

# Payment of Bonus Act, 1965

E-Content *for MBA - HR* developed by:

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# OBJECTIVE OF THE ACT

- To impose a legal responsibility upon the employer to pay bonus to his employees
- To regulate the amount of bonus to be paid to the workers
- To fix the maximum and minimum bonus that can be paid.
- To prescribe a formula for computing the bonus.
- To reward the workers by sharing the profits earned by the organization.
- To link the bonus with productivity of the workers.

# EXTENT and APPLICATION

- It extends to whole of India.
- It shall apply on:
  - Every factory
  - Every other establishment engaging 20 or more workers / 10 or workers in a factory during any accounting year.
- The establishment shall be profitable.
- It has 40 sections.

# DEFINITIONS [u/s 3]

- **Accounting Year** - means the year on which the books of accounts are closed and balanced i.e., year commencing from 1<sup>st</sup> April and ending on 31<sup>st</sup> March.
- **Allocable Surplus** - (a) for companies (*except banking institutions*) which have no prescribed arrangements for declaration and payment of dividends under the Income Tax Act- 67% of the available surplus (b) in any other case, 60% of the available surplus.
- **Appropriate Government** - (a) for establishments covered under the Industrial Dispute Act, the Central government (b) for any other establishment, the respective State government.

# Conti.....

- **Employee** - means any person employed in an organisation not earning more than INR 21,000 per month for any type of job.
- **Employer** - means owner or occupier of the factory or establishment or manager , managing director of the establishment.
- **Salary or Wages** - all remuneration in monetary terms *except* HRA, allowances for light, water , gas, medical attendance, concessional supply of foodgrains, travelling allowances, bonuses, contributions made by employer to gratuity, pension fund, provident fund, retrenchment, any commission.

# Computation of Gross Profit

- **Sec 4** - The gross profits shall be derived in the following manner:

(a) For Banking companies - computed as per *First Schedule*

(b) In any other case, computed as per *Second Schedule*

<https://labour.gov.in/sites/default/files/ThePaymentofBonusAct1965.pdf>

<https://www.indiafilings.com/learn/payment-of-bonus-act/>

# Computation of Available Surplus

- **Sec 5** - the **available surplus** shall be computed by deducting the sums u/s 6 from the gross profit computed for the accounting year.
- **Sec 6** - the following **amount shall be deducted from the Gross Profits:**
  - ✓ *Depreciation value*
  - ✓ *Investment allowance*
  - ✓ *Development rebates*
  - ✓ *Development allowance*
  - ✓ *Direct tax payable*
  - ✓ *Any other sum provided in Third Schedule*
- **Sec 15 - Set-off of allocable surplus:** the excess allocable surplus over the maximum bonus is to be carried forward to the next accounting year and is to be used for payment of bonus in the manner specified in the Fourth schedule or to be used for making bonus payments for years in which there was no allocable surplus.

# BONUS PAYMENTS

- **Sec 8: Eligibility for Bonus** - the employee should have worked for *atleast 30 working days* in that year to be entitled to bonus.
- **Sec 9: Disqualification for Bonus** - an employee may not avail the bonus if he is engaged in a *fraud or violent behaviour or misappropriation or sabotage* of company property.
- **Sec 10: Minimum Bonus** - the employer shall pay atleast *8.33% of the wages or salary or INR 100, whichever is higher* as bonus.
- **Sec 11: Maximum Bonus** - upto a maximum of *20% of the wages or salary* earned by the employee.
- **Sec 14 - Computation of Working Days** -The employee shall be deemed to have worked if he has been laid off or has been on leave with salary or has been absent due to temporary disablement or has been on maternity leave, during the accounting year.



# Special provisions related to newly established organizations [u/s 16]

When the organisations are newly set-up, the employees shall be entitled to bonus in the following manner:

- a) In the *first 5 years* of the establishment of the company, the bonus shall be paid out **only if the profits are earned**.
- b) In the *6<sup>th</sup> year*, profits shall be paid out of the **allocable surplus available**. It can set on or set off the bonus of the 5<sup>th</sup> or 6<sup>th</sup> accounting years.
- c) In the *7<sup>th</sup> year*, it shall distribute the bonus out of the allocable surplus and can also set-off or set on the bonus payments of the 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> years.

## Conti.....

- **Sec 17: Adjustment of customary or interim bonus** - If any employee has received any puja bonus or customary bonus or any part of bonus, then he is entitled to *receive only the balance amount of bonus* after deduction of such bonus already paid.
- **Sec 18: Deductions of certain amount from the bonus payable** - the employer may deduct any amount from the bonus payable for any *misconduct* of the employee leading to a financial loss.
- **Sec 19: Time limit for payment of bonus** - it should be *paid in cash within 8 months from close of accounting year* in normal cases. But if there is a dispute, then within a month from the date of award.
- **Sec 21 :Recovery of bonus due from employer** - the employee or his representative or his assignee (in case of death) shall *give in writing* to the appropriate government for the recovery of bonus due. *The appropriate government will then issue a Certificate to the Collector to recover the same.*

# Conti.....

SECTIONS	CONDITIONS	EXPLANATION
22	Reference of disputes under the act	Under the purview of the Industrial Dispute Act, 1947
26	Maintenance of Registers	The employers shall maintain registers and other documents as required
27	Appointment of Inspectors	The inspectors are appointed by appropriate government to carry out the enquiries , investigations, collect evidences, conduct interrogations, etc.

# PENALTIES

Sec 28

## Penalties for:

- Non-compliance of any provision of the act
  - For contravention of any order or direction given under this act
- A fine upto **INR 1000**
  - Imprisonment **upto 6 months**
  - Or both

# Act is not applicable to certain class of employees [u/s 32]

- Employees employed by any company carrying on any *general insurance or life insurance business*.
- *Seamen* defined under the Merchant Shipping Act, 1958.
- Employees listed or registered under any scheme *under Dock Workers (Regulation of Employment) Act, 1948*.
- Employees employed or engaged in any *establishment* in any industry carried on or *under the authority of the Central government or State government or Local authority*.
- Employees employed in *Indian Red Cross Society or similar institutions, universities or other educational institutions or institutions not for profit*.
- Employees employed through *contractor*.
- Employees of *RBI, NABARD, IFCI, UTI, IDBI, SFC, Deposit Insurance Corporation*.

# BONUS COMPUTATION

Limit	Bonus
If salary exceeds INR 7000 per month	Bonus shall be computed <i>assuming the salary as INR 7000.</i>
If salary is less than INR 7000 per month	Bonus shall be <i>computed on the actual salary earned.</i>

# AMENDMENTS IN THE ACT *as on 2015*

- The employees eligible for bonus should have a salary or wage of INR 21,000 per month, earlier which was INR 10,000.
- For computation of bonus, the wage ceiling has been raised to INR 7000 per month or the Minimum Wages (*whichever is higher*).
- Maximum bonus shall be 20% of INR 7000.
- Salary includes Basic + DA.

THANK YOU.....

Note: Please refer to the additional notes provided through emails.