**THE PAYMENT OF BONUS ACT, 1965**

The Payment of Bonus Act provides an annual bonus to the employee in the certain establishment- including factories and establishments employing 20 or more persons Under the Act, the bonus is calculated by the employee’s salary and the profits of the establishment.

Employees drawing ₹21000 per month or less (basic + DA, excluding other allowances) and have completed 30 working days in that financial year are eligible for the bonus payment.

Salary or wages include only basic and DA for the bonus payment, and the rest of the allowances (e.g., HRA, overtime, etc.) are excluded. The bonus should be paid at a minimum rate of 8.33% and maximum rate of 20%. It needs to be paid within 8 months from the close of the accounting year.

Employees can be disqualified from bonus payments if they are dismissed by fraud, misconduct, or even absenteeism. The employer needs to ensure that on dismissal, the procedures of domestic inquiry, proper documentation and employee acceptance of the misconduct are all carried out as per the standing orders before disqualifying the bonus payment.

## **The objective of the Act**

The objective of the Bonus Act (Payment of bonus Act), are as follows:

* To impose a legal responsibility upon an employer of every establishment covered by the Act to pay the bonus to employees in an establishment.
* To designate the minimum and maximum percentage of bonuses.
* To prescribe the formula for calculating the bonus.
* To provide a redressal mechanism.

## **Applicability of the Act**

The Payment of Bonus Act implements to the following entities are listed below:

* It applies to any factory or establishment containing twenty or more workers employed on any day during the year.
* The act does not apply to non-profit making organizations.
* It is not applicable to establishments such as LIC, hospitals which are excluded under section 32.
* It is not applicable to establishments where employees have signed an agreement with the employer.
* It is not applicable to establishments exempted by the appropriate government like sick units.

## **Departments, Undertakings and Branches**

According to this section, any different departments or undertakings or branches of an establishment of whether located in the same place or at different areas should be considered as parts of a similar establishment for computation of bonus under the Act.

The separate balance sheet regarding profit and loss of the establishment in the year had to be prepared and maintained concerning such department or undertaking, or branch should be treated as a separate establishment for computation of bonus for the year.

## **Eligibility for Bonus**

The person is eligible for availing bonus under the following conditions is explained below:

Any employee receiving salary or wages up to RS.21,000 per month and engaged in any work whether skilled, unskilled, managerial, supervisory etc. is entitled to the bonus for every year if the employees have worked for not less than 30 working days in the same year.

## **Disqualification of Bonus**

The employees cannot utilize the bonus in case of undergoing with the following activities such as dishonesty, theft, sabotage of any property of establishment, violent behavior while on the premises of the establishment.

## **Number of Working Days**

An employee will be considered working in every year by including the following days which is specified here.

* The employee who is under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946, the Industrial Disputes Act, 1947 or any other law applicable to the establishment.
* The employee during employment has taken leave with salary.
* The employee who has been absent due to temporary disablement caused by accident arising out of and in the course of his work.
* The employee during the accounting year has been on maternity leave with salary.

## **Payment of Minimum and Maximum Bonus**

The minimum bonus will be provided 8.33 % of the salary during the year, or one hundred rupees will be given in case of employees above 15 years and sixty rupees in the case of employees below 15 years, whichever is higher. The maximum bonus is 20 % of the salary during the accounting year.

## **Timeline for Payment of Bonus**

The payment of the bonus should be paid in cash within eight months from the end of the accounting year or within a month from the date of enforcement of the act.

## **Computation of Bonus**

As per the Section 4 and section 7 together with the schedule 1 and two deal with the calculation of gross profit and available surplus out of which 67% in case of companies and 60% in other cases would be allocable surplus.

To compute the available surplus the sums, so deductible from the gross profits are

* All direct taxes under section 7
* The sums which are particularised in the schedule
* The allowance for investment or development in which the employer is allowed to deduct from his income under the Income Tax Act.

Available Surplus = Gross Profit – (deduct) the following :

* Depreciation is allowable in section 32 of the Income-tax Act.
* Development Allowance.

## Inspectors under Section 20

Section 20 enables the relevant government to appoint Inspectors for this Act, by notification in the official gazette.

### Powers of inspectors:

* To require an employer to furnish information.
* To visit any establishment at any reasonable time.
* To order certain production documents and examine the same.
* To take extracts from the records
* To examine the employers, his agent or servant or any other person found in charge of the establishment.
* To execute such other powers as may be prescribed under the rules.

## **Duties of the Employer**

The following duties to be carried out by the employer are explained below:

* To estimate and pay the annual bonus as required under the Act.

**To maintain the following registers:**

* The Register is showing the computation of allocating surplus in respective Forms.
* The register should be maintained with the payment of the bonus to the employees.
* To co-operate with the Inspector, by producing the records maintained before the inspection and such other information as may be required by them.

## **Rights of Employers**

The following rights to be claimed out by the employers are explained below:

* The right to notice any disputes relating to application or interpretation of any provision of the Act, to the Labour Court or Labour Tribunal.
* Right to make a valid deduction from the bonus due to an employee, such as festival bonus paid, and financial loss created by the misbehavior of the workers.
* The right to take the bonus of an employee, who has been dismissed from service for misbehavior, violent behavior, fraud, misappropriation or sabotage of any property of the establishment.

## **Rights of Employees**

The following rights to be claimed out by the employees are explained below:

* Right to claim bonus due under the Act and to request an application to the Government, for the redemption of bonus amount which is unpaid, within one year of its being due.
* Right to notice any dispute to the Labor Court/Tribunal.
* Employees who are not eligible for the Payment of Bonus Act, cannot raise a dispute about the bonus under the Industrial Disputes Act.
* Right to seek clarification and obtain information, on any item in the accounts of the establishment.

## **Offences and Penalties**

In case of violation of the provisions under the Act or rules then the penalty is imprisonment for six months or may impose fine of Rs.1000 or with both.

In case of failure to comply with the directions or requisitions made the penalty is imprisonment for six months or may impose fine of Rs.1000 or with both.

In case of offences by companies, firms, body corporate or association of individuals, its director, partner or a principal or officer responsible for the conduct of its business, should be deemed to be guilty of that offence, unless the person concerned proves that the crime was committed out of his knowledge or that he exercised all due diligence.