓ Chapter V (section 42 to 50) relates to welfare of the employees, provisions regarding washing facilities, sitting area, etc are mentioned in this chapter.
- ✓ Chapter VI (sections 51 to 66) Working hours of the adults are governed by the provisions of this chapter.
- ✓ Chapter VII (section 67 to 77) contains provisions or terms, conditions or liabilities pertaining employment of young persons. Under section 67 of this chapter employment of children is prohibited.
- ✓ Chapter VIII (sections 78 to 84): provides for Annual leave with wages.
- ✓ Chapter IX (sections 85 to 91): describes about the powers of the government in respect to amend the provision and applicability of provisions of this act.
- ✓ Chapter X (sections 92 to 107): provisions regarding offences, penalties and procedures related to it are mentioned in these sections.

## **VIII. Others**

### **Weekly Holidays Act, 1942**

This shall apply to all establishments.

#### **Main Provisions:**

- Every shop shall be closed for one whole day in a week, such day shall be notified and would not be altered more than once in every three months.(section 3)
- A one whole day holiday is to be given to people employed in shops restaurants and theaters ,this is not applicable to persons having less than six working days in a week .(section 4)
- Section 5: the state govt. may by a notification cause the shops theatres and restaurants to close at a specific hour in afternoon on any week days, manner and form shall be notified by the govt.
- No deduction is to be made from the wages of the employees in respect to the closure of the shop or unit due to the weekly holidays as guaranteed under section 3, 4, and 5.
- An Inspector shall be appointed in a local area for the purpose of this act his powers and functions are stated in sections 7 and 8.

- Penalties are to be charged in case of contravention of the provisions of sections 3, 4, 5(1), 6, and 10(2)(c).
- The state government has the powers to, make rules and regulation, as it may seem necessary.

**THE LABOUR LAWS (EXEMPTION FROM FURNISHING RETURNS AND MAINTAINING REGISTERS BY CERTAIN ESTABLISHMENTS) ACT, 1988**

**Applicability:**

This Act applies to all establishments Small and Very small establishments.(definitions of small and very small establishments are given in section 2 of the Act)

**Key Provisions:**

This act allows certain establishments which are small or very small to furnish returns or maintain registers regarding it in compliance to the earlier governing act.

- ✓ The conditions on which such exemption is given to the employer are mentioned in section4 (1),(2)and (3).
- ✓ This act will not affect or exempt the employer out of the purview of the provisions mentioned in section5. Section 6 imposes penalties on contravention of the provisions of this act.
- ✓ The Central Govt. has the authority to make amendments in the Forms to be filled (section 4(1)) by way of notification in the Official Gazette.

This Act further provided the various Form B, C, D, E and schedules.

## Environment Related Laws

### The Air (Prevention and Control of Pollution) Act, 1981

**Applicability:** This act aims at control and prevention of Air pollution and thus Applicable to all industrial establishments, or any manufacturing unit which discharges effluents in air.

#### **Main provisions:**

- The concerned authority established under this Act may at any reasonable time inspect any industrial or manufacturing establishment and issue directions for prevention and control of Air pollution.
- Standard emission levels as directed by the \*Board are to be maintained, the State Govt. after consultation from the \*Board may order non usage of any appliance or any fuel in order to prevent pollution in area as it may deem fit.
- A person has to obtain consent from the \*Board in order to set up an industrial unit in an air pollution control board. If anyone has a industrial unit in a place from before being designated as air pollution control area then he has to submit an application along with required fees in order to obtain assent to operation of the industrial unit on the discretion of the State Board\*.
- The time period of consent is limited and has to be renewed from time to time as per the rules and procedures of the board.
- The \*Board may order installation or removal of any equipments or technologies, and if a person or any industrial unit is discharging effluents more than the permitted limit then the board may file a suit against that person in a court not below that of Judicial Magistrate of first class.
- SECTION 31 A. states the procedure for appeal if a person is aggrieved by any order of state board.
- It further lays down powers of the board in matters relating to inspection, testing laboratories etc.
- Chapter VI lists the punishments and penalties.

(NOTE: Board herein refers to Central Pollution Control Board)

## The Water (Prevention and Control of Pollution) Act 1974

### Applicability:

This Act is applicable to all industrial or manufacturing units.

The Air (Prevention and Control of Pollution) Act 1981 is based on the Water (prevention and control of pollution) Act 1974. The Water (prevention and control of pollution) Act 1974 was brought to prevent water pollution. As per this act a pollution control board was to be established both at the centre and the state level with an object to prevent water pollution. The act enlisted the powers function duties and constitution of these boards.

### Key Points of chapters of this Act are as follows:

- Chapter II and III state the constitution ,terms of service and conditions of collaborations of the Central and State Boards for Prevention and Control Of Water Pollution and various other Joint Boards.
- Chapter IV (sections 16 to 18) state their powers and functions.
- Chapter V specifically deals with their powers they have for prevention and control of water pollution.(this part deals with industrial pollution)
- Chapter VII states punishments and penalties on non compliances with the orders and directives of the central and State pollution control boards for prevention and control of water pollution.
- Sections under chapter V & VII are important for the industries.

## The Environment Protection Act, 1986

### Objective & Key Provisions:

- ✓ This Act empowers the central govt. to take all such measures which it may deem necessary for the purpose of protecting and improving the quality of environment and preventing it from environmental pollution.
- ✓ As per section 5 the central govt. may issue directions regarding:
  - i) Prohibition, closure or regulation of any industry's process or operation, or
  - ii) Stoppage or regulation of supply of electricity or any other service.
- ✓ Chapter III contains provisions regarding prevention, control and abatement of environmental pollution, the central may set up rules and regulations in this respect.
- ✓ The central has power to make investigations and award penalties in case for infringement of rules and regulations.(section15 ,16,17)

## Taxation Laws

### Income Tax

### Applicability:

Any Individual or group of Individual or artificial bodies who/which have earned income during the previous years are required to pay Income tax on it.

### Incomes considered under the Act:

- ✓ The Income Tax Act classifies these into 7 categories which are Individuals, Hindu Undivided Family [HUF], Association of Persons [AOP], Body of individuals [BOI], Firms, Companies, Local authority, artificial juridical person.
- ✓ Tax paid by companies under this Act is known as Corporate Tax.
- ✓ All types of income which are under the purview of this act are as follows income from Salary, Income from House property, Income from Business or Profession, Income from capital gains, Income from other sources.

### Taxation Rates:

- ✓ Presently for computation of tax in case of firms, limited liability Partnership and companies, the present slab rate is 30% and education cess 2% and secondary and higher education cess of 1% shall be charged, a surcharge of 7.50% shall be charged only in case of a company having an income of more than 1 crore.

### Returns:

- ✓ All companies and partnership firms need to file returns irrespective of their income. Form ITR3, ITR4, ITR5, ITR6, ITR7 are to be filled in case of partnership, proprietorship, for firms or association of persons, and in case of person who needs to file returns under section 139 (4A), 139(4B), 139(4C) and 139(4D) respectively for filing returns.
- ✓ Last Date for filing returns in case of companies or where the accounts are audited is 31<sup>st</sup> October.

### Miscellaneous:

- ✓ Tax Deducted at source is the amount withheld from payments of various kinds such as salary, contract payment, commission etc. This withheld amount can be adjusted against your tax.

## The Central Excise Act

### Applicability:

This Act is applicable to all manufacturing units.

### Objectives and key Provisions:

- ✓ This act provides for central duties of excise for goods manufactured or produced in India. The important parts of this act are Chapter II & II- A, Chapter VI & VI- A.
- ✓ Chapter II (sections 3 to 12): this chapter is about Levy and collection of Duty. Sections in this chapter state provisions regarding levy and collection of duty, extending from types of duties and valuation of excisable goods to registration to offenses and delayed payment.

- ✓ Chapter IIA provides for indication of amount of duty on the price of goods etc., for the purpose of funding and crediting certain amounts to the funds
- ✓ Chapter VI & VI- A contains provisions regarding adjudication of confiscation and penalties and manner of appeals to various authorities in case of any grievances.

### Service Tax

Chapter V of Finance Act provides for the Service Tax. Section 65&66 state and classify the taxable services. The rate of tax and valuation of taxable services for charging service tax is stated under sections 66 -68.

#### Applicability:

#### Key Provisions:

- ❖ Section 69 states that every person who is liable to pay the service tax must get himself registered by making an application to the concerned authority in form and manner as may be prescribed.
- ❖ Every person has to file returns by himself assessing the due tax to be paid according to the services provided by him, time and manner shall be duly notified.
- ✓ Section 73 states about conditions and actions to be taken in case Service tax not levied or paid or short levied or short paid or erroneously refunded.
- ✓ Section 75 provides for interest to be paid in case of late payment and section 76 provides for penalties in case of failure of payment of the due tax.
- ✓ Sections 72 to 80 further state various penalties which may be imposed in case of any fraud or contravention of any provision of this Act. Section 84, 85 & 86 state the authorities and the procedure and manner an appeal may lie against them by the aggrieved party.
- ✓ Section 93 provides for exemption from payment or rebate in service tax by the central government as per certain terms and conditions.
- ✓ The rate of sale tax, its manner of computation, applicability, and other necessary provisions regarding it are been revised and amended by the central government. Latest of such amendment is made and notified in 2011.

### The Central Sales Tax

#### Applicability and purpose:

This Act is applicable in case of interstate sale or purchase of goods, it not only defines the conditions when such a purchase is said to be done also provides for levy and collection of taxes in respect to such sale or purchase goods.

#### Main Provisions:

- ✓ Chapter II (sections 3,4,5) state factors to determine when a sale or purchase falls in course of an interstate trade or commerce, or an outside state trade or in course of an import export trade activity.
- ✓ Every dealer has to pay tax as constituted under the sales tax and has to get himself registered with the concerned authority by making an application in form

and manner as prescribed. If the dealer contends that his activity cannot be construed as sale then he himself has to prove his say by relevant documentations.

- ✓ Section 8: determines the rate of tax in case sales in course of an interstate trade or commerce while section 8A determines the method for calculation of a dealer's turnover.
- ✓ Section 10 provides for imposition of penalties if a person attempts any of the enlisted activity. The concerned authority cannot prosecute the party for same sets of fact if penalty has been already imposed on that person.

#### Miscellaneous:

Chapter V describes about the liability in special case such as liquidation of a company. Chapter VI provides for the appellate authority in case of any dispute in an interstate trade or commerce.

### The Wealth tax

#### Objective:

This act provides for levy of wealth tax.

#### Key Points:

- ✓ It is calculated every year, the year for this purpose shall commence on 1<sup>st</sup> day of April of preceding year till 1st day of April of the present year.
- ✓ The Rates of taxations are mentioned in the first schedule. Section 4,5,6,7 define what all to be included in net wealth and how it is to be determined.
- ✓ Chapter IV (section 14 to 18B) defines about Assessment of the wealth and its filing of returns, i.e. filing of returns, calculation of taxable wealth and assets, self assessments, role of valuation officer, wealth which is to be excluded, penalty in case of late or non submission of returns and penalties in other cases. Chapter V deals with various special cases of assessments i.e. in case of deceased person, executor, and partially partitioned Hindu undivided family etc cases.
- ✓ Settlement of cases, Appeals, Revisions and References are further mentioned in Chapter V-A& VI. Chapter VII relates to Payment of Wealth tax.

Schedule III defines method for valuation of assets in various cases such as business assets, interest of firms, jewelry, immovable property etc.

## Corporate Laws

### The Sale of Goods Act, 1930

#### Purpose and extent:

The Sale of Goods Act extends to the whole of India and regulates and defines the procedure for selling of any kind goods between various parties.

This act lays down the procedure, form and manner in which contract for sale is to be made and executed and it also states the rights and penalties for the aggrieved and the party at fault in case of breach of contract.



### Main Provisions:

- ✓ Chapter II (section 4-17) & chapter III (sections 18-26): these chapters lay the procedure for the formation and effects of a contract of sale.
- ✓ Chapter IV (section 31-44) deals with performance of the contract, it lays the rights and duties of buyers and sellers, the procedure of delivery of goods and payment of the price, right quantity and quality of goods been delivered and agreed price be paid, all such matters are dealt with in this chapter.
- ✓ Chapter V (section 45-54) states the rights of the seller against the goods if the due payment by the buyer is not made. Chapter VI (sections 55-61) provides for the remedies and institution of suits in case of breach of contract by the parties.
- ✓ Chapter VII contains miscellaneous provision. In this chapter section 64 contains provisions for sale by auction and section 64A states the effect on the sale agreement if any tax so levied is decreased, reduced, or increased.

## The Industries (Development and Regulation) Act, 1951

### Applicability:

This Act applies to all scheduled industries and other related establishments that may be notified by the government.

### Provisions relating licensing and registration of industries:

- Chapter III states about the registration and licensing of the scheduled industries.
- ❖ Section 11(b) is in respect to registration and licensing of small scale industries. The central govt. has powers to specify requirements to be complied by small scale industries.
- ❖ Sections 14 to 18 further grant the power to the central govt. cause a full investigation before giving license and also enlist conditions in which it can cause an inquiry of the undertaking.

### Power of government to take over the control of an industry:

- ❖ The central govt. may employ a body or a capable person for the purpose of inquiry and the person's powers are stated under article 18.
- ❖ Section 18-A states the conditions when the central govt. may take over the management and control of an undertaking and the effects of such notices.
- ❖ Chapter III-A describes the power of the central govt. after permission from the High Court to authorize a person to take over control of industrial activities for a company which is been liquidated.
- ❖ The central govt. may provide relief to certain industrial undertakings on its discretion. Conditions relating this are mentioned in chapter III-AB.

### Miscellaneous:

- ❖ Chapter III-B empowers the central govt. to The Central Government in order to secure the equitable distribution and availability at fair prices of any article related to any scheduled industry, may by a required order regulate the supply and distribution thereof and trade and commerce therein. All such conditions and procedures are mentioned in sub clauses of section 18-G.
- ❖ Chapter IV states the penalties and punishment and jurisdiction in cause of any grievances or faults that may occur.

## Societies Registration Act

### Applicability and Purpose:

- The **Indian Societies Registration Act** of 1860, provided for the registration of literary, scientific and charitable societies. Under this act, a Societies may be formed may be formed by a "memorandum of association" by any seven people associated for any literary, scientific, or charitable purpose, filing the same with Registrar of Joint-stock Companies to form themselves into a society under this Act.

### Provision regarding registration of societies:

- Section 2 states the filing of memorandum and its content for the purpose of registration.
- All the property of the society is to be vested in the trustees and if not then is shall deem to be vested in the governing body of the society and in all civil and criminal proceedings would be described as the property of the governing body.
- Every society registered under this Act may sue or be sued in the name of the president, chairman or principal secretary, or trustees, as shall be determined by the rules and regulations of the society.(section6)

### Other provisions:

- Section 8, 9& 10 relates to the punishment, penalties and enforcement of any judgment and non abatement of suit in case of death of the person against whom the case has been filed.
- Section 13 states the procedure for dissolution of any society, the property of the society shall not be distributed among its members instead to be donated to any other society which the members decide.
- Societies which existed before the commencement of this act have to comply with the provision of section 17 &18 of this act regarding the registration.
- Section 20 enlists the societies which can be registered and are under the purview of this Act.

## Companies Act

The Companies Act contains provisions regarding creation, continuation, the winding up of companies. It also regulates and defines also the relationships between the shareholders, the company, the public and the government. It defines the working, liabilities of all companies from their registration to their business activities.

## The Partnership Act, 1932

### Objective:

This Act defines and amends the provisions relating the formation, execution of contract of Partnership and matters related with it.

### Main Provisions:

- ✓ Sections 1 to 5: give a general statement about the constitution and establishment of a Partnership.
- ✓ Section 9 to 13: these sections state about duty to indemnify if any of the partners have caused fraud, determination of their respective rights and duties of the partners as per the contract and conduct of business in adherence to the contract, rights and liabilities of the partners.
- ✓ Sections 14 to 30: these sections describe the relation to one another, their rights, and duties, liabilities in relation to the firm and to one another.
- ✓ Section 31 to 38: these sections lay procedures for incoming and outgoing members, i.e. admission of new members, retirement or removal of existing members, rights and liabilities of an insolvent or deceased or outgoing member.
- ✓ Section 39 to 55: relate to the dissolution of the firm manner and condition along with liabilities that arise out of it.
- ✓ Section 56 to 71: state about the registration of a firm, manner and method and conditions related to it. Schedule 1 enlists the maximum fees payable for various documents.

## **Other Important Statutes**

### Essential Commodities Act

**Applicability:** This Act applies to institutions which deal with the essential commodities enumerated in this Act.

**Mian Pr**

This Act gives power to control production, supply and distribution etc., of essential commodities for maintaining or increasing supplies and for securing their equitable distribution and availability at fair prices.

Using the powers under this Act various ministries, departments of the central government have authority to issue control orders for production distribution, distribution etc of the essential commodities specified in this Act. All such orders which may be made are under section 3.

Whereas section 7 provides for penalties in case contravention of orders issued under section 3 and if such contravention is done by a company then it is to be dealt by the provision under section 10.

Schedule enlists the essential commodities, also mentioned in Section 2A. they are total seven in number.

An amendment to this Act was brought in 2006 which amended sections 2, 3, & 12A. Cotton seed was removed from the list of essential commodities.

### The Legal Metrology Act

This Act was enacted in 2009 to establish and enforce standards of weight and measures, thus regulating the trade and commerce of goods which are sold and distributed by the means of weight and measures or numbers.

Thus all selling, buying, trade, distribution, etc of goods in matters of weight and measures shall be as per the regulations of this Act.

Main provision are as such: chapter III defines various Weights and measures to be followed, Chapter IV deals with verification And Stamping of Weight or Measures , Chapter X Offences And penalties.

### The Prevention of Food Adulteration Act, 2004

This act applies to all establishments engaged in manufacturing, processing, selling, purchase (import export) of edible substances. It aims at prevention of food adulteration thus contains provisions for appointment of food inspectors and regular inspections to authorization of adding colour substances and preservatives, etc all such norms relating manufacturing, packaging, processing and adulteration of edible article is enlisted in this Act.

### Drugs and Cosmetics Act, 1940

#### Applicability and key points:

This act applies to all establishments engaged in manufacture, import, sale or distribution of any drugs (Ayurvedic Siddha or Unani medicine) and cosmetics.

This act is in addition to the Dangerous Drugs act. It provides for maintenance of standard quality of such articles, obtaining license for running such establishment, inspections, permitted colors and substances which can be added to these products and other laws related to manufacture, distribution, sale, import of Drugs and cosmetics etc.

## The competition Act

### An overview:

This Act is applicable to all establishments which are, or have been, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries.

This act contains following main provisions:

- Prohibition of anti competitive and dominant abuse agreements
- Regulations of combinations such as mergers, partnerships, acquisitions etc.
  
- Establishment of competition commission of India ,its constitution, powers and functions to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets in India.

## Msme development act 2006

This Act dedicated to the MSMEs contains provisions for their development and growth.

The MSME Act 2006 has the following provisions:

- Establishment of the National Board for Micro, Small and Medium enterprises.
- It further defines the constitution, functions, powers, duties and limitation of the body.
- Classification of the enterprises into micro small and medium enterprises on the basis of production.
- Filing of memorandum by both who intend to set up an establishment and who have already established one, in manner and form as prescribed by the central government.
- Provision of grants and funds and easy credit facilities to the msme which would be notified by the RBI from time to time.
- Special provision for the msme regarding delayed payments.
- Procedure for reference to the Micro and Small Enterprises Facilitation Council for dispute redressal.

## Indian explosives act

- This act is applicable to all establishments who are engaged in manufacture, sale (export or import), possession and use of explosives.
- This act states provision regarding obtaining license, eligibility and further defines terms and conditions for carrying out such business.

## Laws on Electricity

### The Electricity Regulatory Commission Act, 1998

- Provision for setting up of Central / State Electricity Regulatory Commission to with powers to determine tariffs.
- Constitution of SERC optional for states.
- Loosening control of Govt. over tariff determination.

### Main Amendments to these existing Acts

- ❖ 1975 amendment enabled power generation in Central sector.
- ❖ Commercial viability in the functioning of SEB's.(section 59 was amended to make the earning of a minimum return of 3% on fixed assets a statutory requirement )
- ❖ Amendment of 1991 allowed generation to private sector and establishment of RLDCs.
- ❖ 1998 amendment provided for private sector participation in transmission, and also provisions relating to Transmission Utilities.

### Electricity Act 2003

The electricity Act 2003 has provisions regarding the following;

- The central government in consultation with the state government from time to time would revise review and publish national electricity policy and tariff policy.(section3,4,5,6)
- Only authorized body can transmit, distribute, trade electricity however the central govt. may by notification exempt any local authority, Panchayat Institution, users' association, co-operative societies, nongovernmental organizations, or franchisees from application under this clause.
- The appropriate govt. has authority to grant license to anyone for transmission, distribution and trade of electricity, shall specify the terms and conditions of the license.  
Part III of this act describes all procedures and regulations regarding the license and working of the licensee.
- Part IV describes the interstate transmission of electricity and directives constitution and working of the National And Regional Load Dispatch Centers.
- Consumer Protection (sections 42,43(1),43(3),47(4),56(2),52,57,166(5))
  - a. (Redressal forum for redressal of grievances of consumers, to be appointed by every distribution licensee within six months.)
- Trading/Market development(section12,79(2)(b),86(2)(b),66)
- Tariff Principles(sections 82,83,110,111,112,125)
- Central Electricity Authority(sections 70,73,53)

- Measures against theft of Electricity(sections 61(e)(f)(g)(h),62)
- Regulatory Commission/Appellate Tribunal(sections 126,135,150,152,153-158)

## **Laws Related to intellectual Property Rights**

### **THE TRADE AND MERCHANDISE MARKS ACT, 1958**

#### Objective:

This Act provides for the registration and better protection of trademarks and prevention of the use of fraudulent marks on merchandise.

#### Key points of the chapters of the Act:

- ✓ Chapter II (section 4 to 17) deals states about the provision of registration and conditions for registration. All such conditions related to registration are specified from sections3to 17.
- ✓ Chapter III (section18 to 26) defines the procedure for registration. It starts with making of an application as stated in section 18 to the procedure for renewal, restoration of the registration (section25) and provision for cancellation of registration in case of failure in deposition of fees for renewal.
- ✓ Chapter IV (section section27 to 35): defines the Effect of registration.This chapter state about the rights obtained from registration and also about infringement of trade marks.
- ✓ Chapter V (section36 to 44) states about Assignment and Transmission of trademarks. This Chapter provides for conditions, restrictions of assignments and transmissibility of registered and non registered trademarks.
- ✓ Chapter VI (section45 to55): sections contained here define Use of Trademarks and registered Users. Chapter VII(section56 to 59):deals with Rectification and Correction of the Register. Chapter IX (section71 to 74): contains special provision for trademarks and their registration in case of textile goods. Chapter X contains offences their penalties and procedures.

The TRADE Marks Act 1999 is based on the trade and merchandise marks act of 1958 and all such rule and laws prior to these were consolidated and further amended wherever needed. All such processes of registration, their effects, offences, power &punishments etc. are governed by this Act.

## Copyright Act

### Purpose and key provisions:

The Copyright Act, 1957 protects original literary, dramatic, musical and artistic works and cinematograph films and sound recordings from unauthorized uses. Copyright does not protect the idea.

Copyright comes into existence as soon as a work is created and no formality is required to be completed for acquiring copyright. However, facilities exist for having the work registered in the Register of Copyrights maintained in the Copyright Office of the Department of Education. The Copyright Office has been set up to provide registration facilities to all types of works.

Chapter VI of the Copyright Rules, 1956 sets out the procedure for the registration of a work. The procedure for registration is as follows. All such details regarding procedure and forms are mentioned in Appendix I of the Act:

- a. Application for registration is to be made on Form IV ( Including Statement of Particulars and Statement of Further Particulars) as prescribed in the first schedule to the Rules ;
- b. Separate applications should be made for registration of each work;
- c. Each application should be accompanied by the requisite fee prescribed in the second schedule to the Rules ; and
- d. The applications should be signed by the applicant or the advocate in whose favour a Vakalatnama or Power of Attorney has been executed. The Power of Attorney signed by the party and accepted by the advocate should also be enclosed.

Each and every column of the Statement of Particulars and Statement of Further Particulars should be replied specifically. Both published and unpublished works can be registered. Three copies of published work may be sent along with the application. If the work to be registered is unpublished, a copy of the manuscript has to be sent along with the application for affixing the stamp of the Copyright Office in proof of the work having been registered

When a work has been registered as unpublished and subsequently it is published, the applicant may apply for changes in particulars entered in the Register of Copyright in Form V with prescribed fee.