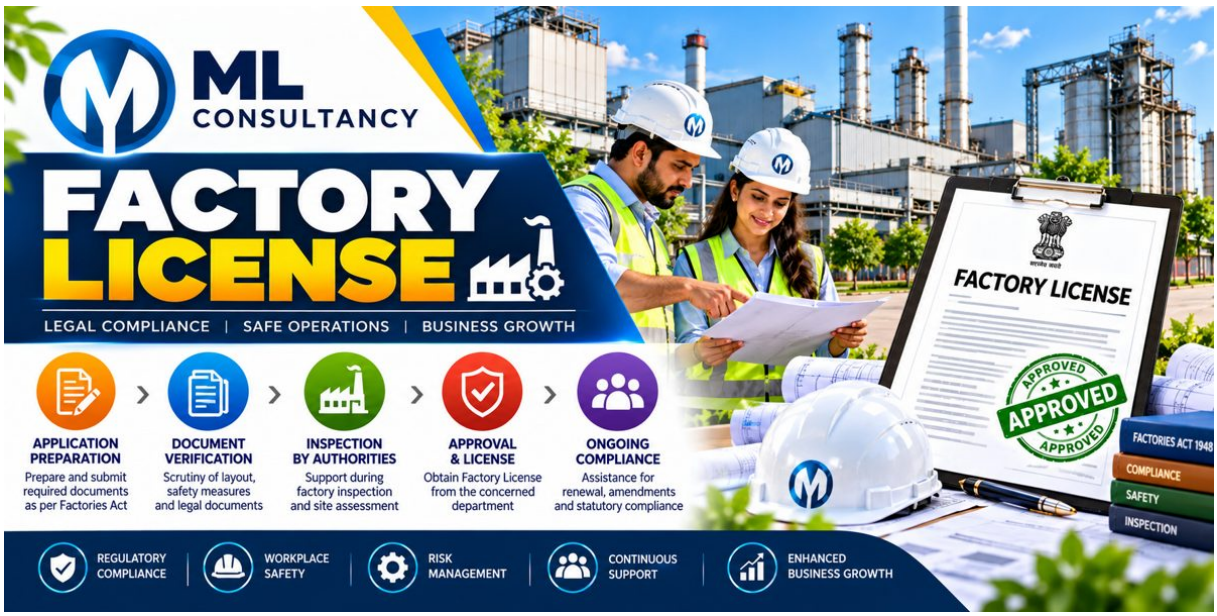
STATUTORY COMPLIANCE · 09

Factory Licence

Factory registration and licensing support enquiries tailored to the location and manufacturing activity.



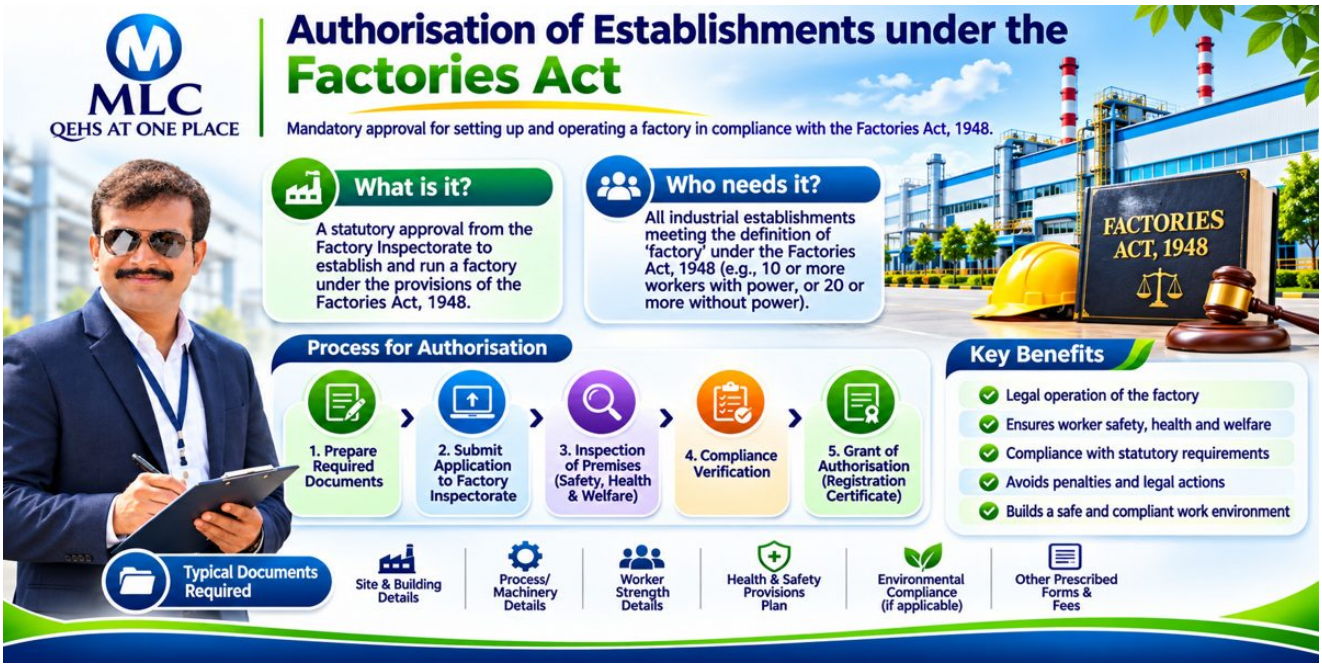
Overview of the Factory Compliance

New factories were set up when industrialization was rising between 1760 and 1820. This resulted in more employment, production, and pollution caused by manufacturing activities due to the lack of a regulatory mechanism.

Therefore, the Factory Act of 1881 was enacted to fill this gap. This was further amended and broadened as the Factory Act of 1948. This act was implemented as social law to overlooking the health, safety and welfare of workers and safeguarding the environment against the activity of the factories.

Factory Act applies to any manufacturing unit that employs ten or more workers preceding any day after 12 months for the process carried out with the help of power and 20 or more workers for the process carried out without the help of power. Factories Act also prescribes punishment for violation of any rules. The penalty involves imprisonment for a term extending to one year or a fine, ranging from one lakh rupees or both.

Authorisation of establishments under the Factories Act



To establish their manufacturing units, owners must register their businesses under Factories Act. Under this, they are mandated to get a Factory license, which the Chief Inspector of the Labour Commissioner Organisation approves after examining the operation site. For the Factory license, the documents that are required are:

- Form 1
- Layout Plan/Site Plan
- Aadhaar Card
- List of Directors
- Memorandum of Association (MOA)
- Articles of Association (AOA)
- Partnership Deed
- Account Details
- Commencement Date
- Payment Receipt
- Land Deeds

- Consent Form from SPCB/PCC
- Details of Hazardous and Non-Hazardous Waste
- Tax Receipt

Compliances under Factory Act

Under many of its provisions, Factory Act defines the compliances that a manufacturing unit must adhere to, especially concerning the environment. The list of the provisions that dictate these compliances are:

- Section 12 dictates that it is essential for the manufacturing unit to set up an appropriate and operational plant for waste treatment and disposal. It also gives power to the State Government to make rules proposing the regulations for the disposal and handling of waste and effluents.

Section 14, relating to dust and fumes, dictates that because of the factory's activity, dust and fumes are released inside the factory premises. They should take proper measures to prevent inhalation and increase in the workplace. Therefore, they should use appropriate exhaust appliances in the workplace to accommodate this.

No static internal combustion engine shall operate unless the exhaust is operated in the open air.

Section 41A provision of the Factories Act mandates that the industrial unit should engage with a 'Site Appraisal Committee consisting of the Chief Inspector of the state, a member of the Town Planning Department of the State Government, a member of the Central Board for the Prevention & Control of Water Pollution, a member of the Meteorological Department of the Government of India, a member of the State Department of Environment and a professional in the field of occupational health. This Site Appraisal Committee will be liable for recommending the factory site, which comprises the hazardous process.

- Section 41B prescribes that initially, the in-charge/owner of every industrial unit that is occupied in a hazardous procedure shall disclose in the suggested way all information concerning hazardous waste and the procedures to overcome the same.

- Secondly, the owner, at the process phase, shall lay down a comprehensive strategy concerning the safety and health of the workers.
- Thirdly, the info should be entirely precise.
- Lastly, with the support of the Chief Inspector, every in-charge/owner shall draw up an on-site emergency strategy. He should also draw up comprehensive disaster control procedures for his factory. Furthermore, the factory should proclaim it to all the workers and the public.

Section 41C of the Factories Act mandates that every in charge/owner of a factory concerning any hazardous procedure should correctly maintain the well-being and medical records of all the labours in a factory. It is generally for those workers who are employed in producing harmful or toxic substances and hire persons with experience and qualifications in managing hazardous substances.

They should also be knowledgeable about managing such management within the factory. Furthermore, they should provide all the essential facilities for defending the workers in the manner arranged.

On condition that where any query arises as to the experiences and qualifications of a person so employed, the decision of the Chief Inspector shall be final and at last provide for medical examination of every worker before assigning any production task involving hazardous substance.

Section 41D mandates that the Central Government, in some extraordinary situations, may appoint an Inquiry Committee for a factory manufacturing hazardous material. They request the factory's standards of safety, well-being and health practice. Furthermore, the Committee should entail a Chairman and two other members. The Central Government or any governmental authority regulates the term of the members. Also, the references of the Committee shall be recommended in nature.

- Section 41E section mandates that in some cases, when the Central Government contemplates that the factory is incapable of applying specific security methods, then it is permissible to order the Director-in-charge of the factory to execute the standards or measures on an instant basis. This mainly applies to factories connecting the manufacture of hazardous substances.
- Section 41F of the Factories Act mandates that the maximum allowable threshold of exposure to chemical materials should be according to Schedule Two. Moreover, by its own accord at any time for the perseverance of giving effect to any scientific proof, the Central Government may make suitable changes in the said Schedule.

Factory Compliances under E-waste Management Rules and Plastic Waste Management Rules

Suppose the factory has a manufacturing plant that falls under the E-waste Management Rules (EWM) or Plastic Waste Management Rules (PWM). In that case, it has to get authorisation for Extended Producer Responsibility.

After getting EPR Authorisation, the manufacturing plant has to adhere to the post- compliance obligation directed by the CPCB(Central Pollution Control Board)/SPCB (State Pollution Control Board). The post-compliances include:

Maintaining records	The Factory functioning as an E-waste or Plastic Waste Management business must keep a record, as stated under the Second Form, connecting to the waste handled and marking these data or statistics obtainable for inspection by the CPCB and SPCB.
Annual Return	The factory functioning as an E-waste or Plastic Waste Management business must file an annual return under Form-3 submitted to CPCBon on the 30 th day of June in the subsequent year. In the case of various sites of e-waste or Plastic Waste Management business, they must also file a single annual return containing data from the locations of the offices.

How can MLC assist you?

Personalised legal assistance

Our legal professionals offer to aid in all forms to enable you to abide by the Factory Compliance.

Aid in annual report filing

We offer inclusive guidance independently, providing for your specialised needs. Our team of a professional also offer guidance in Annual report filing.

Aid in documentation with the State Pollution Control Board

Our team of experts also provide thorough service for filing documents for a process of fulfilling factory compliance with the state pollution board.

FAQ

Q. Which units need a factory licence?

The Factories Act applies to manufacturing units that employ ten or more workers where the process uses power, or 20 or more workers where it does not. Such units must register and obtain a factory licence.

Q. Who issues the factory licence?

The licence is approved by the Chief Inspector of the Labour Commissioner Organisation after examining the operating site.

Q. What documents are needed for a factory licence?

Documents include Form 1, the layout or site plan, Aadhaar card, list of directors, MOA and AOA or partnership deed, account details, commencement date, payment receipt, land deeds, the SPCB/PCC consent form, details of hazardous and non-hazardous waste, and a tax receipt.

Q. What are the main compliances under the Factories Act?

Key provisions include proper waste treatment and disposal (Section 12), control of dust and fumes (Section 14), and, for hazardous processes, site appraisal, disclosure of information, on-site emergency plans, worker health records and exposure limits (Sections 41A to 41F).

Q. What is the penalty for violating the Factories Act?

Violations can be punished with imprisonment for up to one year, a fine, or both.

Q. What extra compliance applies under the E-waste and Plastic Waste Management Rules?

Such factories need Extended Producer Responsibility (EPR) authorisation. After that, they must keep records of the waste they handle and file an annual return in Form 3 with the CPCB by 30 June of the following year.

Q. Which units does the Factories Act apply to?

Any manufacturing unit that employs ten or more workers where the process is carried out with the help of power, or twenty or more workers where it is carried out without power.

Q. Who approves a factory licence?

Owners register their units under the Factories Act and obtain a factory licence, which the Chief Inspector of the Labour Commissioner Organisation approves after examining the site.

Q. Does a factory need EPR authorisation?

Yes, if its plant falls under the E-waste Management Rules or the Plastic Waste Management Rules. After authorisation it must keep records of the waste handled and file an annual return in Form 3 by 30 June of the following year.

Useful details to share when you enquire

- Business activity, site location and ownership details
- Existing applications, permissions and supporting records
- The registration or approval you need to discuss

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