

MAIN FEATURES OF CODE OF WAGES:

The Code covers 4 Acts:

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

1. The present code will facilitate in implementation and remove the multiplicity of the definitions.
2. The un-organized sector has also been covered in this code.
3. The present code has been made applicable to all employment establishments, from unorganized to organized, public and private sectors.
4. The Central Government will provide floor wage for different geographical areas to ensure that no State Government shall fix the minimum wages below the floor wage.
5. Now, the appropriate government which is State Government also in many cases can fix ceiling limit of Payment of Bonus.
6. Though the penalty has been increased but the Inspector before filing the prosecution will give an opportunity to the employer before initiating prosecution.
7. The authorities will be appointed to dispose of cases punishment with fine upto Rs.50,000/- to reduce the burden on judiciary.
8. Provision of compounding of offence has been given.

DEFINITION:

1. Definition of contractor has been added.
2. Definition of contract labour has also been added
3. Definition of wages has been expanded which was earlier was very close to the new definition in all the 3 Acts.
4. A Uniform definition of wages has been formulated eliminating the ambiguity and confusion which business houses used to face earlier due to difference in the definition in different statutes.

5. The definition of employee and worker has separately been entered.
6. This code is applicable to all employees, whether a supervisor or a manager.
7. Earlier in the definition of the employee under Payment of Bonus Act, there was a clause that employee getting wages more than 21,000/- cannot be termed as employee under the Payment of Bonus Act, but, now, the clause of Rs.21,000/- has been removed in the definition of new age code.
8. Now bonus to an employee can be forfeited if he is convicted for an offence of sexual harassment.
9. Payment to an employee has to be made through cheque/electronic mode.
10. If a dispute arises as to the payment of bonus at the higher rate, employees are liable to pay 8.33% only.
11. Components of Minimum Wages have been described under section 7 of this code.
12. Under section 9 the Central Government will fix floor wage.
13. Different floor wage can be fixed for different geographical areas.
14. The concept of Floor Wages has been introduced i.e. the minimum threshold shall be set/notified by the Central Govt on National as well as State level. The state governments shall be bound to set their minimum wages above Floor Wages.
15. The Minimum wages fixed by the appropriate government shall not be less than floor wage.
16. Definition of worker has been added in the code of wages.
17. Earlier time limit of wage was categorized into two categories:
 - i) Where the employees are more than 1000 then the wages were to be paid by 7th of every month.
 - ii) In any other case if employees are less than 1000 10th of every month.
18. Now, the above two categories have been modified and last day of wages for the payment of wages has been fixed as 7th of every month.

19. Bonus to be paid in bank account as per Section 39 of code of wages.
20. Under section 39(2) that the bonus if decided by the court by an award or settlement be released within a period of one month after the award or settlement becomes enforceable. Rest of the period of bonus remains 8 months only.
21. As per Section 41(2) the Payment of Bonus Act which was earlier on 10 employees will be on 20 employees.
22. Section 41 further provides that educational institutions, hospitals, Reserve Bank of India or Life Insurance Corporation, Universities are not covered under the Payment of Bonus Act.
23. Earlier the bonus was applicable to every entry. Even, otherwise, Factories Act has been made applicable for more than 20 employees. So, the applicability of bonus in general is 20 employees.
24. Chapter 6 covers regarding responsibility for payment of various dues and under different enactments i.e. under Payment of Wages Act, Payment of Bonus Act and Minimum Wages Act. There was a separate mechanism for filing of claim from the employer in case the statutory dues under the above enactments are not released by the employer. Now, under this code for all types of code under the above enactments are to be claimed by filing a claim under section 45 of the Act.
25. The time limit under section 45(6) is now 3 years. Earlier under the Payment of Bonus Act, it was one year, under Minimum Wages Act 6 months and under Payment of Wages Act one year.

Under this code the claim regarding payment of wages, minimum wages, any dues of payment of wages lies with the respective authorities i.e. controlling authority and appeal similarly lies with the appellate authority and there is no change in it.

In the code of wages section 50(4) clearly states that employers employ upto 5 workers for agriculture or domestic purpose. There is no need for them to maintain record.

The penalty clause has been changed and it has been increased manifold (section 54) clearly entails for payment of less minimum wages, fine will be Rs.50,000/-.

For repeated offence within 5 years i.e. on the second occasion for subsequent commission of the offence provision of imprisonment upto 3 months and fine upto Rs.1.00 lac.

For general violation under this code fine is Rs.20,000/-.

For subsequent commission of offence there is provision of imprisonment for one month or fine which may be Rs.40,000/-.

Not maintaining proper record fine will be Rs.10,000/-.

Under this Act, the inspector before imposing fine or launching prosecution give a reasonable opportunity to the employer for showing cause as to why fine be not imposed on him.

Section 53 provides that a government official of the rank of Under Secretary is to decide the matter of penalty under this code.

Section 56 provides for compounding of fine. If the offence is not punishment with imprisonment then on an application by the person his prosecution case may be compounded to minimum 50% of the fine will have to be deposited by the employer.

Time for review and revision of minimum wages has been set to 5 years.

Maintenance of Registers is necessary:-

- i) Employees Register
- ii) Wages Register
- iii) Muster Roll
- iv) Deduction register, register of wages, overtime, fine, deduction or less

Only one annual return is to be filed now.

INDUSTRIAL RELATION CODE:

The Industrial Relation Code was enacted for amalgamating and simplifying the provisions of :-

1. Trade Union Act 1926
2. Industrial Employment Standing Order Act 1948
3. Industrial Disputes Act 1947

SAILENT FEATURES OF INDUSTRIAL RELATION CODE 2020:

Definition of wages is common for all codes.

1. The Act defines worker which includes the persons in supervisory capacity getting wages upto Rs.18,000/- per month.
2. Fixed term employees will get gratuity after calculation of fixed period including all other benefits.
3. Causal leave in a concerted manner comes under the definition of strike.
4. In Grievance Redressal Committee members may be upto 10. If the establishment is employing 20 or more workers with adequate representation of women.
5. Negotiating union and negotiating council has been incorporated in this code.
6. The applicability of standing orders is now 300 workers to obtain certification.
7. Now there will be two members in Industrial Tribunal: One judicial member or other administrative member
8. Under Industrial Disputes Act earlier for adjudication state government was to make a reference and in this code there will be no reference of dispute to the Industrial Tribunal but the workman or the employer can approach the Industrial Tribunal and file their claim. Under this code also offence can be compounded.
9. The definition of certifying officer 2(g) has been added.
10. The definition of employee has been added and all categories getting less than Rs.18,000/-.
11. The definition of employer has been elaborated 2(m).

12. Now, in the definition of Industrial Disputes contractor and contract labour has been added in it and contractor has been added in the definition of employer also.
13. Under section 2(o) definition of fixed term employment has been incorporated and it has specifically been written in this definition that for the fixed term employee he will be entitled to gratuity if he renders service for one year.
14. Under section 2(p) in the definition of industry, contractor again has been mentioned.
15. Charitable institution, social and philanthropy institution/religious institution has been kept out from the definition of industry.
16. Domestic service has been kept out of the definition of industry.
17. Earlier there were two types of definitions of Industrial Disputes. One was under section 2-K of Industrial Disputes Act and second are deemed industrial disputes for individual workers regarding their discharge, dismissal, termination etc. as per Section 2-A. Now, there is a single definition of industrial disputes and individual dispute will also be treated as Industrial Dispute under section 2(q).
18. All definitions of Industrial Employment Standing Orders Act, Trade Union Act have been added.
19. Under the clause of retrenchment 2(h) the termination of service of fixed term employees will not be considered as retrenchment.

Under Section 2(z) definition of initiating council (Section 14) has been added and relevant definition relating to Industrial Employment Standing Orders Act, Trade Union Act and Industrial Disputes Act has been added in this code.

In the clause of retrenchment section (2(z)(h) termination of service of fixed term employee has been put in exclusion clause.

Definition of un-organized sector has also been added under Industrial Relation Code.

Definition of worker apart from employee has been added (2(z)(r) and in the definition of worker there is a mention of working journalist, newspaper employee, sale promotion employee and it has also been mentioned that any such person who has been dismissed, discharged or retrenched and it has been illustrated in a proper manner.

Chapter-4 relates to Standing Orders and in this chapter it has clearly been mentioned that provisions of this Chapter shall apply to every establishment wherein 300 and more workers are employed on any day during proceeding 12 months.

Section 30(3) provides that where an employer adopted model standing orders, then, such model standing order shall deemed to have been certified under the provisions of this Act.

As per Section 53, the mechanism for filing of demand notice, reference of dispute and adjudication by the Presiding Officer of Industrial Tribunal on the matter of dispute referred before it has been changed and now, after receipt of the notice, the conciliation proceedings will be held and the Conciliation Officer shall send his report to both the parties in the event of non-settlement and any part can file an application before Industrial Tribunal which has not been settled.

Section 60 deals with the commencement and conclusion of proceedings. Now, the proceedings will start when the first meeting his held by the conciliation officer and will end when failure of conciliation is record by Conciliation Officer.

Now, Chapter 5 has been replaced with Chapter 10 and Chapter 10 applies to the industrial establishment employing not less than 300 workers.

Penalties under this Code have been increased manifold.

1. Now, there will no reference of dispute as per Section 53 and after completion of conciliation proceedings if the parties do not arrive at settlement, then, the Conciliation Officer shall send report to both the parties and to the appropriate government and thereafter either party can approach Industrial Tribunal by filing an application for adjudication in the matter within 90 days.
2. Any dispute can be raised by an employee within a period of 2 years only (Section 53) and conciliation officer will not entertain any demand notice given after 2 years
3. As per Section 55 (3) there will be no publication of Award and it shall become enforceable after expiry of 30 days of its communication.
4. Earlier, under section 2-K when there was an industrial dispute the conclusion of proceedings before the Labour-cum-Conciliation Officer was on the date when the failure report has reached the appropriate government and the matter has yet not been referred to the Industrial Tribunal but now under section 60, after failure of conciliation proceedings when the failure of conciliation proceedings is recorded by the Conciliation Officer, then, its conclusion of proceedings.
5. As per section 83 the re-scaling fund shall be set up and wages equivalent to 15 days in respect of retrenched workers will be contributed by the employer

or any other amount as may be notified and the said amount will be given to the worker in his account so retrenched within 45 days of his retrenchment.

6. Under section 86 penalties have been introduced for violations in not adoption of proper procedure for commencement of retrenchment, lay off and closing down of an establishment which will be minimum of Rs.1.00 lacs.
7. If the offence has been done again by the employer after bearing penalty for his earlier mistake, then, the minimum fine will be Rs.5.00 lacs but can be extended upto Rs.20.00 lacs.
8. If any employer commits any violation under compensation clause to be paid to the workers in case of law off, retrenchment and closure, then, the minimum fine would be Rs.1.00 lac and may extended to Rs.5.00 lacs.
9. There is a close of imprisonment also in case of violation in compliance of the provisions relating to lay off, closure and retrenchment.
10. If any person involves in the acts of unfair labour practice, then fine will be from Rs.10,000/- to Rs.2.00 lac.
11. If the above mentioned offence is committed for the second time, the minimum fine will be Rs.50,000/- but may extend upto Rs.5.00 lac with imprisonment of 3 months.
12. If any trade union also fails to comply under the provisions of Trade Union Act, then, fine is Rs.10,000/- but may extend to Rs.20,000/- if the offence is committed for the second time.
13. Now, any person who fails to submit draft of standing orders within the prescribed time under section 30 or in accordance with Section 35, then, the fine is Rs.50,000/- but may extended to Rs.2.00 lac but for the similar offence for the second time, the minimum fine will be Rs.1.00 lac but may extend to Rs.2.00 lac.
14. Any person who continuously contravenes any provision of standing order for the second time minimum fine will be Rs.2.00 lacs and may extend to Rs.4.00 lac and there is provision of imprisonment also.

FOR WORKER:

15. Any work who gets involved in any act in furtherance of strike which is illegal can be punished with a fine which will be minimum of Rs.1000/- but may extend to Rs.10,000/- and there is a provision of imprisonment also.

16. For illegal lock out by the employer the fine is Rs.50,000/- but may extend to Rs.1.00 lac and there is provision of imprisonment also.
17. Any person who instigates other workers to go on strike or lockout which is illegal copy be punishable with fine upto Rs.10,000/- but again extend to Rs.50,000/- and provision of imprisonment is upto one month.
18. If it is found that any person is spending money to support illegal strike or lockout can be imprisoned, fine Rs.10,000/- to Rs.50,000/- with imprisonment.
19. Breach of Settlement: Fine is minimum Rs.20,000/- to Rs.2.00 lac with imprisonment.
20. Continuation of offence of breach of settlement of Rs.1000/- daily till such breach continues.
21. Disclosure of information recorded during conciliation proceedings from court which is confidential fine of Rs.20,000/-, imprisonment one month.
22. General violation under Code: Fine upto Rs.1.00 lac.
23. There is a provision of compounding of offence also.

Occupational, Safety, Health and Working Condition Code 2020:

- a) The Factories Act, 1948 (63 of 1948)
- b) The Plantations Labour Act, 1951 (69 of 1951)
- c) The Mines Act, 1952 (35 of 1952)
- d) The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955),
- e) The Working Journalists (Fixation of Rates of Wages) Act, 1958 (29 of 1958)
- f) The Motor Transport Workers Act, 1961 (27 of 1961)
- g) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (32 of 1966)
- h) The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970)
- i) The sales Promotion Employees (Condition of Service) Act, 1976 (11 of 1976)
- j) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 (30 of 1979)
- k) The Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 (50 of 1981)
- l) The Dock Workers (Safety, Health and Welfare) Act 1986 (54 of 1986)
- m) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (27 of 1996).

24. Application of this Code: To all establishments having 10 workers other than Mines and Docks.

25. Provision of one registration for all establishments having 10 workers.

26. Women workers allowed to work in the night shift subject to strict compliance of conditions like safety, health, holiday working hours with their consent.

27. A provision of common licence for factory and contract workers.

28. Issuance of single licence for all India basis especially for contract employees.

Definitions:

29. Definition of audio visual production 2(e) and audio visual workers have been added (Section 2(f))

30. Definition of competent person has been added 2(l)

31. Contract Labour Section 2(m)

32. Core Activity of an establishment Section 2(p)

33. Employee Section 2(t)
34. Definition of establishment has been introduced and Factory employing 10 workers but below 20 workers are covered under the definition of establishment
35. Registration of establishment will be separate and that of factory employing 20 workers is separate.
36. Industrial premises Section 2(zc)
37. Godown Section 2(y)
38. Inter-state Migrant Workers, Mines, Metro Railways, Minerals, Motor Transport undertaking, Motor Transport Workers, Newspaper Establishment, Plantation.
39. Occupier Section 2(zs)
40. Principal Employer 2(zz)
41. Relay Section 2(zzd)
42. Sales Promotion employee 2(zzc)
43. Wages 2(zzj)
44. Section 3 : Registration of establishment
45. Now, there is appellate authority and appeal can be made to the appellate authority under section 4
46. Section 5 : Notice of commencement – There is provision of commencement and closure of business.
47. Section 6(f): Letter of appointment be issued to every employee.
48. Under this Code duties of employees have been introduced under section 13, 14 and 15.
49. Requirement of Safety Committee (Section 22) : 500 workers

Hazardous Process: 250 workers
BOCW : 250 workers
Mines: 100 workers

50. Section 24: Canteen facility 100 workers including contract labour.

- Ambulance Room : 500 workers
- Separate Shift, Rest Rooms for male and female, lunch room etc. : 50 workers
- Welfare Officer : 250 workers
- Provisions of common Creche facility : 50 workers

51. Section 25: Working hours 8 hours a day

- Under This section spread over will be according to the prescribed rules.

52. Section 26 : Compensatory leaves

- No worker shall work for more than 10 days continuously
- Compensatory leave if deprived off
- Weekly holiday within one month or within 2 months compensatory holiday of equal number.

53. Section 27: Overtime with the consent of workers but hours are yet to be notified.

54. Section 28: Night shift 24 hours consecutive holiday for beginning of a new shift after night shift.

55. Section 32(1) leave with wages: Instead of 240 days for entitlement now working days to be considered for entitlement are 180 days.

56. Section 32(vii)(a): Upto 30 leaves can be carried forward in excess.

57. Workers can apply for encashment of leave upto the end of Calendar year

Now, women workers will be entitled to be employed in the night shift beyond 7.00 p.m. to 6.00 a.m. subject to condition of their safety and security. But no employer can depute women in the dangerous operations.

Contract Labour: Applicability for every establishment in which 50 contract labour are employed and the Act would be applicable on contractors if he is employing more than 50 contract workers (Section 45)

Now, a contractor can obtain one licence for executing the work in more than one State or whole of India (Section 47).

Now, the licence under contract labour will be valid for 5 years.

Section 55: The contractor shall pay wages to its employees through bank transfer or through electronic mode only.

Section 56: Experience certificate be given to contract workers by the contractor.

Section 57: There is prohibition of employment of contract labour in core activity of the establishment.

Inter-State Migrant Workers:

- Applicability 10 workers,
- Employer/contractor to ensure suitable working condition
- Employer shall pay ISM (Inter-State Migrant worker) journey allowance for to and fro to his native place.
- The code introduces facility of toll helpline number to Inter-State Migrant workers u/s 63.
- Section 62 of the code mandates creation of National database for Inter State Migrant Workers. Appropriate Govt. to make schemes for inter-state migrant workers and employers for payment of travelling allowance to migrant workers (to and fro) journey to his native village.

Licensing of Factory (Section 79)

Penalty/fine:

- Obstructing the Inspector upto Rs.2.00 lacs but minimum Rs.1.00 lac, Imprisonment 6 months
- Non-maintenance of record: upto Rs.1.00 lac but not less than Rs.50,000/-.
- Continuing offence: Fine upto Rs.2.00 lacs

Contravention of any provision:

- Upto Rs.1.00 lac
- Continuing offence : Imprisonment 3 months
- Fine Rs.2.00 lac.

Production of false record:

- Imprisonment 3 months,
- Fine Rs.1.00 lac
- Continuing offence: Imprisonment 6 months,
- Fine Rs.2.00 lacs.

Not filing of site plan:

- Upto Rs.2.00 lac but not less than one lac
- Contravention in the factory involving hazardous process: Fine Rs.2.00 lac extendable upto Rs.5.00 lacs
- Continuing offence Rs.25,000/- daily
- Imprisonment : 3 years.
- Violation of safety provisions resulting in accident:
- Imprisonment 2 years
- Fine Rs.5.00 lacs

Serious bodily injury:

- Fine Rs.4.00 lacs but not less than Rs.2.00 lac
- Imprisonment one year
- Continuing offence double punishment

Contravention of provision under BOCW:

- Imprisonment upto 2 years
- Fine Rs.5.00 lacs but not less than Rs.2.00 lacs

Now employee will also be subject to fine for not adhering the rules under Factories Act upto Rs.10,000/-

All the above fines can be compounded under section 114.
Onus of proving age of worker will be on employer.

Medical authority will rely on Aadhar Card, Date of Birth Certificate, Matriculation Certificate etc.

Section 119 provides common licence for contractors and factories.

Rule 9 - Late fee for registration – 25%

Rule 12 - Medical examination of employees – After one year

26 days a month to be counted for overtime

Rule 39 and 50: REGISTERS:-

1. Register of adult workers
2. Workers Register of adolescent workers
3. Attendance record – Muster Rolls + Attendance Cards
4. Register of accidents and dangerous occurrences
5. Register of leave with wages
6. Register of Overtime
7. Register of wages
8. Names of authorities
9. Display of summaries
10. Display of name and address of establishment
11. Wage Slip
12. Annual return

Rule 86 - Submission of plans of factory

Rule 86 – 105 - Renewal of Factories License upto 10 years

Rule 106 - Site Appraisal Committee

Rule 107 - Health and Safety Policy

Rule 112 - Review of information furnished to workers etc

Rule 114 - Qualifications of supervisors

Rule 116 - Medical examination of workers employed in hazardous process

Rule 117 - Occupational Health Centres.

Rule 145 - Officer and manner for holding enquiry

Rule 146 - Appellate Authority and manner of appeal

Rule 148 - Social security fund

Rule 149 - Common License for contractor, factories and to industrial premises, etc –
Licence fee increased for contractors and factories

Rule 60 - Conditions relating to safety, holidays and working hours or any other
condition to be observed by the employer. – Women workers can be deployed
at night shift

Rule 118 - Ambulance Van Hazardous Process

Rule 120 - Making available health records to workers

CODE OF SECURITY SECURITY 2020:

1. The Employees Compensation Act, 1923
2. The Employees' State Insurance Act, 1948
3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
5. The Maternity Benefit Act, 1961
6. The Payment of Gratuity Act, 1972
7. The Cine Workers Welfare Fund Act, 1981
8. The Building and other Construction Workers Welfare Cess Act 1996 and
9. The Unorganized Workers Social Security Act, 2008

Special provision under this Code for coverage of establishment on voluntary basis under ESI Act.

Social security for gig workers and platform workers which is an unorganized sector.

The code on social security brings great relief for workers employed in un-organized sectors of the country.

Payment of gratuity to fixed term employees.

Limitation period of 5 years for institution of proceedings under all Acts under this scheme.

Now under EPF Act if a person takes voluntary coverage, then, he may opt to de-register to come out of the applicability of the Act, then, he may apply for the same and his establishment can be de-coded.

Definition of contract labour and contractor has been added in this code recognizing him entitlement of gratuity also.

Definition of exempted employee has been added.

Definition of home base worker has been added.

Definition of superannuation has been added.

Definition of un-organized sector and un-organized worker has been added.

Now, the definition of wages has been added which is very different.

Earlier for filing an appeal on the assessed amount under section 7-A the employer was to deposit 75% of the assessed amount which has now been reduced to 25% (Section 23).

MATERNITY BENEFIT ACT:

The maximum period of maternity for the woman having two or more surviving children will be 12 weeks.

Now there is a provision for women whose work is of such nature can be assigned work from home after availing of maternity leave for mutually agreed period.

Creche facility for 50 employees.

Medical bonus Rs.3500/- after any pre-natal care is provided by the employer free of cost.

Under Employees compensation notional extension of service has been added in the category of accident.

Appeal against the order of Assessing Officer under ESIC can be filed to appellate authority within 60 days after depositing 25% of the assessed amount

If any employee fails to pay contribution in time penalty : Fine Rs.1.00 lac, Imprisonment 3 years.

Failure to pay gratuity:

- Imprisonment upto one year
- Fine Rs.50,000/-

Deduction of employer contribution, reduction of wages of employees, non-submission of returns, failure to pay compensation, failure to send statement to competent authority (Employees Compensation)

Non-compliance under this Code etc:

- Fine Rs.50,000/-

Obstructing the Inspector-cum-Facilitator and failure to provide maternity benefit to the

women, non-production of records, failure to pay cess, giving false statement/returns,

- Imprisonment : 6 months,
- Fine upto Rs.50,000/-
- For the second occasion fine in all the cases will be upto Rs.2.00 lac and Imprisonment 2 years but in case of failure to pay contribution, cess, maternity benefit, gratuity, compensation on any charges under this code the fine will be upto Rs.3.00 lacs but imprisonment shall not be less than 2 years.

- Now, the offence can be compounded.
- For purpose of registration for persons working as Gig worker, platform workers in unorganized sector, should be of at-least 16 years of age and send a self-declaration electronically which includes Aadhar Number, for recordkeeping of compliance efficiency.
- Section – 45 of the code provide benefit for all employees working as Gig worker, platform workers in unorganized sector.
- Under section 123 of the code says that the records should contain number of dangerous occurrences, accidents, injuries, statutory vacancies for suitable candidates, display notice at workplace.
- For the purposes of assessment and determination of dues from employer, Inquiry initiated by the central government authorized officer for disputes mentioned under section 125 of code and proceedings should be initiated for last five years only on the date on which dispute referred.