

Mines Act, 1952

Chapter VII - Leave with Wages

1 [49. Application of Chapter

The provisions of this Chapter shall not operate to the prejudice of any right to which a person employed in a mine may be entitled under any other law or under the terms of any award, agreement or contract of service:

2 [Provided that if such award, agreement or contract of service, provides for a longer annual leave with wages than that provided in this Chapter, the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service, but leave shall be regulated in accordance with the provisions of sections 50 to 56 (both inclusive) with respect to matters not provided for in such award, agreement or contract of service].

1. Substituted by Act 62 of 1959, section 30, for sections 49 to 56 (w.e.f. 16-1-1960).

2. Substituted by Act 42 of 1983, section 28, for the proviso (w.e.f. 31-5-1984).

Section 50 - Leave defined

For the purposes of this Chapter, leave shall not include weekly days of rest or holidays for festivals or other similar occasions whether occurring during or at either end of the period of leave.

Section 51 - Calendar year defined

For the purposes of this Chapter, a calendar year shall mean the period of twelve months beginning with the first day of January in any year.

Section 52 - Annual leave with wages

(1) Every person employed in a mine who has completed a calendar year's service therein shall be allowed, during the subsequent calendar year, leave with wages, calculated,--

(a) in the case of a person employed below ground, at the rate of one day for every 1 [fifteen days] of work performed by him, and

(b) in any other case, at the rate of one day for every twenty days of work performed by him.

(2) A calendar year's service referred to in sub-section (1) shall be deemed to have been completed,--

(a) in the case of a person employed below ground in a mine, if he has during the calendar year put in not less than one hundred and ninety attendances at the mine; and

(b) in the case of any other person, if he has during the calendar year put in not less than two hundred and forty attendances at the mine.

Explanation.--For the purpose of this sub-section,--

(a) any days of lay-off by agreement or contract or as permissible under the standing order;

(b) in the case of a female employee, maternity leave for any number of days not exceeding twelve weeks ; and

(c) the leave earned in the year prior to that in which the leave is enjoyed,

shall be deemed to be the days on which the employee has worked in a mine for the purpose of computation of the attendances, but he shall not earn leave for these days.

(3) A person whose service commences otherwise than on the first day of January shall be entitled to leave with wages in the subsequent calendar year at the rates specified in subsection (1), if--

(a) in the case of a person employed below ground in a mine, he has put in attendances for not less than one half of the total number of days during the remainder of the calendar year; and

(b) in any other case, he has put in attendances for not less than two-thirds of the total number of days during the remainder of the calendar year.

(4) Any leave not taken by a person to which he is entitled in any one calendar year under sub-section (1) or sub-section (3) shall be added to the leave to be allowed to him under subsection (1) during the succeeding calendar year:

Provided that the total number of days of leave which may be accumulated by any such person shall not at any one time exceed thirty days in all :

Provided further that any such person who has applied for leave with wages but has not been given such leave in accordance with sub-section (6) shall be entitled to carry forward the unavailed leave without any limit.

(5) Any such person may apply in writing to the manager of the mine not less than fifteen days before the day on which he wishes his leave to begin, for all leave or any portion thereof then allowable to him under sub-sections (1), (3) and (4):

Provided that the number of times in which leave may be taken during anyone calendar year shall not exceed three.

(6) An application for such leave made in accordance with sub-section (5) shall not be refused unless the authority empowered to grant the leave is of opinion that owing to the exigencies of the situation the leave should be refused.

(7) If a person employed in a mine wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (5).

(8) If the employment of a person employed in a mine is terminated by the owner, agent or manager of the mine before he has taken the entire leave to which he is entitled up to the day of termination of his employment, or if such person having applied for and having not been granted such leave, quits his employment before he has taken the leave, the owner, agent or manager of the mine shall pay him the amount payable under section 53, in respect of the leave not taken, and such payment shall be made, where the employment of the person is terminated by the owner, agent or manager, before the expiry of the second working day after such termination, and where a person himself quits his employment, on or before the next pay day.

(9) The unavailed leave of a person employed in a mine shall not be taken into consideration in computing the period of any notice required to be given before the termination of his employment.

2 [(10) Where a person employed in a mine is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, he or his heirs or his nominee, as the case may be, shall be entitled to wages in lieu of leave due to him calculated at the rate specified in sub-section (1), if,--

(a) in the case of person employed below ground in a mine, he has put in attendance for not less than one-half of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death; and

(b) in any other case, he has put in attendance for not less than two-thirds of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death,

and payment of such wages shall be made by the owner, agent or manager of the mine at the rate specified in section 53, where the person is discharged or dismissed from service or quits employment or is superannuated, before the expiry of the second working day after such discharge, dismissal, quitting of employment or superannuation, as the case may be, and where the person employed dies while in service, within a period of two months of his death.]

Explanation.--For the purposes of [3](#) [sub-sections (1), (3) and (10)] any fraction of leave of half a day or more shall be treated as one full day and fraction of less than half a day shall be omitted.

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1. Substituted by Act 42 of 1983, section 29, for "sixteen days" (w.e.f. 31-5-1984).
 2. Inserted by Act 42 of 1983, section 29 (w.e.f. 31-5-1984).
 3. Substituted by Act 42 of 1983, section 29, for "sections (1) and (3)" (w.e.f. 31-5-1984).
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Section 53 - Wages during leave period

For the leave allowed a person employed in a mine under section 52, he shall be paid at a rate equal to the daily average of his total full-time earnings for the days on which he was employed during the month immediately preceding his leave, exclusive of any overtime wages and bonus but inclusive of any dearness allowance and compensation in cash including such compensation, if any, accruing through the free issue of foodgrains and other articles as persons employed in the mine may, for the time being, be entitled to :

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average of the total full time earnings of all persons similarly employed for the same month.

Section 54 - Payment in advance in certain cases

Any person employed in a mine who has been allowed leave for not less than four days, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

Section 55 - Mode of recovery of unpaid wages

Any sum required to be paid by the owner, agent or manager of a mine under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (4 of 1936).

Section 56 - Power to exempt mines

Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.]
