

REGULATORY UPDATE

COMPREHENSIVE NOTE ON RELAXATION IN VIEW OF COVID-19

S&E ACT

FACTORIES ACT

**PROVIDENT
FUND**

ESIC

OTHERS

INTRODUCTION

As in our last article, we have discussed the Regulatory Updates and Relaxation measures taken by the Government of India pertaining to the Financial Sector in view of the COVID-19 outbreak as a policy response from government. In pursuance of the same, lot of Relaxation, Instructions and Amendments has been issued by the Central Government and States Government to give some solace in HR and Labour Laws as well.

Let's have a quick view of relaxations concerning statutory and regulatory compliance matters related to various Labour Laws.

EMPLOYEE'S PROVIDENT FUND ACT

- Ministry of Labour and Employment notifies amendment in EPF Scheme to allow withdrawal of non-refundable advance by EPF members in the event of outbreak of pandemic.
- The Government of India announced in PMGKY to pay EPF contribution of March, April and May on behalf of Employer and Employee of such establishment where 90% of employee is drawing wages less than Rs 15000 per month.
- Finance Minister in her announcement of Part 1 of 2nd Economic Package has extended the Employees Provident Fund Support of paying contribution on behalf of employer and employees, as introduced in PMGKY for business and organized workers for another 3 months for salary months of June, July, and August 2020 and also reduced the EPF contribution for Employer's and Employee's to 10% from 12% for all establishments covered by EPFO for the next 3 months.
- EPFO puts in place Online Mechanism to credit EPF and EPS Accounts of Subscribers as per PM Gareeb Kalyan Yojna. Around 79 Lakh Subscribers and approximately 3.8 Lakh Establishments to Benefit Subsidy outgo estimated at Rs 4800 Crore for 3 months.
- EPFO Issues Instructions to Facilitate PF Members to Rectify their Birth Records.

- EPFO makes filing of ECR easier for business. The ECR can now onwards be filed by an employer without the need of simultaneous payment of contributions and contributions may be paid later by the employer after filing the ECR.
- EPFO introduces email mechanism to obtain e-Sign for easing the Process of EPF Compliance by Employers during Lockdown Period as employers were finding difficult to use digital or Aadhar based e-Sign.
- EPFO issues multiple FAQs in recent days regarding UAN and KYC, Procedure to avail Benefits under PMGKY, ECR Filing and Payment of Contribution, EPF Advance, DSC/ e-Sign and Transfer of claim of Employee's.
- Date of Filing Electronic Challan Cum Return (ECR) for Wage Month March, 2020 Extended Up to 15.05.2020 from 15.04.2020. Move Incentivizes About 6 Lakh Establishments for Salary Payments During Lockdown Period.

EMPLOYEE'S STATE INSURANCE ACT

- One-time relaxation has been given to those Employers who did not file ESI contribution for the contribution period April, 2019 to September, 2019 within 42 days after end of the contribution period. The employers are allowed to file this contribution upto 15.05.2020.
- The contribution period for February which was to be paid by 15th March has been extended up to April and for March month the same has been extended to May, and no penalty or interest/damage will be levied on establishments on such delay.
- Further, the period for filing ESI contribution for the month of February has been extended from earlier extended period i.e. 15th April to 15th May, 2020.
- In order to ease hardship of ESI Beneficiaries in this tough time, ESIC has allowed purchase of medicines by beneficiaries from private chemist during lockdown period and its subsequent reimbursement by ESIC.

OTHER'S RELAXATION, ADVISORY AND INSTRUCTIONS BY CENTRAL GOVERNMENT

- The Chief Labour Commissioner(Central) ordered Extension of the last date of filing of Unified Annual Return under 8 Labour Laws for the year 2019 upto 30th April 2020.
- The Directorate General of Mines Safety granted relaxation to all concerned , from submission of notices, returns and other forms required under the different rules and regulations framed under the Mines Act, 1952 and due for the submission in the month of March and April 2020, for a period of 1 month from the respective due dates.
- Ministry of Labour and Employment extends the validity of licenses granted under Contract Labour Regulation and Abolition) Act, 1970 and Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
- Ministry of Labour and Employment declares services of Banking industry to be a public utility service.
- Ministry of Labour & Employment issue advisory for all the Employers of Public/Private Establishments to extend their coordination by not terminating their employees, particularly casual or contractual workers from the job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employee of such unit will be deemed to be on duty.
- Ministry of Labour & Employment issue advisory to all Worker's Organizations and Employer's Organization regarding Preventive measures to be taken to contain the spread of COVID-19.
- Ministry of Home Affairs issues order to all the employers, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their workplaces, on the due date, without any deduction, for the period their establishments are under closure during the lockdown. MHA further directed that in case of violation of the order the respective State /UT Government shall take necessary action under the Disaster Management Act, 2005.
- Ministry of Home Affairs issues Standard Operating Procedure for Social Distancing for Offices, Workplace, Factories, and Establishment in lockdown 2.0 guidelines.
- Ministry of Home Affairs issues National Directives in lockdown 3.0 guidelines for COVID-19 Management in Public Places as well as Work Places.
- Ministry of Home Affairs has issued Guidelines and Standard Operating Procedures for safe re-starting of the industries during and after COVID 19 lockdown.
- The Government of India has taken a major decision to provide relief from payment of rental to the small IT units operating out of the Software Technology Parks of India (STPI). Most of these units are either Tech MSMEs or start-ups.
- The Ministry Of Home Affairs has released clarification regarding misplaced apprehensions of Industry in the consolidated revised guidelines.
- The Ministry of Skill Development and Entrepreneurship has notified that all the establishments under designated and optional trade shall pay the full stipend to apprentices engaged with them during COVID-19 Lockdown.
- Ministry of Labour and Employment has set up 20 control rooms under the Office of Chief Labour Commissioner (CLC) (C) on pan India basis due to issues arising in the backdrop of Covid-19. These control rooms have been set up to address wage related grievances of workers employed in Central Sphere and to mitigate the problems of migrant workers through coordination with various state governments.
- Ministry of Labour & Employment issues advisory to all States/UTs to use Cess fund for Welfare of Construction Workers.

FACTORIES ACT

- The Government of Uttar Pradesh has exempted all factories registered under The Factories Act, 1948 in the state from the provision of Section 51 (Weekly Hour), Section 54 (Daily Hour), Section 55 (Interval Of Rest), Section 56 (Spread Hours), Section 59 (Extra wages for overtime) with effect from 20th April till 19th July 2020 subject to certain conditions.
- The Government of Uttar Pradesh in order to reduce the hardship of employers during the COVID-19 has passed the Uttar Pradesh Temporary Exemption of Certain Labour Laws Ordinance, 2020. The Ordinance is sent for Governor's Assent. By this Ordinance all the labour laws will be suspended in the state for 3 years except Bonded Labour System (Abolition) Act,1976, The Workmen's Compensation Act, 1923, The Building And Other Construction Workers (Regulation Of Employment And Conditions Of Service Act, 1996 and Section 5 of Payment of Wages Act, 1936.
- Government of Uttar Pradesh orders Employers Of Factories In Ghaziabad To Furnish Report On Payment Of Wages For The Month Of April 2020.

- The Government of Haryana has exempted all factories registered under The Factories Act, 1948 in the state from the provision of Section 51 (Weekly Hour), Section 54 (Daily Hour), Section 55 (Interval Of Rest), Section 56 (Spread Hours). This will be subject to certain conditions.
 - The Government of Uttarakhand has exempted all factories registered under The Factories Act, 1948 in the state from the provision of Section 51 (Weekly Hour), Section 54 (Daily Hour), Section 55 (Interval Of Rest), Section 56 (Spread Hours) with effect from 21-Apr-20 to 20-Jul-20 subject to certain conditions
 - The Government of Rajasthan exempt the provisions of Working Hours of Adult workers of the factories Act 1948 for the three months.
 - The Government of Gujarat has exempted all factories registered under the Factories Act, 1948 from various provisions related to Section 51 weekly hours, Section 54 daily hours, Section 55 interval for rest etc. of adult workers and Section 56 Spread over hours with certain conditions. These relaxations shall apply from 20th April 2020 to 19th June 2020.
 - The Government of Gujarat has declared that the provision of Section 13(3) of the Contract Labour (Regulation and Abolition) Act, 1970 and Rule 27 and Rule 29 of the Contract Labour (Regulation and Abolition) (Gujarat) Rules, 1972 shall not apply upto 15th May 2020 to the Contractors whose License renewal falls in month of March, April and May, 2020
 - The Government of Madhya Pradesh exempts all factories registered under the Factories Act, 1948 in the State from all the provisions of the Factories Act, 1948 and Madhya Pradesh factories Rules, 1962 for a period of 3 months except section 6, 7, 8 and Section 21 to 41H under chapter 4 about safety and Section 59, 65, 67, 79, 88 and Section 112.
 - The Government of Madhya Pradesh amends the Rule 18 (B) of the Madhya Pradesh Factories Rules, 1962, which specifies the power of concerned Authority to inspect.
 - The Government of Madhya Pradesh exempts new industries which will be registered in the Factories Act, 1948 and start production for the first time in the next 1000 days from the provisions of the Industrial Disputes Act, 1947, for next 1000 days except the provisions of Chapter V-A and Section 25-N, 25-O, 25-P, 25-Q, 25-R of Chapter V-B.
 - The Government of Madhya Pradesh amends the rules 21(1)(2) which specifies the procedure for making application for license, 26(2) which specifies the fees for renewal of license and 27 which specifies the validity (Period) of license of the Contract Labour (Regulation and Abolition) Madhya Pradesh Rules, 1973.
 - The Government of Madhya Pradesh promulgates the Madhya Pradesh Labour Laws (Amendment) Ordinance, 2020, to further amend the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 and the Madhya Pradesh Shram Kalyan Nidhi Adhiniyam, 1982.
 - The Government of Madhya Pradesh exempts certain industries from the provision of the Madhya Pradesh Industrial Relations Act, 1960.
 - The Government of Punjab has exempted factories registered under The Factories Act, 1948 in the state for three months from provisions of Section 54 and 56 of the Act subject to certain conditions.
- ### SHOP AND ESTABLISHMENT ACT
- The Government of Haryana has issued guidelines to the management of Factories/Establishments in the State of Haryana in the view of prevailing epidemic situation of Corona Virus.
 - Principal Secretary, Department Of Labour Haryana has issued advisory to not terminate employees or reduce wages in view of COVID-19 Pandemic.
 - The Government of Haryana has decided to create an online service "Application to resume operations of Industrial/Commercial Establishment during Lockdown/Curfew on "SaraI" Haryana portal.
 - District Administration, Gurugram has issued an order listing out the restrictions imposed on operation of industrial and commercial establishments in the district
 - The Government of Uttar Pradesh has issued instruction for Implementation of PMGKY Package in respect of Benefits given by Central Government.
 - The District Administration of Gautam Budh Nagar has issued guidelines for Industrial/ Commercial establishments and for residents.
 - The Uttar Pradesh Government has issued guidelines for the opening of Industries in state and also issued a Self Declaration Format for the same
 - The Government of Uttar Pradesh has requested all the employers to adhere to the Labour departments notification, that is requesting all the employers of public/private establishments not to terminate their employees, particularly casual or contractual workers from job or reduce their wages.
 - The Andhra Pradesh Industries and Commerce Department has issued consolidated guidelines for resumption of operations for certain industries with reasonable safeguards.
 - The Andhra Pradesh Industries and Commerce Department has provided few relaxations to the Industries in Andhra Pradesh in order to facilitate smooth operations of Industries and Establishments.

- The Andhra Pradesh Industries and Commerce Department has extended the Due- Date of filing of Annual Integrated Return till 31st May 2020.
- The Andhra Pradesh Government has issued detailed guidelines regarding the preventive measures to be implemented by all Offices, Workplaces, and the Establishment.
- The Government of Karnataka issues Advisory to Information Technology, ITES And Business Process Management Sector In Karnataka.
- The Commerce and Industries Department of Karnataka has issued an order regarding the operating of industries/ establishments in Karnataka and introduced COVID-19 Self Declaration Format as a mandatory submission before resuming the operations.
- The Government of Kerala has taken certain resurgence measures like waiving of rent or moratorium on rent for three months and much more after considering the tough economic situation faced by the IT/ ITeS companies/ incubators/ establishments operating from buildings owned by Government IT parks
- The Government of Kerala order that all MSME Units who have rented their units in the buildings or premises owned by the Government, Semi-Governments, Public Sector Undertakings, and Local Self Governments, are exempted from the payment of rent for three months from March 2020.
- The Government of Kerala stated the selected permitted activities allowed with effect from 20th April 2020.
- The Industries, Energy and Labour Department of Maharashtra has ordered all private establishments, factories, companies, shops (excluding essential services), etc. to pay the entire salaries and allowances to their Establishment workers (contractors, employees and workers provided by outsourcing, temporary workers and workers on employment) during lockdown period.
- The Government of Maharashtra, has extended the deadline for employers who have registered for filing Self-Certification-cum-Consolidated Annual Returns under The Maharashtra Shops And Establishments (Regulation Of Employment And Conditions Of Service) Act, 2017 and various labour acts, to 31st July 2020 as many establishments could not file their annual returns for the year 2019 due to the outbreak of COVID 19
- Madhya Pradesh Labour Department has issued a precautionary measure to prevent the transmission of Corona Virus (COVID-19) and instructed all Shop & Commercial Establishment to implement it.
- The Madhya Pradesh Labour Department directs that no shop or commercial establishment situated in the local areas where the Madhya Pradesh Shops and Establishments Act, 1958 is enforced, shall on any days be opened earlier than 06.00 A.M and be kept open later than 12.00 P.M.
- The Rajasthan Government has issued an advisory to industrial and commercial establishment for payment of salaries/wages to the employees or labours without any deduction.
- The Government of Tamil Nadu has issued a Standard Operating Procedure for Social Distancing in Offices, Workplace, Factories and Establishment for control of the spread of COVID-19 in the State.
- The Government of Telangana has extended the date of furnishing of integrated returns for 2019-20 by two months and fixed the date of furnishing of returns as 30th June 2020 as a one time measure.
- The Government of Telangana has declared the lockdown period as a paid holiday for all categories of employees.

CONCLUSION

The “Across the Board” Lockdown has and adverse impact on the business operations as well as the Employee’s. To ease the hardship the Government has issued various Notification / Orders / Circulars / Letters / Press Release from time to time.

Apart from the updates mentioned in the article the Government has also issued Lockdown Orders with guidelines and also revised it several times.

As we know that the situation is still not stable and our economy is hitting up badly So, the Government is and will take further measures to amend the situation as per needed from time to time.

NOTE:

- *The above presented data has been captured from notification and circular issued by various concerned authorities and from press release by concerned authorities which are yet to be notified.*
- *This is an attempt from Lawrbit’s Regulatory update team to help you abreast of the changes in current scenario.*
- *In this attempt we have covered the development which were linked to the Compliance Framework.*



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