

# Statutory Updates on Labour Codes 2020

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## AN OVERVIEW

# Introduction

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.

In order to rationalize, simplify, streamline and amalgamate the existing labour laws in India, a new labour legislation, that is in the process of being introduced, has merged the 44 existing labour law legislations into four categories (Codes).

In 2019, the Ministry of Labour and Employment introduced four Bills to consolidate 29 central laws. While the Code on Wages, 2019 has been passed by Parliament, Bills on the other three areas were referred to the Standing Committee on Labour. The Standing Committee has submitted its report on all three Bills. The government has replaced these Bills with new ones on September 19, 2020.

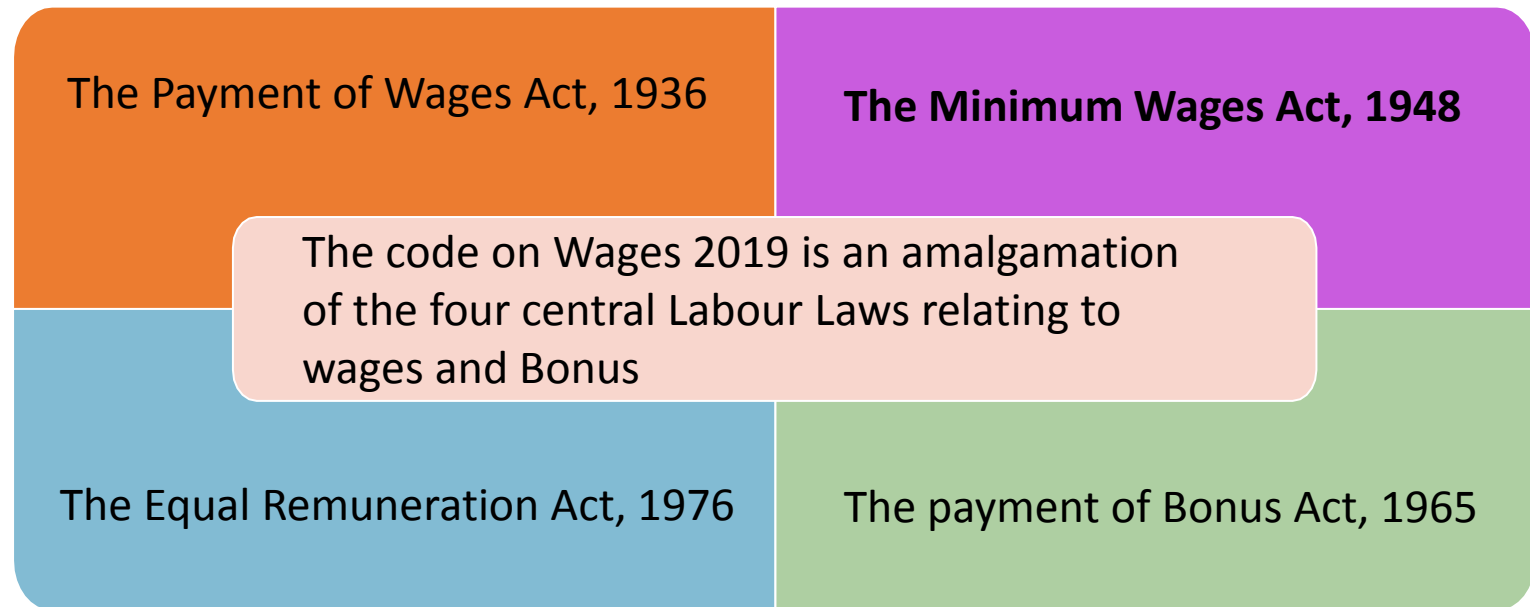
**The Code on  
Wages, 2019**

**The Code on  
Social Security,  
2020**

**The Industrial  
Relations Code,  
2020**

**The  
Occupational  
Safety, Health  
and Working  
Conditions  
Code, 2020**

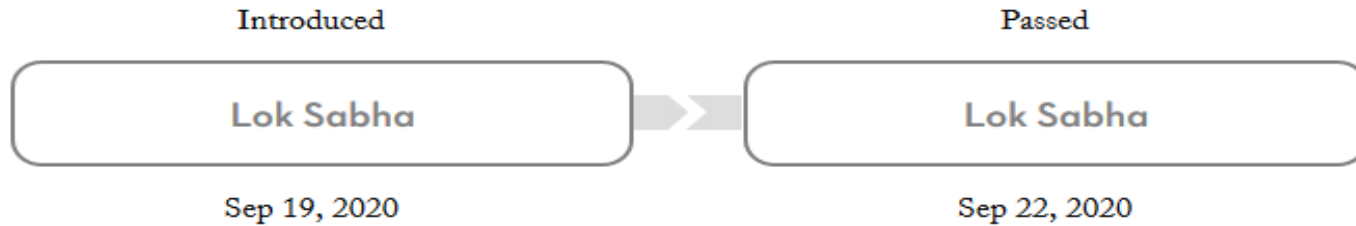
# The Code on Wages, 2019



# The Code on Wages, 2019

Provision	Current laws	Code on Wages, 2017	Impact/Remarks
Coverage	<p>Minimum Wages Act: Minimum wages are fixed for scheduled employments</p> <p>Payment of Wages Act: Applies to employees whose wages do not exceed Rs .24,000 per month.</p> <p>Payment of Bonus Act: Applies to employments with 20 or more persons and for employees whose wages do not exceed Rs 21,000 per month as per central government</p>	<p>Minimum wages will be applicable to all the establishments irrespective of scheduled establishments.</p> <p>Provisions regarding payment of wages will be applicable to all employees irrespective of salary limit.</p> <p>Bonus will apply to employees whose wages do not exceed a monthly amount notified by central or state governments</p>	<p>The Employer has to provide the minimum wages to all the employees.</p> <p>The wage ceiling 24000 has been removed for applicability now, hence we have to follow the Payment of wages timeline &amp; deductions as per the provisions of the act.</p> <p>The different Bonus ceiling may fixed by the state governments may create differentiation for the establishments having branches in different states.</p>
Definition	<p>Minimum Wages Act: “employee” means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in scheduled employment in respect of which minimum rates of wages have been fixed.</p>	<p>An 'Employee' is any person (other than an apprentice engaged under the Apprentices Act, 1961), employed on wages by an establishment to do any skilled, semi- skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.</p> <p>A 'Worker' refers to 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, or someone who is employed in a supervisory capacity drawing a monthly wage exceeding INR 15,000</p>	<p>All the employees are covered including supervisory and managerial categories also included.</p> <p>The definition of “workman” gives way to the definition of “worker” and the supervisory and managerial employees are excluded with the salary limits for supervisory personnel revised upwards from Rs. 10,000 that was prevailing under the erstwhile laws being raised now to Rs. 15,000/- p.m.</p>

# The Code on Social Security, 2020



The Code On Social Security, 2020 passed in Lok Sabha on 22nd September 2020, with a view to amalgamate, simplify and rationalise the relevant provisions of the following nine central labour enactments relating to social security, namely: —

(i) The Employees' Compensation Act, 1923;	(vi) The Payment of Gratuity Act, 1972;
(ii) The Employees' State Insurance Act, 1948;	(vii) The Cine Workers Welfare Fund Act, 1981;
(iii) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; (iv) The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959;	(viii) The Building and Other Construction Workers Welfare Cess Act, 1996; and
(v) The Maternity Benefit Act, 1961;	(ix) The Unorganised Workers' Social Security Act, 2008.

# The Code on Social Security, 2020

The salient features of the Code on Social Security, 2020, inter alia, are:

- (i) to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors;*
- (ii) to provide for an establishment to be covered under Chapter III relating to Employees' Provident Fund (EPF) 20 or more and under Chapter IV relating to Employees State Insurance Corporation (ESIC) on voluntary basis even if the number of employees in that establishment is less than the threshold. 10 or more & for Hazardous & Life threatening occupation 1 or more*
- (iii) to define various expressions used in the Bill such as, "career centre", "aggregator", "gig worker", "platform worker", "wage ceiling", etc. Further, the definition of "employee" has been comprehensively elaborated to cover maximum number of employees and workers;*
- (iv) to provide for registration, electronically or otherwise, of every establishment to which the Bill applies, within such time and in such manner as the Central Government may by rules determine.*
- (v) constitution of various social security organisations for the administration of the Bill, namely, (a) the Central Board of Trustees of the Employees' Provident Fund (Central Board), (b) the Employees' State Insurance Corporation (Corporation), (c) the National Social Security Board for Unorganised Workers (National Social Security Board), (d) the State Unorganised Workers' Social Security Board and (e) the State Building Workers Welfare Boards;*
- (vi) to empower the Central Government to frame schemes for unorganised workers, gig workers and platform workers and the members of their families for providing benefits relating to Employees' State Insurance Corporation;*
- (vii) to empower the Central Government to specify by notification, rates of employees' contributions to the Employees' Provident Fund Scheme and the period for which such rates shall apply for any class of employee; & to defer or reduce employer's contribution, or employee's contribution, or both for a period up to three months at a time*
- (viii) to provide that in the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on pro rata basis and not on the basis of continuous service of five years;*
- (ix) to provide for registration of every unorganised worker, gig worker or platform worker on the basis of self-declaration electronically*
- (x) to provide for establishment and maintenance of separate accounts under social security fund, for the welfare of unorganised workers, gig workers and platform workers; and a separate account for the amount received from the composition of offences under the Bill or under any other central labour laws.*

# The Code on Social Security, 2020

## The Important Definitions are:

26) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment, either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied, and also includes

a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union: For ESIC, Employee mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government; Provided further that for the purposes of counting of employees for the coverage of an establishment under EPFO & ESIC, the employees,

whose wages are more than the wage ceiling so notified by the Central Government, shall also be taken into account: For Employee Compensation, "employee" shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government & State Govt

(41) "inter-State migrant worker" means a person who is employed in an establishment and who:

(1) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or

(2) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State, under an agreement or other arrangement for such employment and drawing wages not exceeding eighteen thousand rupees per month or such higher amount as may be notified by the Central Government from time to time;

S.2 (17) "completed year of service" means continuous service for twelve months;

(35) "gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship;

(34) "fixed term employment" means the engagement of an employee on the basis of a written contract of employment for a fixed period: Provided that—

- (a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent employee doing the same work or work of a similar nature; and
- (b) he shall be eligible for all benefits, under any law for the time being in force, available to a permanent employee proportionately according to the period of service rendered by him even if his period of employment does not extend to the required qualifying period of employment;

(36) "home-based worker" means a person engaged in the production of goods or services for an employer in his home or other premises of his choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

9) "career centre" means any office (including employment exchange, place or portal) established and maintained in the manner prescribed by the Central Government for providing such career services; relate generally or specifically to—

- (i) persons who seek to employ employees;
- (ii) persons who seek employment;
- (iii) occurrence of vacancies; and
- (iv) persons who seek vocational guidance and career counselling or guidance to start self-employment;

(75) self-employed worker" means any person who is not employed by an employer, but engages himself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;

# The Code on Social Security, 2020

**Payment of Gratuity; 53. (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—**

- (a) on his superannuation; or
- (b) on his retirement or resignation; or
- (c) on his death or disablement due to accident or disease; or
- (d) on termination of his contract period under fixed term employment; or
- (e) on happening of any such event as may be notified by the Central Government:

Provided that in case of working journalist as defined in clause (f) of section 2 of the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years: Provided further that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed term employment. Provided also that in the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on pro rata basis.

The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government

(41) "inter-State migrant worker" means a person who is employed in an establishment and who—

- (1) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or
- (2) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State, under an agreement or other arrangement for such employment and drawing wages not exceeding eighteen thousand rupees per month or such higher amount as may be notified by the Central Government from time to time;

## SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS

**109. (1) The Central Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—**

- (i) life and disability cover;
- (ii) health and maternity benefits;
- (iii) old age protection;
- (iv) education; and
- (v) any other benefit as may be determined by the Central Government.

**(2) The State Government shall formulate and notify from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—**

- (i) provident fund;
- (ii) employment injury benefit;
- (iii) housing; (iv) educational schemes for children;
- (v) skill upgradation of workers;
- (vi) funeral assistance; and (vii) old age homes.

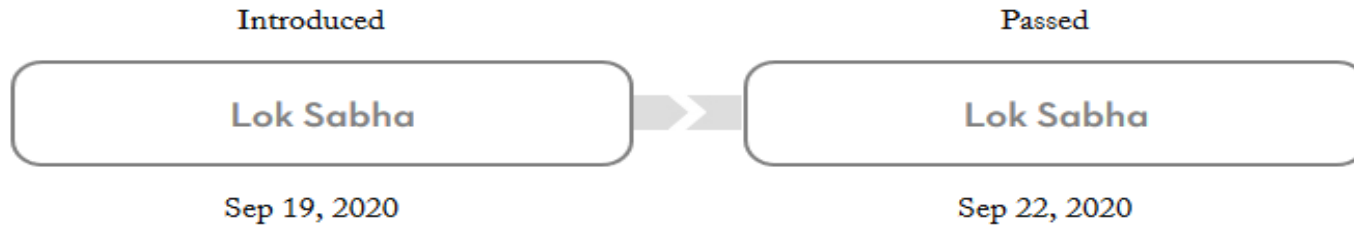
## PENALTIES;

**133. If any person,—**

- (a) being an employer, fails to pay any contribution which he is liable to pay under this Code or rules with imprisonment for a term which may extend to three years, but—
  - (i) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of one lakh rupees;
  - (ii) which shall not be less than two months but may be extended to six months, in any other case and shall also be liable to fine of fifty thousand rupees:



# The Industrial Relations Code, 2020



**The Industrial Disputes Act, 1947.**

**The Industrial Employment (Standing Orders) Act, 1946**

**The Trade Unions Act, 1926;**

# The Industrial Relations Code, 2020

## The salient features of the Industrial Relations Code, 2020, inter alia, are as follows:—

- (i) to define “workers” which includes the persons in supervisory capacity getting wages up to eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time;
- (ii) 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;
- (iii) 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;
- (iv) to bring concerted casual leave within the ambit of the definition of strike;
- (v) to provide the maximum number of members in the Grievance Redressal Committee up to ten in an industrial establishment employing twenty or more workers.
- (vi) The criterion for recognition of negotiating union has been fixed at fifty-one per cent. or more workers on a muster roll of that industrial establishment. As regards negotiating council, a Trade Union having support of every twenty per cent. of workers will get one seat in the negotiating council and the fraction above twenty per cent. shall be disregarded;
- (vii) 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;

# The Industrial Relations Code, 2020

## The salient features of the Industrial Relations Code, 2020, inter alia, are as follows:—

- viii) 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;*
- (ix) 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;*
- (x) to prohibit strikes and lock-outs in all industrial establishments without giving notice of fourteen days;*
- (xi) 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;*
- (xii) 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;*
- (xiii) 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.*

# The Industrial Relations Code, 2020

## The Important Definitions are:

(zr) "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 working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, 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, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who is employed in a supervisory capacity drawing wage of exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time:

(o) "fixed term employment" means the engagement of a worker on the basis of a written contract of employment for a fixed period:  
Provided that—

- (a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;
- (b) he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and
- (c) he shall be eligible for gratuity if he renders service under the contract for a period of one year;

# The Industrial Relations Code, 2020

## The Important Provision are:

### Works Committee –

In the case of any industrial establishment in which one hundred or more workers are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute a Works Committee, in such manner as may be prescribed, consisting of representatives of employer and workers engaged in the establishment:

### Grievance Redressal Committee –

Every industrial establishment employing twenty or more workers shall have one or more Grievance Redressal Committees for resolution of disputes arising out of individual grievances.

### STANDING ORDERS

- ✓ shall apply to every industrial establishment wherein three hundred or more workers, are employed, or were employed on any day of the preceding twelve months.
- ✓ If an Establishment adopted the Model standing order, after expiry of 30days from notification model standing order by the central government deemed to be certifying standing order.
- ✓ If the establishment included any other conditions mentioned in the Model standing order which needs to get it certified from the certifying officer.

Establishments having Less than 50 workers  
There is no conditions on Lay-off, Retrenchment & Closure of undertakings same as Existing ID Act

# The Industrial Relations Code, 2020

## The Important Provision are:

Establishments having more than 50 workers and less than 300 workers (earlier it was 100)

Lay-off:

Whenever a worker (other than a badli worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off:

Conditions precedent to retrenchment:

No worker employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

1. One month notice or one month notice pay
2. Retrenchment compensation at the rate of 15 days average pay for every completed year of service
3. Notice to the appropriate authority

Close down any undertaking:

1. Sixty days prior notice to the employees
2. Notice to the appropriate authority
3. Retrenchment compensation at the rate of 15 days average pay for every completed year of service

Establishments having more than 300 workers (earlier it was 100)

Lay-off:

- Prior permission has to be taken from the appropriate Government
- Laid off compensation of 50% of Basic and DA has to be paid

Retrenchment of workers:

- 3 month prior notice to the employees or notice pay
- Prior permission has to be obtained from the appropriate Government
- Compensation at the rate of 15 days average pay for every completed year of service

Close down any undertaking:

- Prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workers in such manner as may be prescribed.
- Compensation at the rate of 15 days average pay for every completed year of service

# The Industrial Relations Code, 2020

## The Important Provision are:

### WORKER RE-SKILLING FUND

- (1) The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund (hereafter in this section referred to as "fund").
  - (1) The fund shall consist of—
  - (a) the contribution of the employer of an industrial establishment 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, for every retrenched worker in case of retrenchment only;
  - (b) the contribution from such other sources as may be prescribed by the appropriate Government.
- (3) 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 such retrenchment, in such manner as may be prescribed.

### Penalties

(1) An employer who contravenes the Special provisions of Lay off, Retrenchment & Closure of undertakings shall be punishable with fine which shall not be less than one lakh, but which may extend to 10 lakh. The second or subsequent offence be punishable with fine which shall not be less than 5 lakh, but which may extend up to 20 lakh rupees or with imprisonment for a term which may extend to 6 months, or with both.

An employer who contravenes the provisions of provisions of Lay off, Retrenchment & Closure of undertakings shall be punishable with fine which shall not be less than 50000, but which may extend to 2lakh. The second or subsequent offence be punishable with fine which shall not be less than 1 lakh, but which may extend to 5 lakh or with imprisonment for a term which may extend to 6 months, or with both.

Any person who commits any unfair labour practice as specified in the Second Schedule shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to two lakh rupees for committing the second or subsequent offence, be punishable with fine which shall not be less than 50000, but which may extend to 5 lakh or with imprisonment for a term which may extend to 3 months, or with both.

For Trade Union and Office bearers commits any default shall be punishable with fine which shall not be less than one thousand rupees, but which may extend to ten thousand rupees.

# The Occupational Safety, Health and Working Conditions Code, 2020

The Occupational Safety, Health and Working Conditions Code, 2020 passed in Lok Sabha on 22nd September 2020, with a view to amalgamate, simplify and rationalise the relevant provisions of the following nine central labour enactments relating to social security, namely: —

1. The Factories Act, 1948;	7. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
2. The Plantations Labour Act, 1951;	8. The Contract Labour (Regulation and Abolition) Act, 1970;
3. The Mines Act, 1952;	9. The Sales Promotion Employees (Condition of Service) Act, 1976;
4. The Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955;	10. The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979;
5. The Working Journalists (Fixation of Rates of Wages) Act, 1958;	11. The Cine Workers and Cinema Theatre Workers Act, 1981;
6. The Motor Transport Workers Act, 1961	12. The Dock Workers (Safety, Health and Welfare) Act, 1986; and
13. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.	



# The Occupational Safety, Health and Working Conditions Code, 2020

**The proposed Code simplifies, amalgamates and rationalises the provisions of the aforesaid thirteen enactments with certain important changes which, inter alia, are as under:—**

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;

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;

Inter-State Migrant Workers applicable on the establishment in which ten or more migrant workers are employed also provision employee self registration.

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;

# The Occupational Safety, Health and Working Conditions Code, 2020

**The proposed Code simplifies, amalgamates and rationalises the provisions of the aforesaid thirteen enactments with certain important changes which, inter alia, are as under:—**

- (xii) 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;
- (xiii) 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;
- (xiv) 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;
- (xvi) to make provision for Social Security Fund for the welfare of unorganized workers; and

# The Occupational Safety, Health and Working Conditions Code, 2020

## The Important Definitions are:

(m) "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 but does not include a worker (other than part time employee) who 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 gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;

(n) "contractor", in relation to an establishment, means a person, who—  
 (i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or  
 (ii) supplies contract labour for any work of the establishment as mere human resource, and includes a sub-contractor;

(p) "core activity of an establishment" means any activity for which the establishment is set up and includes any activity which is essential or necessary to such activity:

Provided that the following shall not be considered as essential or necessary activity, if the establishment is not set up for such activity, namely:—

1. sanitation works, including sweeping, cleaning, dusting and collection and disposal of all kinds of waste;
2. watch and ward services including security services;
3. canteen and catering services;
4. loading and unloading operations;
5. running of hospitals, educational and training Institutions, guest houses, clubs and the like where they are in the nature of support services of an establishment;

t) "employee" means,—

1. in respect of an establishment, a person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied; and
2. a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:

# The Occupational Safety, Health and Working Conditions Code, 2020

## The Important Definitions are:

(w) "factory" means any premises including the precincts thereof—

1. whereon twenty or more workers are working (Presently 10), or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on; or
1. whereon forty or more workers are working (Presently 20), or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

"inter-State migrant worker" means a person who is employed in an establishment and who—

1. has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State, under an agreement or other arrangement for such employment and draws wages not exceeding the amount of rupees eighteen thousand per month or
2. such higher amount as may be notified by the Central Government from time to time;

# The Occupational Safety, Health and Working Conditions Code, 2020

## CHAPTER II – S. 3 Registration, Amendment & Closure of certain establishments

employing 10 or more employees, make an application for registration electronically with such fee prescribed by the Govt Within sixty days from the date of such applicability of this Code

Registering officer shall register the establishment and issue a certificate of registration electronically to the employer thereof in such form and within such time

If not approved within the prescribed time, then, such establishment shall be deemed to have been registered and the electronic certificate of registration shall be auto generated

Notice of Change in ownership or management or in any particulars of the establishment intimated to Registering officer within 30 days

The registering officer shall make amendment in the certificate of registration electronically

If not approved the amendment within the prescribed time, it will get approved automatically

The employer of an establishment shall, within thirty days of the closing of the establishment

the registering officer shall, on receiving such information and certificate remove such establishment from the register of establishments within sixty days

if the registering officer fails to cancel the RC within sixty days, then, the registration Certificate of such establishment shall be deemed to have been cancelled

# The Occupational Safety, Health and Working Conditions Code, 2020

## CHAPTER III S.6 DUTIES OF EMPLOYER AND EMPLOYEES, ETC.

### **DUTIES OF EMPLOYER**

1. ensure that work place is free from hazards which cause or are likely to cause injury or occupational disease to the employees;
1. comply with the occupational safety and health standards declared under section 18
2. provide such annual health examination or test free of costs to such employees of such age or such class of employees or establishments or such class of establishments provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees;
3. ensure the disposal of hazardous and toxic waste including disposal of e-waste;
4. issue a letter of appointment to every employee on his appointment in the establishment the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work

- a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the work place;
- a) comply with the safety and health requirements specified in the standards;
- a) co-operate with the employer in meeting the statutory obligations of the employer under this Code;
- a) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable, report such situation to his employer or to the health and safety representative
- a) not willfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers;
- a) not do, willfully and without reasonable cause, anything, likely to endanger himself or others; and
- b) perform such other duties as may be prescribed by the appropriate Government.

# The Occupational Safety, Health and Working Conditions Code, 2020

## The Important Provision are:

<p><b>Safety Committee and Safety Officers</b></p> <p>22. (1) The appropriate Government may, by general or special order, require any establishment or class of establishments to constitute in the prescribed manner a Safety Committee consisting of representatives of employers and workers engaged in such establishment</p> <p>(2) In every establishment which is a—</p> <ol style="list-style-type: none"> <li>factory wherein five hundred workers or more; or</li> <li>factory carrying on hazardous process wherein two hundred fifty workers or more; or</li> <li>building or other construction work wherein two hundred fifty workers or more; or</li> <li>mine wherein one hundred workers or more, are ordinarily employed, the employer shall also appoint such number of safety officers, who shall possess such qualifications and perform such duties, as may be prescribed by appropriate Government.</li> </ol>	<p><b>Responsibility of employer for maintaining health, safety and working conditions.</b></p> <p>23. (1) The employer shall be responsible to maintain in his establishment such health, safety and working conditions for the employees as may be prescribed by the Central Government.</p> <ol style="list-style-type: none"> <li>cleanliness and hygiene;</li> <li>ventilation, temperature and humidity;</li> <li>environment free from dust, noxious gas, fumes and other impurities;</li> <li>potable drinking water;</li> <li>sufficient arrangement for latrine and urinal accommodation to male, female and transgender employee separately and maintaining hygiene therein;</li> <li>effective arrangements for treatment of wastes and effluents</li> </ol>
<p><b>Welfare facilities in the establishment, etc.</b></p> <p>24. (1) The employer shall be responsible to provide and maintain in his establishment such welfare facilities for the employees as may be prescribed by the Central Government, including,—</p> <ul style="list-style-type: none"> <li>➤ Washing Facilities, locker rooms, Rest Rooms, adequate first-aid boxes</li> <li>➤ Facilities of canteen in an establishment for wherein 100 or more workers including contract labourers</li> </ul>	<p><b>Maintenance of Registers, Records And Returns</b></p> <p>33. An employer of an establishment shall—</p> <ol style="list-style-type: none"> <li>maintain register in prescribed form, electronically or otherwise, containing such particulars of workers Attendance, Leave &amp; Wages.</li> <li>display notices as prescribed</li> <li>issue wage slips to the workers, in electronic forms or otherwise; and</li> <li>file such return electronically or otherwise to the Inspector-cum-Facilitator in such manner and during such periods as may be prescribed by appropriate Government.</li> </ol>

# The Occupational Safety, Health and Working Conditions Code, 2020

## OFFENCES AND PENALTIES:

- ❖ General penalty for offences.
- ❖ Any establishment, there is any contravention of the provisions of this Code or regulations shall be liable to penalty which shall not be less than two lakhs rupees but which may extend up to three lakh rupees, and if the contravention is continued after the conviction, then, with further penalty which may extend to two thousand rupees for each day till such contravention continues.
- ❖ Punishment for causing obstruction to Chief Inspector cum- Facilitator or Inspector-cum –Facilitator etc., shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.
- ❖ Penalty for non maintenance of register, records and non-filing of returns, etc. he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, again convicted of an offence under the same provision, then, he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.
- ❖ Punishment for contravention of provisions of duties relating to hazardous processes. shall, in respect of such failure or contravention, be punishable with an imprisonment for a term which may extend to two years and with fine which may extend to five lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to three years or with a fine of twenty lakh
- ❖ rupees, or with both



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# THANK YOU