LEGISLATION REGARDING ENTREPRENEURSHIP
CHAPTER No. 4
LEGISLATIONS REGARDING
ENTREPRENEURSHIP

4.0 INTRODUCTION :- Law is basically in the form of various rules, regulations or norms of conduct enforced by the state. The state i.e the Government regulates the conduct of its people by a system of rules. Such rules of conduct, recognized by the state and enforced by it on its people are termed as laws. As defined by Salmond, a famous English jurist “Law is the body of principles recognized and applied by the state in the administration of justice.” So the main purpose of law is to regulate the relationship between person and person and between state and person. Law tries to bring uniformity, definiteness, security and stability in the society.

“ Law is generic term which includes various types of laws such as customs, rules, norms, acts, precedents etc. whereas ‘ Act’ is a specific type of law which is made either by the Central Government or by the State Government . It is therefore also called as a codified law or a statute or a Legislation.

The scope of laws is very wide and includes commercial or business laws relating to contract, partnership, sale of goods, negotiable instruments, companies etc. It also includes the industrial or labour laws relating to industries, factories, wages, bonus, pension, strike, accident, compensation, trade unions etc.

The acts rules, regulations, and statutory provisions do not aim at restricting and restraining entrepreneurial growth in our country. It is monitoring mechanism to protect the interests of entrepreneurs and workers as well as the society. The objective of all these legal provisions is ultimately disciplined development in which both the entrepreneurs and the workers and their unions will derive pride and pleasure.

4.1 Legislations Applicable to SSI :

The important labour legislations applicable to SSI are as follows:

8. Payment of Wages Act, 1936.

An entrepreneur has to abide by certain acts, rules and regulations enacted by the government which help the entrepreneurs to maintain smooth and cordial relations with the workers. Workers are treated as a vital part of any industry. To safeguard their interest and to avoid any unlawful situation at the place of work and to mobilize the workers to achieve the common goal of growth and prosperity of the enterprise, the government has provided a set of acts like the minimum wages act, the Industrial Disputes Act, the payment of Bonus Act, the payment of Wages Act, the workmen’s Compensation Act, etc. To shape and guide the trade union movement, the government has introduced the Trade Union Act which provides for the registration of trade unions and the rights and liabilities of registered trade unions.

The acts, rules, regulations and statutory provisions do not aim at restricting and restraining entrepreneurial growth in our country. It is a monitoring mechanism to protect the interests of entrepreneurs and workers as well as the society. The objective of all these legal provisions is ultimately disciplined development in which both the entrepreneurs and the workers and their unions will derive pride and pleasure. In the following sections, important acts for small scale entrepreneurs are discussed.

4.2.1 **Contract Labour (Regulations and Abolition) Act, 1970:**

In many of the industrial establishments, instead of employing permanent workers, jobs are given on a contract basis. If an entrepreneur has given jobs on contract in his premises and 20 employees or more are working in the enterprise as contract labour, then the enterprise is covered under the contract labour Act, 1970. It is obligatory for the entrepreneur to comply with the provisions of this Act. The Act empowers the government to prohibit the employment of contract labour in consultation with the tripartite Advisory Board which is - incidental to or necessary for the trade or business carried on in an establishment of a perennial nature, carried out ordinarily through regular employees in that establishment or similar establishments and sufficient to employ a
considerable number of full time employees.

In case the entrepreneur does not directly employ contract labour but employs a contractor who employs 20 or more workers for the job of the entrepreneur, then the entrepreneur has to ensure that the contractor has a proper license which he has obtained after making a payment of the necessary security deposit for each employee.

It is essential for the entrepreneur to ensure the welfare and health of the contract labour. He must ensure sufficient supply of drinking water, latrines, urinals, washing facilities, rest rooms, first aid box etc.

The entrepreneur is supposed to ensure that the contractor pays the wages to his employees. If he does not pay full wages and deducts a part of it for any reason, the entrepreneur will be held responsible as the ultimate employer.

4.2.2 Employees Provident Funds and Miscellaneous Provisions Act, 1965:

If an entrepreneur employs 20 or more persons in the enterprise, by the law he is required to implement the employees provident funds act, 1965. According to the provisions of the Act, the employer has to pay 6.25 Percent to 8 Percent of the basic wages including dearness allowance as a provident fund contribution. An equal amount is to be contributed by the employees. With mutual agreement, both the employer and employees can contribute a higher percentage also. The provident funds act is applicable if the entrepreneur employs 20 but not less than 50 persons after five years from the date of establishment of the enterprise. If more than 50 persons are employed the act is applicable after three years from the date of establishment.

The scheme covers those employees who have completed three months continuous service or have actually worked for not less than 60 days in a period of three months. The employees covered under the provisions of employees family pension fund scheme for the purpose of family pension and life insurance benefits. Under the scheme, the employer and employees are required to contribute an amount payable as contributions to the provident fund account. The government also contributes an amount equal to the share of the employees.

The employees provident fund is vested with is administered by a tripartite board of trustees consisting of the representatives of the central and the state government, the employer and the employees.

The central provident fund commissioner functions as the chief executive officer
of the organization and secretary of the board. There are regional provident fund commissioners, one in each state, to administer the scheme under the supervision and control of the central commissioner.

4.2.3 **Employee’s State Insurance Act, 1948**:

To overcome certain drawbacks of the workmen’s compensation Act of 1923 and to prevent the victimization of the employees by the employees, the government introduced the employee’s state insurance act in 1948.

If the factory is non-seasonal, runs with power and employs ten or more workers, this Act is applicable to the employees. All workers, supervisors, manual labourers, clerical and supervisory staff and workers engaged through contractors whose remuneration does not exceed Rs.1600 per month are covered under this act.

The employer is required to contribute 5 percent of the wages. The employees are required to contribute 2.25 percent of the total wages and the employer is supposed to deposit this amount with the Employee’s State Insurance Corporation.

Individuals insured under this act are entitled to get benefit in cash for sickness, maternity, disablement, dependents benefits and medical benefits. They are also entitled for the benefits given for injuries during employment and death. The expenses for the funeral are also covered as per the provisions of the Act.

The insured person claiming the benefits should observe the following conditions -

- The insured person shall remain under the medical treatment in the hospitals, clinics or institutions approved by the Act. The person shall implement all the instructions given by the concerned medical officer.

- During the period of treatment, the insured person should not do anything which might retard or prejudice his chances of recovery.

- The insured person shall not leave the premises where he / she is being given the medical treatment without the permission of the concerned medical officer or any such authority which is specified under the provisions of the Act.

The Act is administered by the Employees State Insurance Corporation which is an autonomous body set up by the central government. The corporation has regional boards, regional offices and local offices along with inspection offices in various states.

4.2.4 **Factories Act, 1948**:

The Factories Act, 1948, defines the factory as a place, where 10 or more workers
are employed and the manufacturing process is carried out with the aid of power, if manufacturing is carried out without power and 20 or more people are employed, the enterprise is covered under the factories Act.

The prime objective of this act is to protect the workers in the factory against industrial and occupational hazards.

The Act requires that the entrepreneur maintains cleanliness in the premises, makes arrangements for the treatment of wastes and effluents due to the manufacturing process, proper ventilation and circulation of fresh air, comfortable temperature and artificial humidification as per the prescribed standards.

The Act also provides conditions for sufficient space per worker in every room (minimum 500 cubic feet), sufficient lighting, prevention of glare and avoidance of shadows. The entrepreneur is expected to provide clean drinking water, latrines, urinals and spittoons.

Any machinery which may cause injury to employees should be fenced. Precautions should be taken while working on or near the machinery which is in motion. Persons working on hazardous or dangerous machines should be given proper training. Individuals below the age of 18 should not be allowed to work with such machines. Persons operating hazardous or dangerous machines should possess sufficient knowledge and experience to operate the machines. They should work under the supervision of a person who possesses knowledge and experience of such machines. If hoists and lifts are used, they should be of a standard construction quality and should be properly maintained. If any revolving or rotating machine is used in the factory, the speed limit should be complied with. If the manufacturing unit needs pressure above atmospheric pressure in any machine, the entrepreneur must ensure that the limit of safe pressure is not exceed.

All floors, stairs and other accesses should be free from any obstruction and clear from slippery substances. The entrepreneur should provide necessary safeguards to protect the workers from dangerous poisonous fumes, gases, fragments, particles, dust etc. Eyes of the workers should be protected from hazardous elements.

An entrepreneur should ensure that there is a means of escape in case of fire and a warning alarm system in case of such incidences. Conditions of the building should be safe.

Suitable facilities for washing and sitting arrangements should also be provided to the workers. First aid box should also be available in the factory.
Normal working hours should not exceed 48 in week. A rest day should be given every week. An employee should not be allowed to work more than nine hours in a day. He should be given an interval of rest for at least half an hour after five hours. Employees should be given annual leave with wages if they work for 240 days or more in year.

If the enterprise is covered under this act, it is essential for the entrepreneur to get approval for the factory plan from the chief inspector of the factories. Registration and licensing is also required on payment of the prescribed fees.

The Act fixes the minimum age of a person who wants to join the factory for work. Persons below 14 are not allowed to work. A qualified surgeon must certify the age and such a certificate should be available for inspection. Children between the age group 14 - 17 are allowed to work for four and half to five hours a day. Night shifts are prohibited for children. The act prohibits the employment of women in the factories between 6 p.m. and 7 a.m. Thus, the factories Act imposes many restrictions on entrepreneurs in order to protect the interests of the workers.

### 4.2.5 Industrial Disputes Act, 1947 :-

Industrial disputes like strikes and lockouts have become an inseparable part of the industrial society. In 1947, the government introduced the Industrial Disputes Act. This Act has made a provision for investigation and settlement of the industrial disputes. It covers all workers, irrespective of their salary, clerical and supervisory staff who draw less than Rs. 1600 per month but it excludes all these employed in a managerial and administrative capacity.

The important provisions of the Act which are more applicable and concerned with the small entrepreneurs are summarized below:

- An entrepreneur cannot effect any change in conditions of service applicable to this employees in regard to wages and allowance, hours of work, leave with wages and holidays classification of employees and rationalization without giving 21 days notice to the employees concerned.

- A strike or a lockout would be illegal if begun while conciliation proceeding are pending before the labour court or tribunal or during any period in which a settlement is in operation in respect of matters covered by the settlement award. A strike or lockout declared illegal is prohibited under the Act.

- If less than 50 workers are employed, lay-off compensation is not payable. Otherwise, it is payable to the employees who have completed one year of
continuous service at the rate of 50% of the total of basic wages and dearness allowance that are payable to them. Lay-off compensation is not payable even to those employees if they refuse to accept an alternative employment either in the same establishment or in any other establishment situated in the same town or city within a radius of five miles, or if they do not report for work at the appointed time during normal working hours, or lay-off is due to a strike or slowing down of production on the part of the employees in another area of the establishment of the same employer.

An entrepreneur cannot retrench any employee who has completed a year’s service without giving him a month’s notice in writing, indicating the reasons for his retrenchment. After the notice has expired, compensation has to be paid to him at the rate of 15 days wages for every completed year of service or any part thereof in excess of six months. Retrenchment compensation is also to be paid to him in the case of closure or transfer of an undertaking. In case of change of ownership, the employees can be re-employed. The principle to be followed by an employer is that the person employed last should be retrenched first.

If an entrepreneur intends to close down his business, he is required to give at least 61 days notice to the appropriate government if the employees more than 50 persons. If he is in the construction business, he is not required to give any notice.

Certain unfair labour practices have been given in the fifth schedule of the industrial Disputes Act.

4.2.6 **Minimum Wages Act, 1965:**

While fixing the wages at minimum rates, an entrepreneur is required to refer to this Act. He should take care that minimum wages that are notified by the central and state government are paid to his employees. In case the entrepreneur pays less than the minimum wages fixed by the government as per the procedure, the balance is recovered with penalty and subsequent prosecution. It includes imprisonment up to six months of also a fine.

4.2.7 **Payment of Bonus Act, 1965:**

If a factory is registered under the factories Act, or if the entrepreneur employs 20 or more workers in any establishment on any day during an accounting year, whether in a factory or any other establishment, an entrepreneur is required to pay a bonus from the year from which he derives profit or from the sixth accounting year in which the
entrepreneur sells manufactured goods which ever is earlier.

Bonus has to be paid to all the employees earning wages less than Rs. 2500 per month at the minimum, rate of 8.33 Percent of the wages earned by them in the given accounting year. If the allocable surplus worked out accordingly exceeds the minimum bonus payable the entrepreneur is bound to pay a bonus in proportion to the wages earned by the employee in the given accounting year subject to a minimum of 20 Percent. The wages includes basic wages and dearness allowance and commissions.

An employee is entitled for bonus, if any accounting year, he has worked for 30 days or more including days laid off, leave with wages, absence due to temporary disablement and maternity leave.

### 4.2.8 Payment of Wages Act, 1936

According to the provisions of this Act, an entrepreneur should make a prompt and regular payment of wages to his employees and should not make any arbitrary fines and deduction from the wages.

Wages should be paid within a period of one month. If less than 1000 people are employed, payment of wages should be made before the expiry of the seventh day, after the last day of the wage period, for which the wages are payable. If the employee is discharged, his wages should be paid before the expiry of the second working day.

Deductions are allowed only in certain cases prescribed by the Act. For example, absence from duty, damage to or loss of goods or money, where such damage is due to the negligence or default on the part of the employee, housing accommodation, amenities or services supplied by the employer, etc. certain fines are also listed in the Act which are to be imposed by the employer. Income tax and provident fund deductions are also authentic deductions from the employer.

### 4.2.9 Trade Unions Act, 1948

Any seven workers, by subscribing their names to the rules of the trade union, can apply for registration of the union. But at least half of the total number of office-bearers must be persons actively engaged in the industry to which the union belongs.

The trade union is a corporate body which has powers to buy, acquire and hold both movable and immovable property.
The act provides certain protections against criminal proceedings to the office-bearers and members of registered trade unions. They are also protected from civil suits in respect of acts done for the furtherance of trade disputes.

4.2.10 Workmen’s Compensation Act, 1923

A number of accidents take place when machines are installed in a factory or when the machines are not properly maintained or when proper safeguards are not provided to worker. If personal injury is caused to the worker at the factory premises, an entrepreneur is liable for payment of compensation. Claims for compensation broadly fall under three categories.

- Uncontested cases of disablement.
- Disputes cases of disablement.
- Fatal cases

With respect to uncontested cases, after the employee given notice of an accident, an entrepreneur has to arrange for his medical examination which should be free of charges. It is done for indicating the nature of disablement. Depending upon the nature of disablement the entrepreneur is required to deposit the compensations amount with the compensation commissioner. In case of contested cases, the claim should be preferred with two year of the occurrence of the accident or death.

The workers covered under the state insurance act are excluded from the provisions of the Workmen’s Compensation Act. This act classifies injuries in the following categories.

- Death
- Permanent total disablement.
- Permanent partial disablement.
- Temporary disablement (total / partial)
- The act provides for the compensation of these categories in schedules 1 to 4.
- If the injury results in a partial or total disablement of the worker within three days of employment.
- If the injury is directly attributed to the worker having been under the influence of drinks or drugs.
- If the injury can be directly attributed to the wilful disobedience by the worker of an order expressly given.
Wilful removal or disregard by the worker of any safety guard or other device which he knew to have been provided for the purpose of securing his safety.

4.2.11 **Indian Boilers Act 1923:**

The Indian Boiler’s Act states that the owner of a boiler shall not use it or permit it to be used Unless it has been registered in accordance with the provisions of this act.

- In the case of a boiler being transferred from one state to another, until the transfer has been reported in the prescribed manner.
- Unless certified or provisional order authorizing the use of the boiler is obtained under this act.
- At a pressure higher than the maximum pressure recorded in such certificates or provisional order.
- Unless the person in charge of the boiler holds a certificate of competency.

The owner of a boiler may apply to the inspector for the registration of the boiler. A permit is a must for the use of a boiler\(^1\).

4.2.12 **Shops and Establishment Act, 1948:**

Those industrial units are not covered within the definition of factory and not governed by the rules and regulations of the factories act. In case, these units are to be registered under the shops and establishment act, 1948. The rules and regulation of the act are applicable these units.

The object of the Act is to consolidate and amend the law relating to the regulation of condition of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, or other place of public amusement or entertainment and other establishments.

The state government shall be notification published in the official gazette direct that all or any of the provisions of this act shall come into force in such other local areas having population of twenty-five thousand and more as may be specified in the notification.

The state government may also by a like notification direct, that all or any of the provisions of this Act shall come into force in such local areas having population of less than twenty-five thousand as may be specified.
Definitions:

Shop – Shop means any premises where goods are sold either by retail or wholesale or service are rendered to customers and includes an office, a store-room, godown, warehouse or work place, whether in the same premises or otherwise, mainly used in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment.

Commercial Establishment -

Means an establishment which carries on, any business, trade or profession, or any work in connection with, or incidental or ancillary to any business, trade or profession (and includes establishment of any legal practitioner, medical practitioner, architect, engineer, accountant and also Includes) a society registered under the societies Act 1860 and a charitable or other trust, whether registered or not, which carries on (whether for the purpose of gain or not) any business trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment.

‘Spread over’ means the period between the commencement and termination of the work of an employee on any day. The spread over of an employee in a shop or commercial establishment shall not exceed 11 hours in any day.

Registration of Shops and Establishments :-

The employer of every shop or establishment shall send to the Inspector of the local area concerned within 30 days a statement, in a prescribed form, together with such fees as may be prescribed.

Contents of statements :

1. The name of the employer and the manager if any.
2. The postal address of the establishment.
3. The name if any, of the establishment.
4. The category of the establishment i.e. whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment and
5. Such other particulars as may be prescribed.

On receipt of the statement and the fees, the Inspector shall on being satisfied about the correctness of the statement, register the shop or establishment in the register of shops.
and establishments as the case may be, in such manner as may be prescribed and shall issue in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the shop or establishment.

A registration certificate granted shall be valid up to the end of the year for which it is granted. An application for the renewal of a registration certification certificate shall be submitted not less than 15 days before the date of expiry of the registration certificate or the renewal registration certificate, as the case may be and shall be accompanied by such fees, and the renewed registration certificate shall be issued in such a form, as may prescribed.

The above stated the act opening and closing situation, working hours, leave with pay, health safety powers and duties of inspectors and penalties are more and more terms of the act.

Though the present act has undergone several improvements, it has failed to fulfill the expectations due to unsatisfactory implementation of the rules, regulation, provision etc.

4.3 List of Products reserved to be produced in the Small Scale Sector:

In order to promote the development of the small scale industries and to protect them from the competition by the large scale industries, the central government has reserved nearly 900 products exclusively for the small scale sectors. The list of these products is available in the Directorate of Industries, District Industries Centres, institutions specially established to promote small industries and with the chambers of commerce and Industries. The government has also published a list of the industries or products which are banned for the small scale sector.

4.4 Sources of Help for Entrepreneurs:

At every stage of enterprise development, an entrepreneur needs a wide network of support organizations. It is necessary for him to know the available sources of help or whom to contact for what. In this section, information about the sources of help is given with the names of the organizations and contact points.
### SOURCES OF HELP

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REFERENCE

1. Dr. Aruna Kaulgud, “Entrepreneurship Management”, Vikas Publishing House Pvt. Ltd. – 576, Masjid Road, Jangpura, New Delhi -110 014, 2003, PP. 293-301
3. Dr. Aruna Kaulgud, Opp. Cit. 2003, PP. 12-14
4. Ibid P. 113