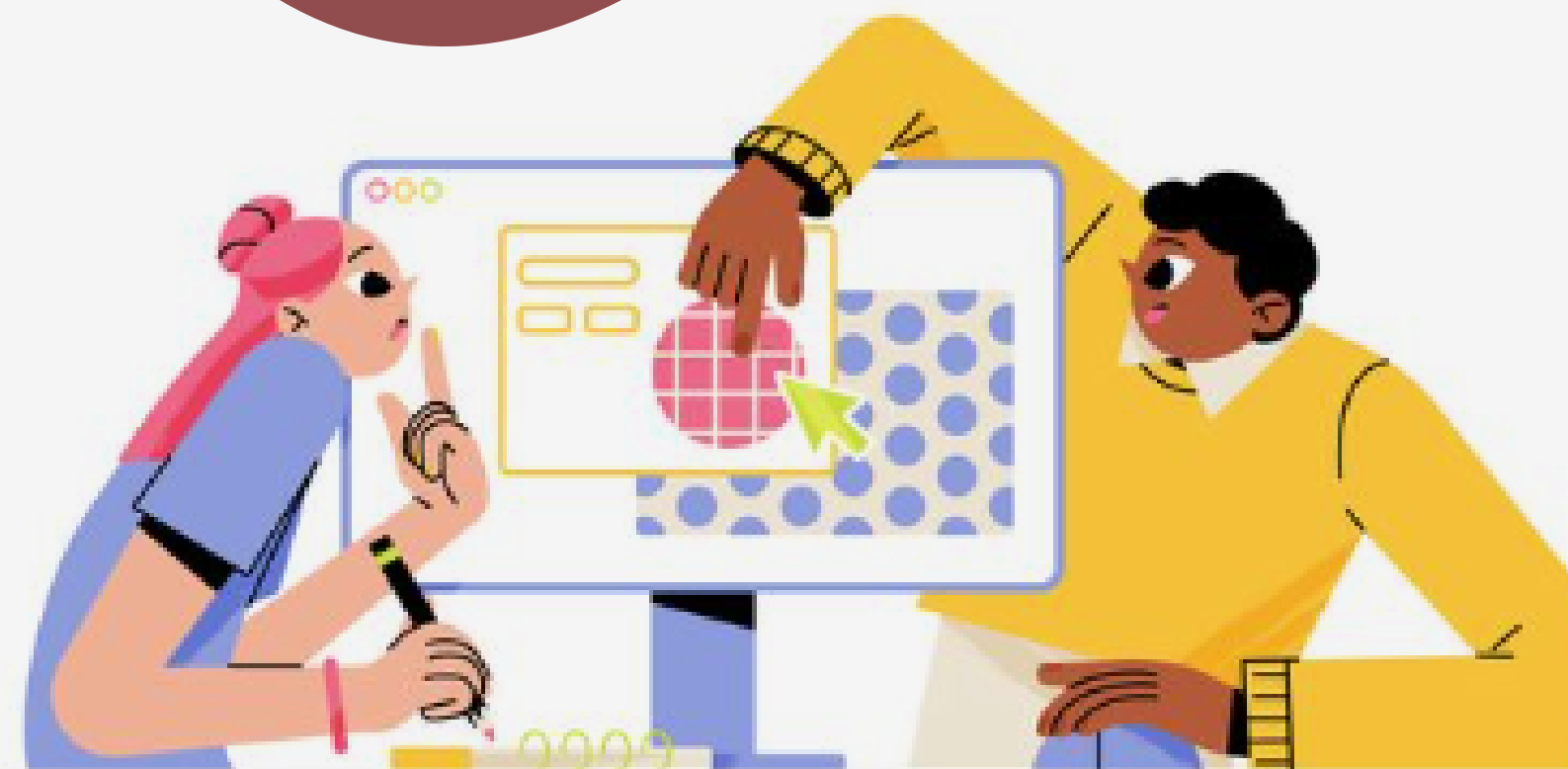


All that you need to know about Apprenticeship and it's Legality



Wednesday Wisdom
20-12-2023

Apprenticeship programs serve as dynamic pathways for aspiring individuals to acquire specialized skills crucial for meeting the unique demands of organizations. Simultaneously, these initiatives provide employers with a streamlined process to pinpoint and cultivate talent tailored to their specific requirements. In a country like India, where population is a massive resource, one should understand the requirements of industries and channelise the resource of population according to such requirements. Recognizing the important role of such programs, the Apprentices Act (“Act”) of 1961 was introduced, and it underwent amendments in 1973 and 1986 which is applicable to whole of India to all sectors including manufacturing and services both.

This legislative framework not only facilitates a symbiotic relationship between apprentices and employers but also acts as a safeguard against exploitation and ensures strict adherence to labour laws. By establishing a robust structure, the Apprentices Act seeks to create a nurturing environment that encourages skill development, fosters innovation, and upholds the rights of both apprentices and employers. In essence, it transforms the traditional employer-employee dynamic into a collaborative venture where learning and productivity seamlessly converge.

A. Who is eligible to become an apprentice?

To be eligible for apprenticeship, individuals must be at least 14 years old. However, for designated trades in hazardous industries, the minimum age requirement is 18 years.

B. Can all establishments engage apprentices?

All establishments engaged in public and private sectors, industry establishments and even Government establishments in India can engage apprentices. Establishments with a workforce of 3 or fewer are not allowed to hire apprentices. For those with a workforce between 4 and 29, engaging apprentices is optional.

However, establishments with 30 or more workers, including regular and contract employees, are mandated to conduct apprenticeship programs. This obligation ranges from 2.5% to 15% of the workforce, with an additional 5% reserved specifically for Fresher apprentices.

C. What minimum stipend shall be paid to apprentices[1]?

An establishment will have to ensure that it pays the minimum stipend with good and safe working conditions, and Welfare.

The minimum rate of stipend payable to all categories of apprentices including trade apprentices have been revised and notified in Extra Ordinary Gazette of India dated 25th September 2019.

Minimum Stipends for apprentices are as follows:

- Vocational Certificate apprentices receive Rs 7,000 per month.
- Technician apprentices or diploma holders receive Rs 8,000 per month.
- Graduate apprentices or degree holders receive Rs 9,000 per month.
- In the second year of apprenticeship, stipends increase by 10%, and in the third year, there is a further 15% increase.

D. Is an apprenticeship contract mandatory?

- Yes it is mandatory,
- As per section 4 of the Act, no person can undergo apprenticeship training in a designated trade without a signed apprenticeship contract with the employer, or the guardian's consent if the person is a minor.
- Apprenticeship training officially begins on the date the apprenticeship contract is signed.
- The contract can include agreed-upon terms and conditions, but they must not conflict with the Apprenticeship Act or its rules.
- The employer must send a copy of the apprenticeship contract to the Apprenticeship Adviser within 30 days (or enter details on a portal-site once developed). The Adviser verifies and registers the contract within 30 days, addressing any objections within 15 days.

[1]<https://www.dvet.gov.in/en/apprenticeship-training-scheme-under-apprenticeship-act-1961/#:~:text=20%2F%2D%20per%20hour%20per,00%2C000%20the%20apprentices%20every%20year.>

E. What are the safety requirements of the apprentices that need to be ensured?

If personal injury is caused to an apprentice by accident arising out of and in the course of his/her training as an apprentice, his/her employer shall be liable to pay compensation which shall be determined and paid, so far as may be, in accordance with the provisions of the Workmen's Compensation Act, 1923 (8 of 1923), subject to the modifications specified in the Schedule.

F. What is the maximum duration for which apprentices may be engaged?[2]

In the principal rules, in rule 7A, for optional trades, states that the apprenticeship duration ranges from six months to a maximum of three years. Apprentices undergoing training are considered trainees, not workers. Additionally, labour laws do not apply to or in relation to these apprentices.

G. What are the rules governing Working hours, overtime, holidays, and leaves[3] for the apprentices?

- The total work hours, including related instruction, should be between 42 to 48 hours[4]. Overtime work is not permitted without approval from the Apprenticeship Adviser.
- Apprentices cannot work overtime without the Apprenticeship Adviser's approval. The approval is granted only if it benefits the apprentice's training or serves public interest.
- According to Apprentice Act 1961, Section 15 states that hours of work, overtime shall be determined by its employer and the leaves and holidays shall be as per the establishment in which he is undergoing training[5].

[2][https://upload.indiacode.nic.in/showfile?](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_6_6_00016_196152_1517807321778&type=rule&filename=central_apprenticeship_council.pdf)

[actid=AC_CEN_6_6_00016_196152_1517807321778&type=rule&filename=central_apprenticeship_council.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_6_6_00016_196152_1517807321778&type=rule&filename=central_apprenticeship_council.pdf)

[3] 3. Subs. by Act 29 of 2014, s. 9, for sub-section (1) (w.e.f. 22-12-2014).

[4][apprenticeship-faqs.pdf \(nsdcindia.org\)](#)

[5]https://upload.indiacode.nic.in/showfile?actid=AC_CEN_6_6_00016_196152_1517807321778&type=actfile&filename=a1961-52.pdf

H. What are the penalties imposed on establishments?

Section 30 of the Act says that if an employer doesn't hire the required number of apprentices as per the law, they will receive a written notice from a government officer explaining the reasons for the violation. The notice provides one-month warning for the employer to rectify the situation. If the employer doesn't respond to the notice or, after a hearing, the officer isn't satisfied with the employer's reasons, the employer may face fines.

Following pointers outline some of the instances under the Act, where an employer can face punishment for non-compliance.

- refusal of Facility for Inspection
- requires an apprentice to work overtime without the approval of the Apprenticeship Adviser
- employs an apprentice on any work which is not connected with his/her training
- makes payment to an apprentice on the basis of piecework
- requires an apprentice to take part in any output bonus or incentive scheme

The penalty is INR 500 per shortfall of apprenticeship month for the first three months and INR 1,000 per month thereafter until the required number of apprentices is hired.

I. What are the latest schemes of government governing the apprentices?

The National Apprenticeship Training Scheme (NATS) in India is a one-year program designed to equip technically qualified youth with practical knowledge and skills relevant to their field. Apprentices undergo training at their workplace, guided by experienced managers following well-structured modules. 50% of the stipends provided throughout the apprenticeship are reimbursed by the Government of India to employers.

Upon completion, apprentices receive a Certificate of Proficiency from the Government of India, recognized as valid employment experience across all employment exchanges in India. The program places apprentices in Central, State, and private organizations with exceptional training facilities. NATS stands as a flagship program of the Government of India, playing a crucial role in finetuning the skills of the nation's youth.

J. How are apprentice related disputes addressed?

Section 20 of the Act says that any dispute between an employer and an apprentice from the apprenticeship contract is to be referred to the Apprenticeship Adviser for resolution. If dissatisfied with the Adviser's decision, the concerned party has 30 days to appeal to the Apprenticeship Council. The Council's committee will hear and decide on the appeal, and the decision of the Committee, subject only to the Adviser's decision, is considered final.

In conclusion, the Act serves as a cornerstone for skill development, creating a win-win scenario for both apprentices and employers. Its structured framework not only propels the growth of individuals but also simultaneously assists the companies to have workforce which is supportive and conducive to the growth of the organisation while ensuring a fair and conducive environment, making it a considerable piece of legislation in the landscape of workforce development in India.

For any feedback or response on this article, the authors can be reached on shravani.joshi@ynzgroup.co.in and shruti.kulkarni@ynzgroup.co.in



Author: Shravani Joshi

Shravani is a Law Intern at YNZ legal. She is currently pursuing LLB from Vivekanand College. She has completed her Bachelor of Commerce from Mumbai University.

Co-Author: About Shruti Kulkarni

Shruti is a Legal Advisor at YNZ Legal and has completed her Masters of Commerce from Pune University and Bachelor of Law from ILS Law College, Pune. She works predominantly into drafting and reviewing of commercial contracts and handles Trademarks.



Co-author: Sanjana Mehta

Sanjana is a Law Intern at YNZ legal. She is currently pursuing BBA LLB from NMIMS Kirit P Mehta School of Law.

