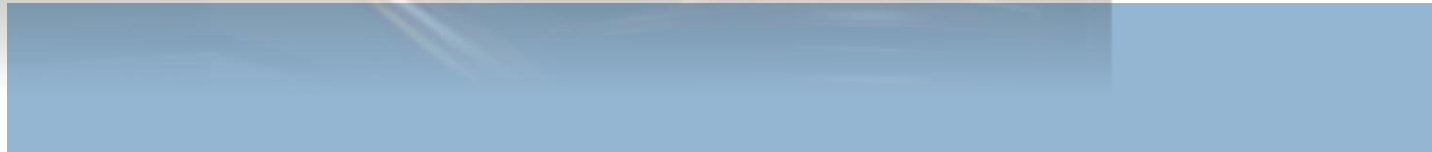


NEW LABOUR CODES



Background

- The Second National Commission on Labour, which submitted its report in June 2002, had recommended that the existing set of Labour laws should be broadly amalgamated into the following groups, namely:—
 - (a) industrial relations;
 - (b) wages;
 - (c) social security;
 - (d) safety; and
 - (e) welfare and working conditions

- Three stakeholders namely Employer, Employee/their Union and Government decided to reform the existing Labour laws – in past focus was on Mill worker and now the focus of IT and ITES sector and Unorganized sector- more than 90%

Preliminary

- Following bills were passed in the Lok Sabha on 23rd September 2020
 - (i) Industrial Relations Code, 2020
 - (ii) Code on Occupational Safety, Health & Working Conditions Code, 2020
 - (iii) Social Security Code, 2020
 - (iv) Code on Wages, 2019 (already received President assent on 8th August 2019)

- These bills are outcome of the policy “**Shramev Jayate**” and “**Satyamev Jayate**”.
[Journey from 2002 to 2020]

- Key focus is on interest of employee – to avoid procedural complexities in implementation of various welfare and safeguard provisions.

- Aim is to provide common definitions, flexibility to Employer, ensure industrial peace and provide social security and welfare facility to all the employees

Consolidation of Labour laws

Name of the Code	Number & name of amalgamated laws
1. Code on Wages,2019	4 laws – <ol style="list-style-type: none">1. The Payment of Wages Act, 19362. The Minimum Wages Act, 19483. The Payment of Bonus Act, 19654. The Equal Remuneration Act, 1976.
2. Industrial Relations Codes,2020	3 laws - <ol style="list-style-type: none">1. The Trade Unions Act, 19262. The Industrial Employment (Standing orders) Act, 19463. The Industrial Disputes Act, 1947s

Consolidation of Labour laws

Name of the Code	Number & name of amalgamated laws
The OSH and working conditions Code, 2020	<p>13 laws -</p> <ol style="list-style-type: none">1. The Factories Act, 19482. The Plantations Labour Act, 19513. The Mines Act, 19524. The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 19555. The Working Journalists (Fixation of Rates of Wages) Act, 19586. The Motor Transport Workers Act, 19617. The Beedi and Cigar Workers (Conditions of Employment) Act, 19668. The Contract Labour (Regulation and Abolition) Act, 19709. The Sales Promotion Employees (Conditions of Service) Act, 197610. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 197911. The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 198112. The Dock Workers (Safety, Health and Welfare) Act, 198613. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996

Consolidation of Labour laws

Name of the Code	Number & name of amalgamated laws
The Social Security Code, 2020	9 laws – <ol style="list-style-type: none">1. The Employees' Compensation Act, 19232. The Employees' State Insurance Act, 19483. The Employees Provident Fund and Miscellaneous Provisions Act, 19524. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 19595. The Maternity Benefit Act, 19616. The Payment of Gratuity Act, 19727. The Cine Workers Welfare Fund Act, 19818. The Building and Other Construction Workers Welfare Cess Act, 19969. The Unorganised Workers' Social Security Act, 2008



The Industrial Relations Code, 2020

Object: to achieve industrial peace and harmony

Key Changes – IR CODE - 1

- To provide for **fixed term employment** with the objective that the employee gets all the benefits like that of a permanent worker (including gratuity), **except** for notice period after conclusion of a fixed period, and retrenchment compensation. The employer has been provided with the flexibility to employ workers on fixed term basis on the basis of requirement and without restriction on any sector;
- To revise the definition of “industry” that any systematic activity carried on by co-operation between the employer and workers for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature) with certain **exceptions** like charitable social and philanthropic services; sovereign functions and domestic services etc [Ref: SC in the case of Bangalore Water Supply Board v. R. Rajappa and Others]
- To bring concerted casual leave [by **50%** or more employee on given day] within the ambit of the definition of strike;

Key Changes – IR CODE - 2

- Definition of “**Appropriate Government**” has been modified including the establishments of the contractors, thus Contractor appropriate government shall be of the establishment where the contract labour has been deployed.
- Definition of **Industrial Dispute** has been modified to include the dispute arising out of discharge, dismissal ,retrenchment or termination of such worker.
- Metro railway has been included in the definition of railways.
- To define “**workers**” which includes the persons in supervisory capacity getting wages up to Rs. 18,000/- per month or an amount as may be notified by the Central Government from time to time;

Key Changes – IR CODE- 3

- To provide the maximum number of members in the **Grievance Redressal Committee** up to 10 in an industrial establishment employing twenty or more workers. There shall be adequate representation of the women workers therein in the proportion of the women workers to the total workers employed in the industrial establishment;
- To provide for a new feature of recognition of **negotiating union and negotiating council** in an industrial establishment by an employer for the purpose of negotiations. The criterion for recognition of negotiating union has been fixed at 51%. or more workers on a muster roll of that industrial establishment.
- As regards **negotiating council**, a Trade Union having support of every 20 % of workers will get one seat in the negotiating council and the fraction above 20% shall be disregarded;

Key Changes – IR CODE- 4

- To provide for appeal against non-registration or cancellation of registration of Trade Union before the Industrial Tribunal;
- To empower the Central Government and the State Governments to recognize a Trade Union or a federation of Trade Unions as the Central Trade Union or State Trade Unions, respectively;
- To provide for applicability of threshold of **three hundred or more** workers for an industrial establishment to obtain certification of standing orders, if the standing order differ from the model standing order made by the Central Government;
- To provide that if the employer prepares and adopts **model standing order** of the Central Government with respect to the matters relevant to the employer's industrial establishment, then the model standing order would be deemed to be certified. Otherwise, the industrial establishment may seek certification of only those clauses which are different from the model standing orders;
- To set up **Industrial Tribunal** consisting of a Judicial Member and an Administrative Member, in place of only Judicial Member who presently presides the Tribunal. For certain specified cases, the matters will be decided by the two-member Tribunal and the remaining shall be decided by single-member Tribunal as may be provided for in the rules;

Key Changes – IR CODE- 5

- To set up **Industrial Tribunals** in the place of existing multiple adjudicating bodies like the Court of Inquiry, Board of Conciliation and Labour Courts;
- To remove the **reference** system for adjudication of Industrial Disputes, except the reference to the National Industrial Tribunal for adjudication;
- To provide that the commencement of **conciliation proceedings** shall be deemed to have commenced on the date of the first meeting held by the conciliation officer in an industrial dispute after the receipt of the notice of strike or lock-out by the conciliation officer;
- To prohibit **strikes and lock-outs in all industrial establishments without giving notice of 14 days**; The Code expands these provisions to apply to all industrial establishments. This will impact the ability of workers to strike and employers to lock-out.
- To provide for the obligation on the part of industrial establishments pertaining to mine, factories and plantation having three hundred or more workers to take prior permission of the appropriate Government before lay-off, retrenchment and closure with flexibility to the appropriate Government to increase the threshold to higher numbers, by notification;
- An industrial disputes can be voluntarily referred to arbitration by the employer as well as the workers. The parties to the dispute are required to execute a written agreement referring the dispute to an arbitrator.

Key Changes – IR CODE- 6

- To set up a **re-skilling fund** for training of retrenched workers. The fund shall, *inter alia*, consist of the contribution of the employer of an amount equal to fifteen days wages last drawn by the worker immediately before the retrenchment or such other number of days, as may be notified by the Central Government, in case of retrenchment only. The fund shall be utilised by crediting fifteen days wages last drawn by the worker to his account who is retrenched, within forty-five days of the retrenchment as may be provided by rules;
- To provide for **compounding of offences** by a Gazetted Officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent of the maximum fine provided for such offence punishable with fine only and for a sum of seventy-five per cent provided for such offence punishable with imprisonment for a term which is not more than one year, or with fine;
- To provide for penalties for different types of violations to rationalize with such offences and commensurate with the gravity of the violations;
- To empower the appropriate Government to exempt any industrial establishment from any of the provisions of the Code in the public interest for the specified period.

Key Changes – IR CODE- 7

- The worker may approach the Industrial Tribunal for adjudication of the dispute related to dismissal, retrenchment or termination within 45 days after the application for the conciliation of the dispute was made. This may lead to more disputes -Conciliation process is simplified.
- Employee can Industrial raise dispute with the employer within the time limit of only 2 years instead of 3 years.
- Code is applicable to “universal workforce”.
- Use of Hire and fire policy by the Employer and interim relief to worker when dispute is pending.
- Fixed term employee is new and welcome step

Observations on IR CODE- 8

- ❑ Lack of injunction power to Industrial Tribunal
- ❑ Workers to be treated at par with the regular workers
- ❑ Provisions seeking permission to lay off, retrench, closure is outdated- no permission is granted by the Government- Hiring and firing norms eased
- ❑ Lay-off definition is outdated- it shall be allowed for business reasons
- ❑ Easy approach to Tribunal regarding union disputes would lead to more industrial litigation-
- ❑ Recognition of trade unions may ensure industrial peace- recognition is valid for 3 to 5 years
- ❑ Fixed term hiring legalized, employers to benefit.



Social Security Code, 2020

Object: widening scope of benefits and ease of compliance

Key Changes – SSC CODE- 1

- ❑ Social security : means the measures of protection afforded to employees, unorganized workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in case of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and scheme framed under this code.
- ❑ The Central Government shall formulate and notify, from time to time, suitable welfare scheme for unorganized/gig/platform workers on matters relating to-
 - Life and disability cover;
 - Health and maternity benefit;
 - Old age protection;
 - Education; crèche; etc

Key Changes – SSC CODE- 2

- The state Government shall formulate and notify, from time to time, suitable welfare scheme unorganized, including schemes relating to:
 - Provident fund;
 - Employment injury benefit;
 - Housing
 - Educational scheme for children;
 - Skill upgradation of workers;
 - Funeral assistance;
 - Old age homes;

Key Changes – SS CODE- 3

- To extend the coverage of **Employees' State Insurance** to all establishments employing ten or more employees and to the employees working in establishments with less than ten employees on voluntary basis and also to plantations on option basis. It further seeks to empower the Central Government to notify the applicability of the said coverage to establishments which carries on the hazardous or life threatening occupation irrespective of the number of workers employed therein (even with one employee);
- To extend the **Employees' Provident Fund**, Employees' Pension Scheme and Employees Deposit Linked Insurance Scheme to all industries or establishments employing twenty or more employees and thereby expands the existing coverage;- schedule removed
- To make provision for specifying differential rates of employees' contribution for class of employees for employees' provident fund as the Central Government may notify for a specified period;
- To provide that the money dues shall be the charge on the assets of the employer and shall be paid on priority basis in accordance with the Insolvency and Bankruptcy Code, 2016;

Key Changes – SS CODE- 4

- To provide that in case of employer's failure to register the employee with Employees' State Insurance Corporation or failure to pay contribution and the Employees' State Insurance Corporation releasing the benefits to the workers, then, such benefits shall be recovered from the employer;
- to empower the Central Government to frame schemes for providing social security, to the gig workers and platform workers who do not fall under traditional employer-employee relation;
- to empower the Central Government, by notification, to constitute a Social Security Fund or funds for provision of social security for the unorganised workers, platform workers or gig workers or any such class of workers;
- to provide for payment of gratuity in case of Fixed Term Employment on pro-rata basis even if the period of fixed term contract is less than five years;
- to provide for maternity benefit to the woman employee;
- to provide for compensation to the employees in case of the accidents while commuting from residence to place of work and vice versa;

Key Changes – SS CODE- 5

- To provide for levying and collecting the cess for the purposes of social security and welfare of building workers;
- To provide for limitation period of five years for institution of proceedings in respect of assessment and determination of money dues from employer;
- to expand the sources of the fund for schemes to include funds from **corporate social responsibility** or any other source as may be specified in the scheme and also contains enabling provision for constituting the special purpose vehicle for the purpose of implementation of schemes for unorganised workers;
- to provide for renaming the designation of Inspector as Inspector-cum- Facilitator and to enhance his power to supply information and give advice to employers and workers concerning the most effective means of complying with the provisions of the proposed Code;

Key Changes – SS CODE- 6

- To provide for filing of a single return electronically or otherwise by the employer;
- To provide that the interests charged on delayed payments under the provisions of the proposed Code be specified in the rules;
- To provide penalty for the different types of violations commensurate with the gravity of the violations;
- To make Aadhaar mandatory for seeding at the time of registration of member or beneficiary or any other person to register or for receiving benefit;
- to empower the appropriate Government to exempt certain establishments from all or any of the provisions of the proposed Code.

Observations on SS Code-7

- Code is silent on international worker
- Concept of Gig and platform workers are useful for the industry – Freelance workers – will take benefit of the code
- Employer are not willing for ESI – concept of private insurance is missing
- More debates on Gratuity payment due to interpretation on the “continuous service”
- Employees are facing problem for linking of aadhar card
- Employee may not loose on gratuity deposit- 5 years work criteria no longer hold for everyone



The OSH and Working Conditions Code, 2020

Object: to simplify and amalgamate OHS provisions

Key Changes – OSH Code- 1

- To impart **flexibility** in adapting technological changes and dynamic factors, in the matters relating to health, safety, welfare and working conditions of workers;
- To apply the provisions of the proposed Code for all establishments having ten or more workers, other than the establishments relating to mines and docks;
- to provide the concept of "**one registration**" for all establishments having ten or more employees. However, for the applicability of all other provisions of the Code in respect of factories, except registration, the threshold has been fixed twenty workers in a factory (with power) and forty workers (without power);
- to include the journalist working in electronic media such as in e-paper establishment or in radio or in other media in the definition of "working journalists";
- to provide for issuing of **appointment letter mandatorily** by the employer of an establishment to promote formalisation in employment;

Key Changes – OSH Code- 2

- To provide free of cost annual health check-ups for employees above the specified age in all or certain class of establishments by which it would be possible to detect diseases at an early stage for effective and proper treatment of the employees;
- to make the provisions relating to Inter-State Migrant Workers applicable on the establishment in which ten or more migrant workers are employed or were employed on any day of the preceding twelve months and also provide that a Inter-State Migrant may register himself as an Inter-State Migrant Worker on the portal on the basis of self-declaration and Aadhaar; - Provision for helpline number
- an Inter-State Migrant Worker has been provided with the portability to avail benefits in the destination State in respect of ration and availing benefits of building and other construction worker cess;
- To constitute the National Occupational Safety and Health Advisory Board to give recommendations to the Central Government on policy matters, relating to occupational safety, health and working conditions of workers;
- to constitute the State Occupational Safety and Health Advisory Board at the State level to advice the State Government on such matters arising out of the administration of the proposed Code;
- to make a provision for the constitution of Safety Committee by the appropriate Government in any establishment or class of establishments

Key Changes – OSH Code-3

- to employ women in all establishments for all types of work. They can also work at night, that is, beyond 7 PM and before 6 AM subject to the conditions relating to safety, holiday, working hours and their consent;
- to make provision of "common license" for factory, contract labour and beedi and cigar establishments and to introduce the concept of a single all India license for a period of five years to engage the contract labour;
- to enable the courts to give a portion of monetary penalties up to fifty per cent to the worker who is a victim of accident or to the legal heirs of such victim in the case of his death;
- to provide overriding powers to the Central Government to regulate general safety and health of persons residing in whole or part of India in the event of declaration of epidemic or pandemic or disaster; like COVID-19
- to make provision for Social Security Fund for the welfare of unorganized workers; and
- To make provision for adjudging the penalties imposed under the Code.

Observations – OSH Code-4

- ❑ This code will enhance Health and Safety benefits to all types of employees.
- ❑ Soon code will provide format of appointment letter- a welcome steps to regulate service conditions
- ❑ Employees in audio-video production will start getting benefits of the code- like actors, dancer, anchors etc – welcome steps
- ❑ No Gender discrimination for any type of work
- ❑ More benefits/ facilities are offered to inter-state migrant worker



The Code on Wages, 2109

Object: to simplify and consolidate laws relating to wages and
bonus

Preliminary

- The Minister of State for Labour and Employment Shri Santosh Kumar Gangwar introduced The Code on Wages Bill, 2019 in Lok Sabha on July 23, 2019 and the Lower House cleared the Bill on July 30, 2019. The Bill received Rajya Sabha nod on August 2.
- The Code on Wages, 2019 received the assent of the president on 8th August 2019.
- Code on Wages (Central) Rules, 2019 **draft** rules are recently published.

New Act

- An Act to amend and consolidate laws relating to wages and bonus.
- It has 9 different chapters.
- It extends to whole of India.
- Applicable to all employees irrespective of their wage limit and type of employment.
- Different dates may be appointed to different provisions for its commencement.

Key Terms

- **Contract Labour** – means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a Contractor, with or without the knowledge of the principal employer and includes inter-state migrant worker

Key Terms

□ Contract Labour –

It does not include a worker (other than part-time employee) who :

(i) is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and

(ii) gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force

[now Contract labour can not claim permanency with Principle employer]

Key Terms

- **Employee**: the term has been given a wide meaning.
- It includes employees in managerial and administrative category as well.
- It also includes domestic and agriculture employee.
- It excludes apprentices and member of Armed forces.

Key Terms

- **Employee:**

Due to exhaustive meaning given to the term employee, now $2/5$ of the population of the country i.e. 50 crs employees would be benefitted.

Key Terms

- **Inspector-cum-Facilitator :**
- Means a person appointed by the appropriate Government under Section 51(1).
- His role includes to advice employer and workers relating to compliance with the provisions of this code and to inspect the establishments as assigned to him.

Key Terms

□ Wages :

"wages" means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and

includes,—

(i) *basic pay;*

(ii) *dearness allowance; and*

(iii) *retaining allowance, if any,*

Key Terms

□ Wages :

but does not include—

- (a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;
- (b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
- (c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

Key Terms

- (d) any conveyance allowance or the value of any travelling concession;
- (e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;
- (f) house rent allowance;
- (g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

Key Terms

(h) any overtime allowance;

(i) any commission payable to the employee;

(j) any gratuity payable on the termination of employment;

(k) any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment:

Key Terms

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under clauses (a) to (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in clauses (d), (f), (g) and (h) *shall be taken for computation of wage.*

Key Terms

□ Wages:

An interesting feature to be noted here is that the excluded components cannot exceed one half or such other percent as notified by the Central Government of all the remuneration payable to the employee.

In the event that it does so, then the amount exceeding the one half or such percent as specified by the Central Government shall be considered as 'Wages':

Key Terms

- Example – Salary to Mr. A is as under:

Sr. no	Particulars	Amount per month
1	Basic	10,000
2.	DA	5000
3.	Bonus	1000
4.	PF	1800
5.	Conveyance	6500
6.	HRA	4500
7.	Overtime	5000
	<u>Total</u>	<u>33800</u>

Key Terms

- Total Remuneration to Mr. A – Rs. 33,800/-
- 50 % of total remuneration – Rs. 16,900/-
- Excluded portion of remuneration which exceeds 50% of total remuneration : Rs. 18,800/-
- Rs. 1900 will be added to wages. [18800-16,900]

Key Terms

Due to this revised definition of wages:

- Minimum wage would increase(earlier it was only basic plus DA, now it includes other allowances as well)
- Employer may have to pay leave encashment, bonus, gratuity at a higher rate and thus burden on employer will increase.

Key Terms

- **Worker:** means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes:

(i) working journalists and

(ii) sales promotion employees, and

for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute,

Key Terms

□ but does not include any such person—

(a) *who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or*

(b) *who is employed in the police service or as an officer or other employee of a prison; or*

(c) *who is employed mainly in a managerial or administrative capacity; or*

(d) *who is employed in a supervisory capacity drawing wage of exceeding fifteen thousand rupees per month or an amount as may be notified by the Central Government from time to time.*

[Only certain limited provisions under the Code on Wages that relate to fixation and payment of minimum wages uses the term ‘Worker’].

Highlights of the Code

- **Prohibition of discrimination on the ground of gender-**
- The Code prohibits gender discrimination in matters related to wages and recruitment of employees for the same work or work of similar nature.
- Work of similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same.
- Employers shall pay equal wages in respect of same work or work of a similar nature and shall not reduce the wages.

Highlights of the Code

- **Prohibition of discrimination on the ground of gender-**
- should the categories for protection from discrimination include factors such as age, marital status, sexual preference, etc.?

Highlights of the Code

- **Minimum Wages:**
- *Under the Code, the minimum wage will be fixed by primarily taking into account skills and/or geography. [presently there are 2000 different minimum wage rates]*
- *Minimum wage to be revised after every five years besides periodical revision of DA/VDA.*
- *Now 60% of workers are not covered under the Minimum Wages Act. The new law will give the right to minimum wages to the entire 50 crore workforce.*

[Code has removed the concept of schedule employment(1709), zone in the State and skill sets of the employee]

Highlights of the Code

- Draft Rule indicates manner of calculating the minimum rates of wages in view of the following:
 - ✓ Standard working class family(4 member in a family),
 - ✓ intake of 2700 calories per day per unit consumption
 - ✓ 66 meters cloth per year per Standard working class family
 - ✓ HRA to constitute 10% of food and clothing
 - ✓ Fuel, Electricity and other miscellaneous expenses constitute 20% of minimum wages
 - ✓ Expenditure for children education, medical requirement, recreation and expenditure on contingencies to constitute 2% of minimum wages

Highlights of the Code

- – norms for fixation of minimum rates of wages – the Central Government shall on the advice of Technical Committee categorize the occupations into 4 categories that is to say unskilled, semi-skilled, skilled and highly skilled by modifying, deleting or adding any entry in the categorization of the such occupation in Schedule E.

Highlights of the Code

- **Floor Wage:** Central Government shall fix the national floor wage for different geographical area and no state government shall fix the minimum wage below the floor wage.
- As per Rule the geographical area are divided into three categories like metropolitan area, non- metropolitan area and the rural area.
- The minimum wages decided by the central or state governments must be higher than the floor wage.
- Minimum wages will be notified by the central or state governments. This will be based on time, or number of pieces produced.
- In case the existing minimum wages fixed by the central or state governments are higher than the floor wage, they cannot reduce the minimum wages.

Highlights of the Code

- Time interval for revision of dearness allowance – The DA will be declared on 1st April and 1st October of every year.
- Number of hours of work which shall constitute a normal working day – 9 hours(including rest interval). The spread over shall not be more than 12 hours.
- Weekly day of rest- normally Sunday- after 6 working days- compensatory off shall be given within 5 days- no continuous work for 10 consecutive days – overtime shall be paid if employee worked on rest day

Highlights of the Code

- the longer wage period for the purposes of minimum rates of wages shall be by the month.
- Overtime: The central or state government may fix the number of hours that constitute a normal working day. In case employees work in excess of a normal working day, they will be entitled to overtime wage, which must be at least twice the normal rate of wages.[code is proposing consent of worker is required for overtime]

Highlights of the Code

- **Payment of Wages: (Present limit 24,000)**
Wages will be paid in (i) coins, (ii) currency notes, (iii) by cheque, (iv) by crediting to the bank account, or (v) through electronic mode.
- The wage period will be fixed by the employer as either: (i) daily, (ii) weekly, (iii) fortnightly, or (iv) monthly.
- [Maharashtra Govt. specified amount of Rs. 2500/ for cash payment]

Highlights of the Code

- **Deductions:** Under the Code, an employee's wages may be deducted on certain grounds including:
 - (i) fines, (ii) absence from duty, (iii) accommodation given by the employer, or (iv) recovery of advances given to the employee, among others.
- These deductions should not exceed 50% of the employee's total wage.
- In cases where the authorized deductions exceed 50% of the wages, the excess may be recovered by the employer in the manner prescribed.

Highlights of the Code

- Recovery of the dues - In cases where the authorized deductions exceed 50% of the wages, the excess may be recovered from the wages of succeeding wage periods in such installments so that the recovery in any month shall not exceed 50% of the wages of the employee in that month.
- A notice specifying acts and omission shall be displayed at conspicuous place and copy shall be sent to Inspector-cum-Facilitator.

Highlights of the Code

- Where an employer makes any deduction for absence from duty, he shall make intimation to Inspector-cum-Facilitator within 10 days of the Deduction with reasons for deduction. The Inspector may examine the intimation and take appropriate action against the employer if he finds that explanation given is in contravention of the Code.

Highlights of the Code

- Deduction for damage or loss – Employer shall explain personally and also in writing the damage or loss of goods caused by the employee and how such damage or loss is directly attributable to his neglect or default of the employee and thereafter an opportunity to offer any explanation shall be given to the employee. Such deductions shall be intimated to the employee within 15 days from the date of deduction.

Highlights of the Code

- Condition regarding recovery of advance-recovery shall be made in such installments so as any or all installments in a wage period shall not exceed 50% of the wages of the employee in that wage period and the particulars of such recovery shall be recorded in the register maintained for that purpose.

Highlights of the Code

- **Time limit for payment of wages** : 7th day for all employees. (7th / 10th day not applicable) Full and final amount shall be paid within 2 working days.
- **Fine**: All fines and all realization shall be recorded in separate fine register and realization shall be applied only to such purposes beneficial to the employees as prescribed by the Authorities.[presently fines are transferred to LWF]

Highlights of the Code

- **Deduction for damages or loss-** all such deductions and realization thereof shall be recorded in separate register. Employee shall be given opportunity of being heard.
- **Deduction for recovery of loans:** In due course of time, Authorities will prescribe amount of loan and rate of interest payable thereon.

Highlights of the Code

- **Eligibility for bonus:** (present limit is 21,000/-)

All employees whose wages do not exceed a specific monthly amount, notified by the central or state government, will be entitled to an annual bonus.

The bonus will be at least: (i) 8.33% of his wages, or (ii) Rs 100, whichever is higher.

In addition, the employer will distribute a part of the gross profits amongst the employees. This will be distributed in proportion to the annual wages of an employee. An employee can receive a maximum bonus of 20% of his annual wages.

Highlights of the Code

- Calculation of Gross profits and set on and set off – refer schedule A, B, C and D for formats of the calculation.

Highlights of the Code

- **Eligibility for bonus:**

Should bonus be paid to all employees merely on the basis of a salary threshold irrespective of their individual performance and/or contract?

Highlights of the Code

- **Disqualifications for bonus:** an employee shall be disqualified from receiving bonus under this Code, if he is dismissed from service for—
 - (a) fraud; or
 - (b) riotous or violent behaviour while on the premises of the establishment; or
 - (c) theft, misappropriation or sabotage of any property of the establishment; or
 - (d) **conviction for sexual harassment.(new clause)**

Highlights of the Code

- **Payment of various undistributed dues in case of death of an employee:** such amount shall be paid to person nominated by the employee and in the absence of the nomination shall be deposited with the Deputy Chief Labour Commissioner.
- Where the amount is undistributed because either no nomination has been made or such amount could not be paid until the expiry of 6 month from the date it becomes payable, then such amount shall deposited with Labour Commissioner within 15 days after the last day of the said period of 6 months.

Highlights of the Code

- **Records, Returns and Notices:** Every employer of an establishment to which this Code applies shall maintain:
 - a register containing the details with regard to persons employed, muster roll, wages and such other details etc
 - *Every employer shall display the abstract of this Code at a prominent place of the establishment , category-wise wage rates of employees, wage period, day or date and time of payment of wages, and the name and address of the Inspector-cum-Facilitator having jurisdiction.*

Highlights of the Code

(3) *Every employer shall issue wage slips to the employees.*

(4) *The provisions of sub-sections (1) to (3) shall not apply in respect of the employer to the extent he employs not more than five persons for agriculture or domestic purpose:*

Provided that such employer, when demanded, shall produce before the Inspector-cum-Facilitator, the reasonable proof of the payment of wages to the persons so employed. [**preservation of records for 3 years is removed**]

Highlights of the Code

□ Penalties for offences:

1. For non payment of dues: Fine upto Rs. 50,000/-
2. For second and subsequent offence: imprisonment up to 3 months or fine upto Rs. 1,00,000/- or with both.
3. Contravention of any other provision: Fine upto Rs. 20,000/-
4. Non maintenance or improper maintenance of records: Fine up to Rs. 10,000/- [Employer can authorize any other employee for compliance under the Code]

Highlights of the Code

- **Right to heard:**
- With the objective of facilitating compliance, an opportunity of being heard will be given to the employer before taking any action under the Code to rectify the instances of non-compliances.
- If employer repeats offence within 5 years, then such right to heard will not be given.

Highlights of the Code

□ Limitation Period:

- The period of limitation for filing of claims by a worker has been enhanced to three years, as against the existing time period varying from six months to two years.
- This would provide employees more time to protect their statutory rights under the Code on Wages.

Highlights of the Code

□ Contracting Out:

Any contract or agreement whereby an employee relinquishes the right to any amount or the right to bonus due to him under this Code shall be null and void in so far as it purports to remove or reduce the liability of any person to pay such amount under this Code. [like working on wages which is less than minimum wage, bonus below 8.33% etc]

Highlights of the Code

- **Effect of Laws, agreements etc inconsistent with this code:**

The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, settlement or contract of service [HR policies and process shall follow the provisions of the Code]

Highlights of the Code

□ Repeal and Savings:

The Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 are hereby repealed.

Notwithstanding such repeal, anything done or any action taken under the enactments so repealed are protected to the extent they are not contrary to the Code.

Highlights of the Code

- Timely payment of wages - Where the employees are employed in the establishment through Contractor, then the Company/Firm shall pay to the Contractor before the date of payment of wages(7th day) so that the payment of wages to the employees shall be made positively as per the section 17.

Highlights of the Code

- Responsibility for payment of minimum bonus -
Where the employees are employed in the establishment through Contractor and the Contractor fails to pay minimum bonus to them under section 26, the Company /Firm shall be responsible for such payment of minimum bonus.

Impact of the code

- The codification of labour laws shall remove the multiplicity of definitions and authorities.
- Records, register, Returns and display will be reduced.
- Labour cost will substantially increase.
- Cost of compliance will reduce and hopefully eliminate any litigation surrounding a complex definition of wage, employee etc

Way forward

- Code will be applicable to all establishments : small, medium and large
- Rules are yet to be published by State Governments.
- Introduction of web-based inspection and self declaration/ certification scheme
- Challenge of compliance for corporate having offices in different states.
- Government shall have strong process to resolve complaints by the employee [imagine if only 5% of the 50 crs employee makes complaint]
- The ease of compliance is also expected to promote setting up of more enterprises catalyzing the creation of more employment opportunities.



THANK YOU
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