

# Q & A



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**I** work in a construction company in Chennai. The company in which I work created such circumstance and imposed such conditions because of which I could not attend come to work for a few days. Now they are also deducting my wages on account of those vacations. Can you tell me if they this deduction on their part is lawful?

Your employer company being an establishment carrying out works relating to construction would be governed by the provisions of the Payment of Wages Act, 1936 ("Act").

Please note as per Section 7(2)(b) of the Act, an employer company has the right to deduct wages of its employees on account of absence from work as long as such deductions are proportional to the wage-period for which the employee was absent. However, where such deductions are on account of conditions imposed by the employer company, the right to deduct wages under Section 9 of the Act would not be available to the employer company.

The Hon'ble High Court of Gauhati also took a similar stance in the case of French Motor Car Co. Ltd. Workers Union v. French Motor Car Co. Ltd: (1991)ILLJ107Gau. wherein it was held that

"An employer can deduct the wages under section 7(2)(b) of the Act for absence from duty. Absence from duty by an employee must be of his own volition and it cannot cover his absence when he is forced by circumstances created by the employer from carrying out his duty.

Accordingly, in the event your absence from office was not on account of reasons attributable to you but attributable to the employer company, it will not be lawful on their part to deduct your wages for the period during which you were absent from work.

I own a small company which is currently registered with the shops and establishment act of Delhi. I am shifting my office to Mumbai so want to ask you the procedure to register under the shops and establishment act applicable to Mumbai.

The relevant legislation which applies to establishments in Mumbai is the Bombay Shops and Establishments Act, 1948 ("Act"). You may note that you would be in a position to register under the Act only after you have a physical office in Mumbai. Nevertheless, the process for registration of an establishment under the Act is described below:

- Within thirty (30) days of commencing your business from the office in Mumbai, you would be required to send to the labor inspector of the local area concerned a statement in Form A (attached) together with the prescribed fee;
- The statement under Form A must contain the details as required under Section 7 of the Act, namely, (i) name of the employer, (ii) postal address of the establishment, (iii) name of the establishment, if any, (iv) category of establishment i.e. commercial establishment, (v) such other prescribed particulars.
- On receipt of the application and fee, the labor inspector on being satisfied about the correctness of the particulars contained in the application, would register the establishment in the appropriate part of the register of establishment in Form C and would issue a registration certificate in Form C.
- You would be required to get the registration certificate renewed every year by applying to the labor inspector in the prescribed form (Form B) accompanied by the prescribed fee. 