

THE CODE OF WAGES, 2019

July 23, 2019
Introduced in Lok Sabha

July 30, 2019
Passed in Lok Sabha

July 30, 2019
Passed in Rajya Sabha

Whats' the need of Wage Code?

62%

Of the workforce is made of up of casual workers who need a right to the minimum wages

1,709

scheduled employments rates fixed by states, 45 by centre; making it a complex wage system

33%

Of wage workers were paid less than the indicative minimum wages in 2009-10

INTRODUCTION

The Code on Wages, 2019 intends to increase the legislative protection of minimum wages and to transform the old and obsolete labour laws into more accountable and transparent ones. It is the first bill to become an Act out of the four Codes, namely:

- (i) The Code on Wages 2019
- (ii) The Occupational Safety, Health and Working Conditions Code 2019
- (iii) The Code on Social Security 2019
- (iv) The Industrial Relations Code 2019

The Code on Wages Act 2019 amalgamates, simplifies and rationalizes the relevant provisions of four central labour enactments relating to wages, namely:

- (i) The Payment of Wages Act 1936
- (ii) The Minimum Wages Act 1948
- (iii) The Payment of Bonus Act 1965
- (iv) The Equal Remuneration Act 1976

SCOPE

- The Code will apply to all employees; aims to universalise the provision of minimum wages and timely payment of wages to all employees irrespective of sector and wage ceiling
- The central government will make wage-related decisions for employments such as railways, mines, and oil fields, among others
- State governments will make decisions for all other employments

KEY HIGHLIGHTS

- Seeks to regulate wages and bonus payments in all areas of employment where any trade, business, or manufacturing is carried out including organized and unorganized sectors
- Wages include salary, allowance, or any other component expressed in monetary terms. This does not include bonus payable to employees or any travelling allowance, among others
- It aims to ensure process of registration and filing of returns is standardised and streamlined. With various labour-related definitions getting standardised, it is expected that there shall be less dispute
- Covers definition of wages, reducing categories for minimum wages, web-based randomized computerized inspection scheme, statutory protection for minimum wage and timely payment of wages
- Currently, many states have multiple minimum wages but by enactment of this Code, the methodology to fix the minimum wages has been simplified and rationalized by eradicating type of employment is one of the criteria for fixation of minimum wage
- The minimum wage fixation would now primarily be based on geography and skills
- It will substantially reduce the number of minimum wages in the country from existing more than 2000 rates of minimum wages
- Enactment of this new code will facilitate easier compliance by businesses

- **Definition of Wages**

It will have a wide impact on costs of employers as well as in hand salary for employees as this would also ensure that every worker gets a minimum wage, which will also be accompanied by an increase in the purchasing power of the worker thereby formalizing the economy and provide more monetary funds to the employees to live their livelihood thus, promoting productivity as well as reduction in inequalities and business revenue.

The government is also proposing to replace existing definition of “basic wages” in Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (the EPF Act) with that of “wages” as provided in the code.

- **Payment of Wages**

Settlement period for monthly wages has been specified as on 7th against 10th of succeeding month. In case employee is removed, dismissed, retrenched, resigns or becomes unemployed due to closure of an establishment, the wages are required to be paid within two working days.

The earlier Act had different provisions for termination cases in different states and did not provide any specific timelines for resignation cases.

- **Equal Remuneration**

Section 3 has included the word ‘gender’ so as to widen the duty of an employer to pay equal wages to its employees, thereby promoting gender equality.

The amendment will ensure no discrimination in payment of wages amongst males, females and individuals falling within the definition of ‘transgender’.

- **Limitation period for claims**

The period of limitation for filing of claims for minimum wages, bonus, equal remuneration etc., by workers has been enhanced to 3 years as against existing time period varying from 6 months to 2 years, to provide more time to file their claims.

- **Other provisions**

- Pursuant to enactment of the Code, Section 8(2) will stipulates a procedure to fix minimum wages and it will become a right of every worker thereby providing legislative protection to workers in the unorganized sector as well.
- Inclusion of workers in the committee will ensure appropriate representation of the workers in procedure for determination of wages and while considerations for fixing & revising minimum wages.
- This Code seeks to provide a methodology to be followed by the Appropriate Government which is primarily based on the skills of the workers.
- Arduousness of working conditions of workers such as temperature or humidity normally difficult

to bear, hazardous occupations, processes or underground work are to be considered while determining and/or revising the wages by the Government.

- **Duty of Inspectors & Penalties**

The code provides the appropriate government to appoint Inspectors-cum-Facilitators (in the place of Inspectors), to carry out inspections. Such Inspectors-cum-Facilitators may advise employers and employees for better compliance. This has been done with the objective of removing the arbitrariness and malpractices in inspection.

The maximum penalty for any offence is limited to imprisonment for three months and/ or with a fine of up to INR 100,000.

Points to watch out

- Section 9 of the Code introduces the concept of ‘floor wage’ which is to be fixed by the Central Government for different geographical areas taking into account the minimum living standards and Section 9(2) of the Code prohibits the State Government from lowering their minimum wages below such floor wage as may be fixed by the Central Government.
- This will increase the business labour cost and therefore the industries will hire less workers to keep the total labour costs same which will result in increase of unemployment rate.
- The code shall bring social disparity as minimum wages are to be fixed at varying rate from states to states or zones to zones depending upon the geographical conditions as; North zone, South zone, East Zone, West zone and North East zone. This may lead to job outsourcing as industries/ establishments can move their facilities to countries where labour costs are lower.
- The new Code can also raise the cost of living as higher wages will allow the employees to pay more for housing and living.

Conclusion

With Wage Code intending to cover 50 crore+ employees and ensure “Right to Sustenance” for every worker by increasing the legislative protection of minimum wage; its a welcome move making India a more formal economy and fulfilling India’s aim to become a \$5 Trillion economy.

The HR, Legal, Finance and business users must familiarise themselves with the code and evaluate potential impact on their operations and make use of time in hand before states start rolling out their rules.



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