

An Empirical Study on Code on Wages, 2019

The Code on Wages, 2019 is a Government of India initiative to bring reforms in the labour laws. The provisions of the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 have been rationalized and subsumed therein. This article throws light on the benefits derived from the implementation of this code for labour in both organised and unorganised sectors. This study aims to identify the probable impact of these changes from the employer's perspective. The Company Secretaries can play a pivotal role in its implementation.



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compliance and promote indigenous entrepreneurship and attract foreign investment. The new codes shall also ensure more transparency and accountability. **The Code on Wages, 2019 has been notified on 08 August 2019**, and the provisions of the Payment of Wages Act, 1936; the Minimum Wages Act, 1948; the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976, have been rationalized and subsumed therein.

BACKGROUND

Approximately 90% of the labour in India is in the unorganized sector and do not get any Social Security. After the BJP government led by Hon'ble Prime Minister Shri Narendra Modi took over, the concept of "sabka saath sabka vikas sabka vishwas" was evolved and the vision was shifted from "satyamev jayate" to "shramev jayate". With the proposed labour law reforms, the labour in the unorganised sector will also get minimum wages and social security. The government has already increased gratuity limit from ₹10,00,000 to ₹20,00,000 and maternity leave from 12 weeks to 26 weeks. The wage ceiling has been increased from ₹18,000 to ₹24,000 under Payment of Wages Act, 1936. Also, the portability through 'Universal Account Number' (UAN) will enable the workers to open and access Provident Fund accounts from across the country.

INTRODUCTION

Labour falls in the concurrent list and that is why both Central and State government are authorized to make laws in respect of it and in the interest of labour. The multiplicity of labour laws has made it rather difficult for the labour to claim their benefits/compensations. The labour has to fill at times four forms for the same claim making it a difficult process. Similarly for an employer also fulfilling all regulations and filing of multiple returns is an arduous process. It being a state matter the law differs from state to state. Hence to take care of all these concerns the present Government has repealed 29 labour laws and codified them into 4 labour codes. The endeavor towards codifying these laws, is to align the labour laws with present economic scenario and technological advancements, simplifying the multiple definitions and authorities. This will result in ease of



Table 1: Applicability, Purpose, Definition of Wages and Worker/Employee: A Comparison

S No	Point of Difference	Payment of Wages Act, 1936	The Minimum Wages Act, 1948	The Payment of Bonus Act, 1965	Equal Remuneration Act, 1976
1.	Applicability	All factories as defined in Factories Act, 1948 or certain specified industrial or other Establishments (Not applicable to employees whose wages are more than Rs. 24,000/- p.m.)	It applies to entire India -It applies to any organization where it has employed 1000 employees or more in the respective state (Inapplicable to Central Government or federal railway undertakings.	This Act applies to whole of India and is applicable to (a) every factory; every other establishment where twenty or more persons are working on any day during an accounting year. (Not applicable to employees of LIC; Seaman; workers drawing salary more than Rs 21,000/-)	It extends to whole of India and every establishment.
2.	Purpose	To guarantee consistent and fast wage payments, prevent exploitation through arbitrary penalties and deductions. To fix wage periods	To give minimum wages to the workers in the organized sector -To empower the government to take steps for fixing minimum wages and to revise wages within 5 years.	To make it a legal responsibility to pay the bonus to employees. To decide the minimum and maximum percentage of bonus and also rules for its calculation. To provide the redressal mechanism.	An Act to provide for equal opportunity in employment and also equal remuneration for same or similar work. No discrimination to be made on the ground of sex.
3.	Definition of employee/ worker	The Act is applicable to only Factories and industrial establishments; so, it covers only those employees. The Act has included the legal representative of an employee in the definition of an employee.	Covers employees employed in scheduled employments and where the number of workers is 1000 or more. It includes employees doing any nature of work whatsoever including out workers and employees declared by appropriate Government to whom some payment is being made. But employees of the Armed Forces of the Union are not included.	Employee means any person employed in a factory or any establishment having 20 or more workers and whose salary is upto Rs 21,000 per month. The nature of work can be of any type.	Every employee is included irrespective of his nature of work and kind of establishment.
4	Definition of wages/ remuneration	Wages means all remuneration which is expressed/ can be expressed in terms of money and is as per the terms of employment whether it is overtime wages, bonus, any compensation, etc. But any payment which is not as per the terms of employment or for retirement benefits is not included.	Wages means all remuneration which is expressed/ can be expressed in terms of money and is as per the terms of employment. But any payment which is not as per the terms of employment or for retirement benefits is not included.	Wages or salary means the basic salary as expressed in terms of money/ can be expressed in terms of money and includes only Dearness Allowance or any allowance to meet the rise in cost of living. It does not include any other allowances or benefits.	“remuneration” means the basic salary, and all other additional emoluments which is payable in cash or kind to any person for work done by him/her as per the expressed/ implied contract.

Objective of Code on Wages, 2019

The objective of Code on Wages, 2019 is to amend and consolidate the laws relating to wages and bonus and all other matters incidental to it. This Code applies to both organised and unorganised sectors.

Table 2: Proposed Changes in the Code on Wages, 2019

S. NO	ACT	EXISTING PROVISIONS	CODE	PROPOSED CHANGES
1.	Minimum Wages Act, 1948	It applies to entire India. -It applies to any organization where it has employed 1000 employees or more in the respective state.	Code on Wages, 2019	Applicable to all the establishments.
2.	Payment of Wages Act, 1936	Applicable to all factories as defined in Factories Act, 1948 or certain specified industrial or other establishments and employees drawing salary upto Rs 24,000/-.	Code on Wages, 2019	Applicable to all organizations (even unorganized sector) and all employees irrespective of the salary.
3.	Payment of Wages Act, 1936	The Salary is Payable on or before 7 th of succeeding month if there are upto 1000 employees. If the number of employees is more than 1000; then on or before 10 th of succeeding month.	Code on Wages, 2019	Irrespective of number of employees Monthly Salary has to be paid on or before 7 th of succeeding month.
4.	Payment of Wages Act, 1936	On the employee's retirement/ death Full and final settlement has to be made within 7days/ 10 days of subsequent month depending on the number of employees. Gratuity is payable within 30 days from the last working day of the employee.	Code on Wages, 2019	On the employee's retirement/ death the Full and Final Settlement must be paid within 2 working days. However, Gratuity is payable within 30 days from the last working day of the employee.
5.	Payment of Bonus Act, 1965	Bonus can be paid in cash or through banking Channels.	Code on Wages, 2019	Bonus to be paid through banking channels only
6.	Payment of Bonus Act, 1965	The employee is disqualified to receive Bonus if the employee is found guilty of gross misconduct.	Code on Wages, 2019	Besides gross misconduct one more ground for Disqualification for Bonus has been included viz "Conviction of Sexual Harassment".
7.	(i)Minimum Wages Act,1948; (ii) Payment of Wages Act, 1936; (iii) Payment of Bonus Act, 1965; Equal Remuneration Act, 1976	The Definition of Wages is different in all the acts as discussed above.	Code on Wages, 2019	Definition of wages is the same.
8.	Minimum wages Act,1948	The number of working hours on a day should not be more than 9 hours including periods of rest with total 48 hours working per week.	Code on Wages, 2019	The number of working hours per day may be 12 hours with 4 days working.

SCOPE OF THE STUDY

A pilot study with sample size of 101 respondents was conducted which may not be fully representative of the effect of the proposed amendments. Also, these provisions have not been made applicable yet, hence the input by employers are probable impact on their organisation which needs to be further studied upon its enforcement. The total impact of these amendments can only be understood when the employee's perspective is also studied which is the future scope of the study and can be done by taking feedback from trade unions.

LITERATURE REVIEW

Simran Bais and Niyati Nagar (2021) in their article 'The Code on Wages, 2019: An Analysis' concluded that, the introduction of this Code would result in ease of doing business and support the digital India initiative. It will help workers both in organised and unorganized sectors by streamlining the procedures and avoiding multiple legislations.

Adarsh Dubey (2020) in 'A Critical Analysis of the Code on Wages, 2019' cites the positive aspects of the code as it follows the guidelines on minimum wages as per the International Labour Organization and is applicable to both organised and unorganized sectors.

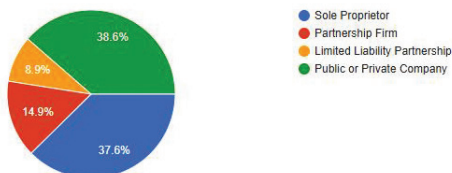
OBJECTIVE OF THE STUDY AND RESEARCH METHODOLOGY

With the introduction of this Code on Wages, 2019 many reforms were made in labour laws which will affect both the employer and the employee. To study the impact of these proposed amendments from the employer's perspective an online survey using google form was developed. The online survey was shared through social media. It included an undertaking that the information collected through this form would be kept confidential and used only for research purposes. The sample size for the study was 101 respondents.

Data Analysis and Interpretation

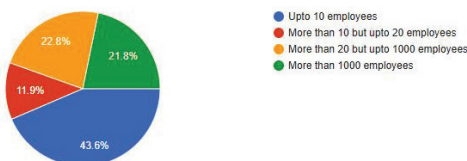
Q1. Type of organization.

101 responses



Q2. How many employees are there in your organization?

101 responses

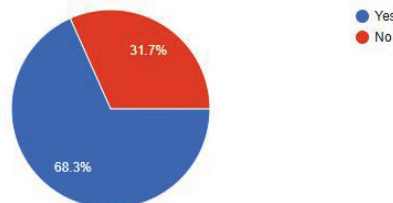


Interpretation

Out of the organisations surveyed 43.6% organisations belonged to the unorganised sector and hence none of the Acts were applicable to these organizations except Equal Remuneration Act, 1976 Out of the organizations surveyed Minimum Wages Act, 1948 and Payment of Bonus Act, 1965 were applicable only to 21.8% of the organizations.

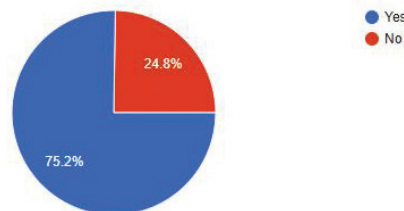
Q3. Are there employees in your organization who are paid monthly salary less than Rs 24,000/-?

101 responses



Q4. The Code on Wages, 2019 will be applicable to all organizations irrespective of number of employees or salary paid. The returns to be filed will be reduced from 10 to 2. Will it be helpful for you in terms of compliances/ workload?

101 responses

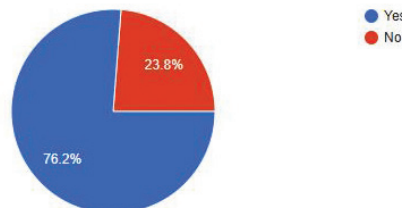


Interpretation

Maximum employers (75.2%) are of the viewpoint that filing of only two returns will reduce their work.

Q5. As per Code on Wages, 2019 it is compulsory to pay the wages by the 7th of each month. Do you think practically it is feasible?

101 responses

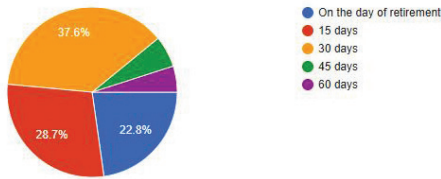


Interpretation

Maximum employers (76.2%) find it feasible to give salary by 7th of next month.

Q6. Within how many days of retirement/leaving/retrenchment of the employee do you pay the final settlement amount?

101 responses

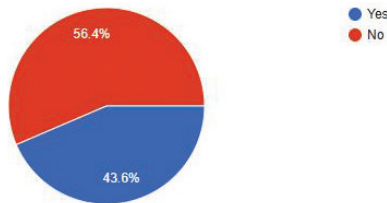


Interpretation

Maximum percentage of employers (37.6%) pay the final settlement amount in case of retirement, etc. within 15 to 30 days.

Q7. As per Code on Wages, 2019 the final settlement amount on retirement, etc must be paid within 2 working days. Do you think practically it is feasible?

101 responses

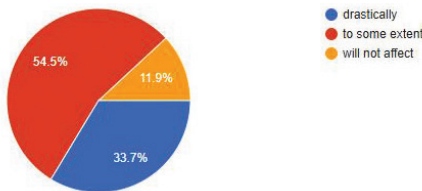


Interpretation

About 56.4 % of the organizations are of the viewpoint that paying the final settlement amount in two days is difficult.

Q8. The Code on Wages, 2019 increases the number of working hours from 8 hours per day to 12 hours per day; do you think it will affect the efficiency of the workers?

101 responses

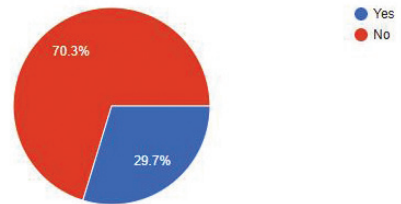


Interpretation

Maximum percentage of organizations (54.5%) are of the viewpoint that efficiency of the workers will be affected to some extent if the number of working hours is increased to 12 hours per day. Only 11.9% of the respondents are of the view that, it will not have any effect on the efficiency and 33.7% of the respondents are of the opinion that the efficiency of the workers will be affected drastically with increase in number of working hours per day.

Q9. The Code on Wages, 2019 suggests 4 days working. Is it feasible in your organisation?

101 responses



Q10. If no, why is it not feasible?

101 responses

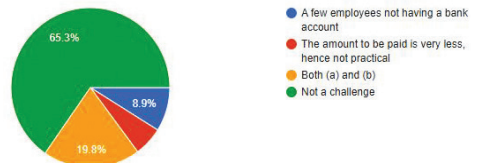


Interpretation

69.3% of the organizations under the study are not in favor of 4 days working in a week. Out of them more than 50% of the organization under study are of the opinion that it is not feasible because they cannot stop the work for 3 days and the worker might join other organizations for 3 days, thereby effecting his/her efficiency.

Q11. The Code on Wages, 2019 makes it compulsory to pay bonus through cheque/banking channels only. Do you think implementing it will be a challenge due to this?

101 responses

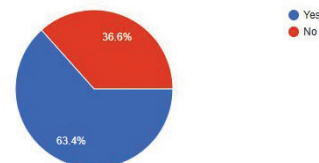


Interpretation

Maximum respondents (65.3%) are of the opinion that paying bonus through banking channels is not a challenge. Yet about 19.8% of the respondents feel amount of bonus to be paid is very less and many employees do not have a bank account so it is not feasible to pay the bonus as suggested.

Q12. The minimum eligibility to take leave from work has been reduced to 180 days from 240 days by the Code on Wages, 2019. In your opinion will this motivate the employee to work more efficiently?

101 responses

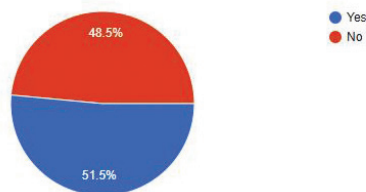


Interpretation

63.4% of the respondents are of the opinion that reduction in minimum number of working days to be eligible to take leave from work will certainly motivate the employees to work more efficiently.

Q13. Is an employee permitted to Carry his/ her leave to next year in your organization?

101 responses

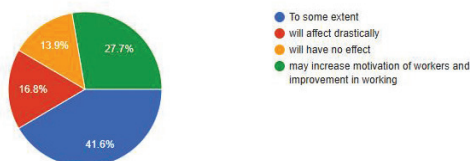


Interpretation

Already 51.5% of the organizations under study allow employees to carry forward their leaves.

Q14. Code on Wages, 2019 allows carrying of leave to next year. How will it affect the working of your organization in terms of risk of workers taking very long leaves?

101 responses



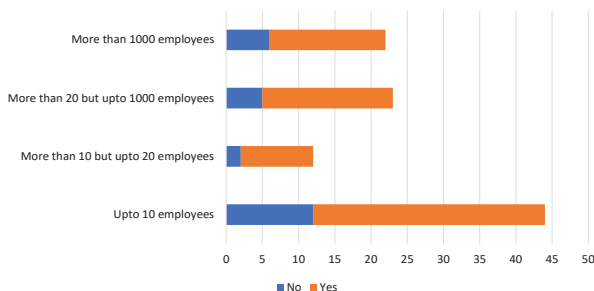
Interpretation

41.6% of the employers surveyed are of the opinion that taking long duration leaves by the workers will affect their efficiency to some extent. 16.8% feel efficiency will be affected drastically; while on the other hand 27.7% of the organizations have expressed that the efficiency might improve due to increase in motivation levels.

Q15. The Code on Wages, 2019 will be applicable to all organizations irrespective of number of employees or salary paid. The returns to be filed will be reduced from 10 to 2. Will it be helpful for you in terms of compliances workload?

Organization Type	No	Yes	Grand total
More than 1000 employees	6	16	22
More than 20 but upto 1000 employees	5	18	23
More than 10 but upto 20 employees	2	10	12
Upto 10 employees	12	32	44
Grand Total	25	76	101

'Organization Type' Vs 'Ease of Compliance'



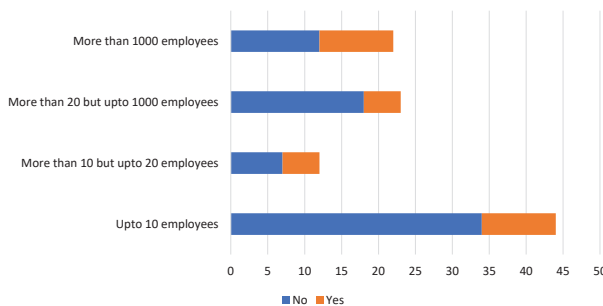
Interpretation

For employers whose number of employees are up to 10 the ease in filing returns will not have much impact.

Q16. The Code on Wages, 2019 suggests 4 days working. Is it feasible in your organization?

Organization Type	No	Yes	Grand total
More than 1000 employees	12	10	22
More than 20 but upto 1000 employees	18	5	23
More than 10 but upto 20 employees	7	5	12
Upto 10 employees	34	10	44
Grand Total	71	30	101

'Organization Type' Vs 'Ease of 4 day working'



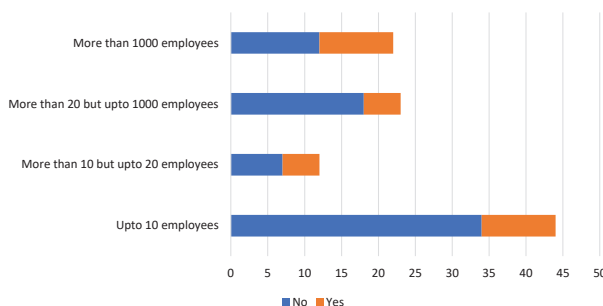
Interpretation

Organizations which are small and medium sized find it more appropriate to have 4 days working in a week as compared to large organizations.

Q17. As per Code on Wages, 2019 the final settlement amount on retirement, etc. must be paid within 2 working days. Do you think practically it is feasible?

Organization Type	No	Yes	Grand total
More than 1000 employees	9	13	22
More than 20 but upto 1000 employees	13	10	23
More than 10 but upto 20 employees	7	5	12
Upto 10 employees	28	16	44
Grand Total	57	44	101

'Organisation Type' Vs Feasibility of settlement in 2 days'



Interpretation

The employers employing upto 10 workman find it very difficult to pay the final settlement bill in 2 days as compared to larger organizations having more than 1000 workers.

Major Findings

- Based on the above survey it can be concluded that maximum respondents are of the opinion that the code will simplify filing of returns and it is possible to pay salary/wages by 7th of next month.

2. According to 88% of the respondents 4 days working will affect the efficiency and health of workers to a large extent and is also not feasible. Some of the workers may also start working on weekends. 12 hours should not be compulsory, it should be flexible like any one can opt out from this.
3. Only 20% respondents find it difficult to make payment of Bonus through banking channels but payment of final settlement amount in 2 days is considered a challenge by more than half of the respondents.
4. 50% of the organizations under study already allow carrying forward of leaves to next year and 30% of the organizations are of the opinion that allowing that increases the motivation and efficiency of workers. Though 17% of the organizations have expressed that it will have a negative impact on efficiency of the organization.

OPPORTUNITIES FOR COMPANY SECRETARIES

For Company Secretaries, this code presents opportunities in areas such as:

1. **Compliance & Advisory:** Ensuring companies comply with wage payment, minimum wages, and bonus regulations.
2. **Legal Interpretation:** Advising companies on wage structures and compliance with government notifications.
3. **HR & Payroll Structuring:** Assisting in structuring salaries as per the Code's provisions.
4. **Representation & Dispute Resolution:** Representing companies in labor disputes or advising on legal aspects.

CONCLUSION

Out of the organisations surveyed 43.6% of organisations belonged to the unorganised sector and hence none of the Acts were applicable to these organizations except Equal Remuneration Act. Maximum employers (76.2%) find it feasible to give salary by the 7th of next month 37.6% of employers surveyed pay the final settlement amount in case of retirement, etc. within 15 to 30 days. It is observed that a maximum percentage of organizations (54.5%) are of the viewpoint that the efficiency of the workers will be affected to some extent if the number of working hours is increased to 12 hours per day. 69.3% of the organizations under the study are not in favor of 4 days working in a week. Out of them, more than 50% of the organisation under study are of the opinion that it is not feasible because they cannot stop work for 3 days and the worker might join other organizations for 3 days, thereby affecting his/her efficiency. The organisations under study revealed that small and medium-sized enterprises find it more appropriate to have 4 days working in a week as compared to large organizations. Maximum respondents (65.3%) are of the opinion that paying bonuses through banking channels is not a challenge. Yet about 19.8% of the respondents feel the amount of bonus to be paid is very low and many employees do not have a bank account, so it is not feasible to pay the bonus as suggested. 63.4% of the respondents are of the opinion that a reduction in minimum number of working days to be eligible to take leave from work will certainly motivate the employees to work more efficiently while 51.5% of the organizations under study allow employees to carry forward their leaves. Maximum respondents are not in favour of taking long duration leaves by the workers as it will affect their efficiency to some extent. The employers

employing upto 10 workmen find it very difficult to pay the final settlement bill in 2 days as compared to large organizations having more than 1000 workers.

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Alongwith the regular Compliances, Company Secretaries can play a vital role in advising companies on Wage structure and Compliance with Government notifications and represent the company in labour disputes.