



Employment Contract Compliance Checklist for Employers

A Comprehensive Guide to Avoiding Common Contract Mistakes Under Indian Law
Prepared by Is It Legal Sid's Legal Team

How to Use This Checklist

This checklist is designed to help employers and HR professionals ensure their employment contracts comply with Indian labour laws and the Indian Contract Act, 1872. Use this document as a reference during contract drafting, review, and execution processes.

Instructions: - ☐ Check each box as you complete the corresponding verification or action - ☐ Maintain documentation for all verification steps - ☐ Review this checklist periodically to ensure ongoing compliance - ☐ Consult legal counsel for complex situations or when in doubt

Section 1: Pre-Contract Preparation

Legal Foundation Review

☐ **Verify applicable labour laws** based on: - Number of employees in organization - Industry type and regulatory requirements - State-specific labour law variations -



Employee salary thresholds for statutory benefits

- ☐ **Confirm contract type appropriateness:** - Agreement of Service (employer employee relationship) - Agreement for Service (principal-contractor relationship) - Ensure actual working relationship matches contract type
- ☐ **Identify required statutory compliances:** - Employees' Provident Fund (EPF) - for 20+ employees - Employee State Insurance (ESI) - for 10+ employees, salary \leq ₹21,000 - Professional Tax - state-specific requirements - Gratuity - for 10+ employees, 5+ years service - Minimum Wages Act compliance - Maternity Benefits Act provisions

Corporate Verification

- ☐ **Verify employer entity details:** - Current legal name of company - Corporate registration number (CIN/LLPIN) - Registered office address - Current corporate structure and status
- ☐ **Confirm signing authority:** - Board resolution authorizing contract execution - Proper designation and authority of signatory - Updated authority matrix and delegation
- ☐ **Update corporate records:** - Recent changes in company structure - Mergers, acquisitions, or reorganizations - Changes in authorized representatives

Section 2: Section 10 Indian Contract Act Compliance

Free Consent Verification

- ☐ **Ensure voluntary agreement:** - Adequate time provided for contract review (minimum 48-72 hours) - No coercion, threats, or undue pressure applied - Employee encouraged to seek legal advice if desired - Clear explanation of all



contract terms provided

- ☐ **Avoid undue influence:** - No exploitation of superior bargaining position - Fair and reasonable contract terms - No misrepresentation of facts or circumstances
- ☐ **Document consent process:** - Written acknowledgment of voluntary acceptance - Record of time provided for review - Documentation of any questions asked and answered

Competent Parties Verification

- ☐ **Employee capacity verification:** - Age verification (18+ years for valid contracts) - Mental capacity confirmation - Legal authorization to work in India (for foreign nationals) - No legal disqualifications or restrictions
- ☐ **Employer capacity verification:** - Corporate entity in good standing - Proper registration and compliance status - Authority to enter employment relationships - No legal restrictions on business operations

Lawful Consideration Confirmation

- ☐ **Mutual exchange of value:** - Clear specification of employee services - Defined compensation and benefits - Proportionate obligations for both parties - No illusory or vague promises
- ☐ **Legal consideration verification:** - Compensation meets minimum wage requirements - No illegal payment arrangements - Compliance with tax and statutory obligations - Transparent and documented consideration

Lawful Object Verification

- ☐ **Legal purpose confirmation:** - Contract purpose complies with all applicable laws - No attempt to circumvent statutory requirements - Legitimate business objectives - No violation of public policy



- ☐ **Compliance with labour laws:** - No waiver of mandatory employee protections - Proper classification of employment relationship - Adherence to statutory benefit requirements - Compliance with working time and safety regulations

Section 3: Contract Content and Structure

Preamble Accuracy

- ☐ **Employer information verification:** - Correct legal name and corporate form - Accurate registration numbers and addresses - Current corporate status and structure - Proper identification of contracting entity
- ☐ **Employee information verification:** - Correct spelling of full legal name - Accurate identification numbers (Aadhaar, PAN) - Current address and contact information - Verification of provided documentation
- ☐ **Jurisdictional information:** - Correct governing law specification - Appropriate jurisdiction for dispute resolution - Compliance with local court requirements - Consistency between governing law and jurisdiction

Scope of Work Definition

- ☐ **Clear role description:** - Specific job title and position level - Detailed primary responsibilities - Key deliverables and performance expectations - Reporting structure and authority levels
- ☐ **Performance standards:** - Quantitative metrics where applicable - Qualitative performance indicators - Review and evaluation procedures - Career development and progression criteria
- ☐ **Flexibility provisions:** - Reasonable scope modification procedures - Compensation



adjustment mechanisms for scope changes - Periodic review and update processes -
Clear boundaries on additional duties

Compensation and Benefits

- ☐ **Salary structure clarity:** - Base salary amount and payment frequency -
Variable compensation components - Overtime calculation and payment terms -
Deduction authorization and limitations
- ☐ **Statutory benefits compliance:** - EPF contribution details (if applicable) - ESI
coverage and contributions (if applicable) - Gratuity calculation and payment terms -
- Leave entitlements per applicable laws
- ☐ **Additional benefits specification:** - Health insurance and medical benefits -
Performance bonuses and incentives - Professional development opportunities -
Other company-specific benefits

Section 4: Restrictive Covenants

Non-Disclosure Agreements

- ☐ **Confidential information definition:** - Specific categories of confidential
information - Clear examples and illustrations - Exclusions for publicly available
information - Duration of confidentiality obligations
- ☐ **Protection mechanisms:** - Reasonable scope and duration - Specific remedies for
violations - Return of confidential materials upon termination - Ongoing monitoring
and compliance procedures



Non-Compete Clauses

- ☐ **During employment restrictions:** - Clear prohibition on competing activities - Reasonable scope based on job responsibilities - Specific definition of competing businesses - Enforcement mechanisms and remedies
- ☐ **Post-employment considerations:** - Understanding of Section 27 limitations - Focus on protection during employment - Alternative protection mechanisms (NDAs, non solicitation) - Legal advice on enforceability

Non-Solicitation Provisions

- ☐ **Client/customer protection:** - Definition of protected relationships - Reasonable duration and scope - Specific prohibited activities - Remedies for violations
- ☐ **Employee protection:** - Anti-raiding provisions - Definition of solicitation vs. general recruitment - Reasonable restrictions on team departures - Enforcement procedures and remedies

Intellectual Property Rights

- ☐ **IP ownership clarity:** - Work-for-hire provisions - Assignment of inventions and creations - Scope of IP covered by assignment - Exceptions for pre-existing IP
 - ☐ **Development and disclosure:** - Obligation to disclose inventions - Company support for IP development - Patent and trademark procedures - Revenue sharing arrangements (if applicable)
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Section 5: Termination and Notice Provisions

Notice Requirements

- ☐ **Statutory compliance:** - Minimum notice periods per applicable laws - Payment in lieu of notice provisions - Probationary period notice requirements - Special circumstances and exceptions
- ☐ **Termination procedures:** - Just cause requirements and definitions - Performance improvement processes - Disciplinary procedures and due process - Documentation and record-keeping requirements

Post-Termination Obligations

- ☐ **Return of company property:** - Specific items to be returned - Condition and timing requirements - Procedures for property recovery - Consequences for non-compliance
- ☐ **Transition responsibilities:** - Knowledge transfer obligations - Client/project handover procedures - Cooperation with replacement hiring - Non-interference with business operations

Section 6: Dispute Resolution and Enforcement

Dispute Resolution Mechanisms

- ☐ **Internal procedures:** - Grievance handling processes - Management escalation procedures - HR involvement and authority - Documentation and record-keeping
- ☐ **External resolution:** - Mediation and arbitration clauses - Court



jurisdiction specifications - Applicable procedural rules - Cost allocation and attorney fees

Enforcement Provisions

- ☐ **Remedy specifications:** - Specific performance options - Monetary damages calculations - Injunctive relief availability - Liquidated damages provisions
- ☐ **Compliance monitoring:** - Regular contract review procedures - Violation detection mechanisms - Prompt enforcement actions - Documentation of compliance efforts

Section 7: Documentation and Record Keeping

Contract Execution

- ☐ **Proper execution procedures:** - Authorized signatories for both parties - Witness requirements (if applicable) - Date and location of execution - Multiple original copies prepared
- ☐ **Supporting documentation:** - Employee verification documents - Corporate authorization records - Salary and benefit calculation worksheets - Legal review and approval documentation

Ongoing Maintenance

- ☐ **Record keeping systems:** - Secure storage of original contracts - Digital backup and retrieval systems - Access control and confidentiality - Retention period compliance



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- ☐ **Update procedures:** - Regular contract review schedules - Amendment and modification procedures - Version control and tracking - Communication of changes to affected parties
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Section 8: Legal Review and Professional Consultation

Professional Legal Review

- ☐ **Initial contract development:** - Qualified employment law attorney consultation - Industry-specific legal requirements review - Compliance verification and confirmation - Risk assessment and mitigation strategies
- ☐ **Ongoing legal support:** - Regular contract template updates - Legal requirement change monitoring - Dispute resolution support - Training and education for HR staff

Quality Assurance

- ☐ **Internal review processes:** - HR department contract review procedures - Management approval requirements - Compliance checklist verification - Error detection and correction procedures
 - ☐ **External validation:** - Periodic legal audit of contract practices - Industry best practice benchmarking - Regulatory compliance verification - Professional development and training
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Emergency Contact Information

Legal Consultation Required When: - Complex employment situations arise - Regulatory requirements change - Disputes or violations occur - Unusual contract terms are needed

Recommended Legal Resources: - Employment law specialists - Labour law compliance consultants - Industry-specific legal advisors - Regulatory compliance experts

Disclaimer

This checklist is for informational purposes only and does not constitute legal advice. Employers should consult with qualified legal counsel for specific guidance on employment contract drafting and compliance with applicable laws. Legal requirements may vary based on specific circumstances, industry, location, and other factors.

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