
Code on Wages – Important Changes

Key Provisions

- ❑ Repeals the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976.
 - ❑ Changes in Minimum Wages Framework:
 - ❑ Applicability: Previously applicable only to Scheduled Employments
 - ❑ Now, it is applicable to all establishments.
-

Key Provisions

- ❑ **'Employee':** (i)"employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker
 - ❑ Under the new Code: No employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate Government.
 - ❑ Employee: means, 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, 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;
-

Key Provisions

- ❑ Draft Rules:
 - ❑ “highly skilled occupation” means an occupation which calls in its performance a specific level of perfection and required competence acquired through intensive technical or professional training or practical occupational experience for a considerable period and also requires of an employee to assume full responsibility for his judgement or decision involved in the execution of such occupation;
 - ❑ “skilled occupation” means an occupation which involves skill and competence in its performance through experience on the job or through training as an apprentice in a technical or vocational institute and the performance of which calls for initiating and judgement;
 - ❑ “unskilled occupation” means an occupation which in its performance requires the application of simply the operating experience and involves no further skills;
-

Key Provisions

- ❑ Draft Rules:
 - ❑ “semi-skilled occupation” means an occupation which in its performance requires the application of skill gained by the experience on job which is capable of being applied under the supervision or guidance of a skilled employee and includes supervision over the unskilled occupation;
 - ❑ “unskilled occupation” means an occupation which in its performance requires the application of simply the operating experience and involves no further skills;
-

Key Provisions

- ❑ **Wages:** means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, were fulfilled, be payable to a person employed. It includes house rent allowance.
 - ❑ However, the following are excluded: (i) the value of: (a) any house-accommodation, supply of light, water, medical attendance, or (b) any other amenity or any service excluded by general or special order of the appropriate Government; (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance; (iii) any travelling allowance or the value of any travelling concession; (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or (v) any gratuity payable on discharge.
 - ❑ The term 'Minimum Wages' is not defined in the Act.
-

Key Provisions

- ❑ Different Definitions under Different Acts, which led to litigations.
 - ❑ EPF Act: From Bridge and Roof to the Regional Provident Fund Commissioner (II), West Bengal and Ors. Vs. Vivekananda Vidyamandir and Ors.
 - ❑ Code on Wages makes the definition uniform.
-

Key Provisions

- ❑ Code on Wages also provides components of minimum wages:
 - ❑ (1) Any minimum rate of wages fixed or revised by the appropriate Government under section 8 may consist of-- (a) a basic rate of wages and an allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as "cost of living allowance"); or (b) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or (c) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.
-

Key Provisions

- ❑ Section 6(6): While fixing minimum wages, certain factors to be kept in mind:
 - ❑ (a) shall primarily take into account the skill of workers required for working under the categories of unskilled, skilled, semi-skilled and highly-skilled or geographical area or both;
 - ❑ (b) may, in addition to such minimum rate of wages for certain category of workers, take into account their arduousness of work like temperature or humidity normally difficult to bear, hazardous occupations or processes or underground work as may be prescribed by that Government;
-

Key Provisions

- ❑ Manner of calculating the minimum rate of wages.–
 - ❑ (1) for the purposes of sub-section (5) of section 6, the minimum rate of wages shall be fixed on the day basis keeping in view the following criteria , namely:-
 - (I) the standard working class family which includes a spouse and two children apart from the earning worker; an equivalent of three adult consumption units; (II) A net intake of 2700 calories per day per consumption unit; (III) 66 meters cloth per year per standard working class family; (IV) Housing rent expenditure to constitute 10 per cent of food and clothing expenditure; (V) Fuel, electricity and other miscellaneous items of expenditure to constitute 20 percent of minimum wage; and (VI) Expenditure for children education, medical requirement, recreation and expenditure on contingencies to constitute 25 percent of minimum wage;
-

Key Provisions

- ❑ Central Rules
 - ❑ 5. Time Interval for revision of dearness allowance.- Endeavour shall be made so that the cost of living allowance and the cash value of the concession in respect of essential commodities at concession rate shall be computed once before 1 st April and then before 1st October in every year to revise the dearness allowance payable to the employees on the minimum wages.
-

Key Provisions

- ❑ Floor Wages
 - ❑ 9. (1) The Central Government shall fix floor wage taking into account minimum living standards of a worker in such manner as may be prescribed: Provided that different floor wage may be fixed for different geographical areas.
 - ❑ (2) The minimum rates of wages fixed by the appropriate Government under section 6 shall not be less than the floor wage and if the minimum rates of wages fixed by the appropriate Government earlier is more than the floor wage, then, the appropriate Government shall not reduce such minimum rates of wages fixed by it earlier.
-

Key Provisions

- ❑ Floor Wages
 - ❑ (1) The Board shall be consulted by the Central Government for the purpose of fixing the floor wage under sub-section (1) of section 9, taking into account the minimum living standard including the food, clothing, housing and any other factors considered appropriate by the Central Government from time to time of the standard working class family
-

Key Provisions

- ❑ Constituted an expert committee in 2017 for fixation of National Minimum Wages. Recommended a balanced diet approach for fixation of national minimum wage.
 - ❑ The report has recommended to fix the need based national minimum wage for India at INR 375 per day (or INR 9,750 per month) as of July 2018, irrespective of sectors, skills, occupations and rural-urban locations for a family comprising of 3.6 consumption unit.
 - ❑ It has also recommended to introduce an additional house rent allowance (city compensatory allowance), averaging up to INR 55 per day i.e., INR 1,430 per month for urban workers over and above the NMW.
 - ❑ Also, 5 regions were identified for minimum wages for different geographical regions.
 - ❑ Government constituted the Expert Group on fixation of Minimum and Floor Wages in 2021. The tenure is for 3 years.
-

Key Provisions

- Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.
 - Under the Code on Wages, the rate has been made uniform: twice the normal rate of wages.
-

Key Provisions

- ❑ Time Limit for payment of wages:
 - ❑ Presently, sectoral for people employed. Further, in case of termination, prior to second working day.
 - ❑ Now timelines are on wages of the wage period.
 - ❑
-

Key Provisions



S.No.	Types of Engagement	Payment Timelines
1.	Daily Basis	At the end of the shift
2.	Weekly Basis	On the last working day of the week (before weekly holiday)
3.	Fortnightly Basis	Before the end of the 2nd (second) day after the end of fortnight
4.	Monthly Basis	Before the expiry of the 7th (seventh) day of the succeeding month
Note: For any type of engagement, the wage period shall not be more than a month.		

Key Provisions

- ❑ Disqualification for bonus
 - ❑ Extant Framework: Under the Bonus Act, an employee shall be disqualified for bonus in case where such an employee has been terminated on the grounds of (i) fraud; or (ii) riotous or violent behaviour while on the premises of establishment; or (iii) theft, misappropriation or sabotage of any property of the establishment.
 - ❑ Prospective Framework: It shall be noted that the Code continues to retain the grounds of disqualification for bonus as enumerated under the extant Bonus Act and has further incorporated conviction for sexual harassment as an additional ground for disqualification for bonus entitlement to an employee.
-

Key Provisions

- ❑ Inspector-cum-Facilitator
- ❑ Web-based inspection and calling of information electionally
- ❑ The Inspector-cum-Facilitator may-- (a) advice to employers and workers relating to compliance with the provisions of this Code;
- ❑ Inspector-cum-Facilitator shall, before initiation of prosecution proceeding for the offences give an opportunity to the employer to comply by way of a written direction, which shall lay down a time period for such compliance. If the employer complies with Cognizance of offences, the direction within such period, the Inspector-cum-Facilitator shall not initiate such prosecution proceeding
- ❑ No such opportunity shall be accorded to an employer, if the violation of the same nature of the provisions under this Code is repeated within a period of five years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of this Code

Key Provisions

- ❑ Inspector-cum-Facilitator
- ❑ Web-based inspection and calling of information electionally
- ❑ The Inspector-cum-Facilitator may-- (a) advice to employers and workers relating to compliance with the provisions of this Code;
- ❑ Inspector-cum-Facilitator shall, before initiation of prosecution proceeding for the offences give an opportunity to the employer to comply by way of a written direction, which shall lay down a time period for such compliance. If the employer complies with Cognizance of offences, the direction within such period, the Inspector-cum-Facilitator shall not initiate such prosecution proceeding
- ❑ No such opportunity shall be accorded to an employer, if the violation of the same nature of the provisions under this Code is repeated within a period of five years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of this Code