

Highlights

THE CODE ON WAGES, 2019

Bill introduced in Lok Sabha on 23.07.2019

Preamble: *A Bill to amend and consolidate the laws relating to wages and bonus and matter connected therewith or incidental thereto.*

The proposed legislation intends to amalgamate, simplify and rationalise the relevant provisions of the following four central labour enactments relating to wages, namely:-

- (a) the Payment of Wages Act, 1936;
- (b) the Minimum Wages Act, 1948;
- (c) the Payment of Bonus Act, 1965; and
- (d) the Equal Remuneration Act, 1976.

Chapter I Preliminary

This Act may be called the Code on Wages, 2019.

Applicability: It extends to the whole of India.

Commencement: It shall come into force on such date as the Central Government may, by notification in the Official Gazette.

Prohibition of discrimination on ground of gender: No discrimination in an establishment or any unit thereof among employees on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature done by any employee.

Chapter II Minimum Wages

Payment of Minimum Rate of Wages: No employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate Government.

Fixation of Minimum Wages: Procedure laid down in the code for the appropriate government to fix such wages.

Wages of employee who work for less than normal working day:

If an employee whose minimum rate of wages has been fixed under this Code by the day works on any day on which he was employed for a period of less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done on that day, as if he had worked for a full normal working day.

Provided that he shall not be entitled to receive wages for a full normal working day-

- (i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work; and
- (ii) in such other cases and circumstances, as may be prescribed.

Wages for overtime work: The employer shall pay overtime wages as per overtime rate which shall not be less than twice the normal rate of wages per hour.

Chapter III
Payment of Wages

Mode of payment of wages: All wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee or by the electronic mode:

Provided that the appropriate Government may, by notification, specify the industrial or other establishment, the employer of which shall pay to every person employed in such industrial or other establishment, the wages only by cheque or by crediting the wages in his bank account.

Fixation of wage period and Time limit for payment of wages: The employer shall fix/pay to employees, engaged their wages either as daily or weekly or fortnightly or monthly.

- **Where an employee has been-** (i) Removed or dismissed from service; or

(ii) Retrenched or has resigned from service, or became unemployed due to closure of the establishment,

the wages payable to him shall be paid within two working days of his removal, dismissal, retrenchment or, as the case may be, his resignation.

Chapter Not To Apply To Government Establishments: The provisions of this Chapter shall not apply to the Government establishments unless the appropriate Government, by notification, applies such provisions to the Government establishments specified in the said notification.

Chapter IV
Payment of Bonus

Every employee who has put in at least thirty days work in an accounting year, an annual minimum bonus calculated at the rate of eight and one-third per cent of the wages earned by the employee or one hundred rupees, whichever is higher whether or not the employer has any allocable surplus during the previous accounting year.

Disqualification for bonus: Notwithstanding anything contained in this Code, an employee shall be disqualified from receiving bonus under this Code, if he is dismissed from service for -

- (a) Fraud; or
- (b) Riotous or violent behavior while on the premises of the establishment; or
- (c) Theft, misappropriation or sabotage of any property of the establishment; or
- (d) Conviction for sexual harassment.

Non-applicability of this Chapter: **This Chapter shall not apply to-**

- (a) Employees employed by the Life Insurance Corporation of India;
- (b) sea-men as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958;
- (c) Employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948, and employed by registered or listed employers;
- (d) Employees employed by an establishment under the authority of any department of the Central Government or a State Government or a local authority;
- (e) Employees employed by:-
 - (i) The Indian Red Cross Society or any other institution of a like nature including its branches;
 - (ii) Universities and other educational institutions;
 - (iii) Institutions including hospitals, chamber of commerce and social welfare institutions established not for purposes of profit;
- (f) Employees employed by the Reserve Bank of India;
- (g) employees employed by public sector financial institution other than a banking company, which the Central Government may, by notification, specify, having regard to:-
 - (i) its capital structure;
 - (ii) its objectives and the nature of its activities;
 - (iii) the nature and extent of financial assistance or any concession given to it by the Government; and
 - (iv) any other relevant factor;

(h) employees employed by inland water transport establishments operating on routes passing through any other country; and

(i) employees of any other establishment which the appropriate Government may, by notification, exempt having regard to the overall benefits under any other scheme of profit sharing available in such establishments to the employees.

Chapter V Advisory Board

Central Advisory Board and State Advisory Boards: The Central Government shall constitute the Central Advisory Board which shall consist of persons to be nominated by the Central Government.

Chapter VI Payment of Dues, Claims And Audit

Responsibility For Payment Of Various Dues: Every employer shall pay all amounts required to be paid under this Code to every employee employed by him:

Provided that **where such employer fails to make such payment in accordance with this Code, then, the company or firm or association or any other person who is the proprietor of the establishment, in which the employee is employed, shall be responsible for such payment**

Explanation.—For the purposes of this section the expression "firm" shall have the same meaning as assigned to it in the Indian Partnership Act, 1932.

Claims under code and procedure thereof: The appropriate Government may, by notification, appoint one or more authorities, not below the rank of a Gazette Officer, to hear and determine the claims which arise under the provisions of this Code.

Records, Returns and Notices: Every employer of an establishment to which this Code applies shall maintain a register containing the details with regard to persons employed, muster roll, wages and such other details in such manner as may be prescribed.

Every employer shall display a notice on the notice board at a prominent place of the establishment containing the abstract of this Code, category-wise wage rates of employees, wage period, day or date and time of payment of wages, and the name and address of the Inspector-cum-Facilitator having jurisdiction.

(3) Every employer shall issue wage slips to the employees in such form and manner as may be prescribed.

(4) The provisions of sub-sections (1) to (3) shall not apply in respect of the employer to the extent he employs not more than five persons for agriculture or domestic purpose.

Provided that such employer, when demanded, shall produce before the Inspector cum-Facilitator, the reasonable proof of the payment of wages to the persons so employed.

Explanation.—For the purposes of this sub-section, the expression "domestic purpose" means the purpose exclusively relating to the home or family affairs of the employer and does not include any affair relating to any establishment, industry, trade, business, manufacture or occupation

Chapter VII
Inspector-Cum-Facilitator

Appointment of Inspector-Cum-Facilitators and their Powers

Chapter VIII
Offences and Penalties

Cognizance Of Offences: No court shall take cognizance of any offence punishable under this Code, save on a complaint made by or under the authority of the appropriate Government or an officer authorised in this behalf, or by an employee or a registered Trade Union registered under the Trade Unions Act, 1926 or an Inspector-cum-Facilitator.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this Code.

Penalties for Offences: Any employer who:-

(a) **Pays to any employee less than the amount due** to such employee under the provisions of this Code shall be punishable with **fine which may extend to fifty thousand rupees.**

(b) having been convicted of an offence under clause (a) is **again found guilty of similar offence** under this clause, **within five years** from the date of the commission of the first or subsequent offence, he shall, on the second and the subsequent commission of the offence, 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.**

(c) **Contravenes any other provision of this Code** or any rule made or order made or issued thereunder shall be punishable with **fine which may extend to twenty thousand rupees.**

(d) having been convicted of an offence under clause (c) is **again found guilty of similar offence** under this clause, **within five years** from the date of the commission of the first or subsequent offence, he shall, on the second and the subsequent commission of the offence under

this clause, **be punishable with imprisonment for a term which may extend to one month or with fine which may extend to forty thousand rupees, or with both.**

(2) Notwithstanding anything contained in sub-section (1), for the **offences of non-maintenance or improper maintenance of records in the establishment, the employer shall be punishable with fine which may extend to ten thousand rupees.**

(3) Notwithstanding anything contained in clause (c) of sub-section (1) or sub-section (2), the Inspector-cum-Facilitator shall, before initiation of prosecution proceeding for the offences under the said clause or sub-section, give an opportunity to the employer to comply with the provisions of this Code by way of a written direction, which shall lay down a time period for such compliance, and, if the employer complies with the direction within such period, the Inspector-cum-Facilitator shall not initiate such prosecution proceeding and, 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.

Explanation.— For the purposes of this section-

(a) "**company**" means anybody corporate and includes:-

(i) a **firm**; or

(ii) a **limited liability partnership** registered under the Limited Liability Partnership Act, 2008; or

(iii) **other association of individuals**; and

(b) "**director**" in relation to a firm means a partner in the firm.

Chapter IX
Miscellaneous

Repeal and savings : The Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 are hereby repealed.

(2) **Notwithstanding** such repeal, anything done or any action taken under the enactments so repealed including **any notification, nomination, appointment, order or direction made thereunder or any amount of wages provided in any provision of such enactments for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code till they are repealed under the corresponding provisions of this Code or by the notification to that effect by the Central Government.**

(3) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

STATEMENT OF OBJECTS AND REASONS

1. 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.

2. In pursuance of the recommendations of the said Commission and the deliberations made in the tripartite meeting comprising of the Government, employers' and industry representatives, it has been decided to bring the proposed legislation. The proposed legislation intends to amalgamate, simplify and rationalise the relevant provisions of the following four central labour enactments relating to wages, namely –

- (a) the Payment of Wages Act, 1936;
- (b) the Minimum Wages Act, 1948;
- (c) the Payment of Bonus Act, 1965; and
- (d) the Equal Remuneration Act, 1976.

3. The amalgamation of the said laws will facilitate the implementation and also remove the multiplicity of definitions and authorities without compromising on the basic concepts of welfare and benefits to workers. The proposed legislation would bring the use of technology in its enforcement. All these measures would bring transparency and accountability which would lead to more effective enforcement. Widening the scope of minimum wages to all workers would be a big step for equity. The facilitation for ease of compliance of labour laws will promote in setting up of more enterprises thus catalyzing the creation of employment opportunities.
