
Compliance Guidelines for Employers under new Law Regime

Introduction

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: Industrial relations, wages, Social Security, Safety and Welfare and Working Conditions; 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 new labour law legislation which amalgamates the previous central labour enactments into new wage codes

The amalgamation has removed the multiplicity of definitions and authorities without compromising on the basic concepts of welfare and benefits to workers. This legislation will bring the use of technology in its enforcement and the facilitation for ease of compliance of labour laws will promote in setting up of more enterprises thus catalyzing the creation of employment opportunities.

The Comparison chart:

Category	Before Reform	After Reform	Reduction
Sections	1228	480	748
Rules	14363	351	1085
Returns	31	1	30
Forms	181	73	108
Registers to be maintained	84	8	76

The Code on Wages, 2019, has made Universal Minimum Wages applicable to all, permanent, fixed-term, part-time, contract workers, gig workers paid directly to their bank accounts. Earlier only 30% of scheduled employments were covered; now there is 100%.

Section 3: Employers cannot discriminate on the basis of gender in paying wages for the same or similar work or while recruiting employees. The Floor wage will be based on minimum living standards & it cannot pay below the statutory floor wage compliance notified by Central government. Wages must account for skill level: unskilled, semi-skilled, skilled, highly skilled, geographic area, and working conditions (temperature, humidity, hazardous environments)

Every establishment shall fix wage periods paid within the prescribed

Timelines:

- Daily basis: at the end of the day
- Weekly basis: on the last working day of the week
- Fortnightly basis: before the end of the 2nd day after the end of the
- fortnight
- Monthly basis: before the expiry of the 7th day of the succeeding month.

Section 14: Employer must comply with the daily and weekly working hour limits. If an employee whose minimum rate of wages has been fixed, works beyond normal working hours, the employer must pay overtime for each extra hour at a rate of at least twice the normal wage.

Section 17: When an employee leaves an establishment, by resignation, dismissal, or termination, the employer is required to pay all due wages within 2 working days

Section 18: Employers must make Authorised Deductions from Wages under the Code These includes, deductions for absence from duty, deduction for damage or loss, deductions for recovery of advances or loans, deductions for fines imposed after giving the employee an opportunity to be heard, house accommodation or amenity in service on acceptance. Deductions shall not exceed 50% of wages during the wage period

Section 19, Section 21, Section 50: Employers must maintain the following registers in physical or electronic form: Attendance register cum muster roll, Wage register, Overtime register, Register of fines/ deductions and issue wage slips in prescribed form to all employees on or before payment of wages

Section 26: Bonus must be paid to every employee who draws wages up to the limit set by the appropriate government and has worked for at least 30 days in the accounting year commencing on the first day of April paid minimum at the rate of 8.33% and maximum up to 20% of the wages earned by the employee.

Section 50: Employers must display the following on the notice board in English, Hindi and local language

- Minimum rate of wages, Wage period and Date of wage payment
- Name and address of the Inspector-cum-Facilitator
- Normal working hours

The Industrial relations Code, 2020

It seeks to consolidate and rationalize the provisions related to trade unions, conditions of employment in industrial establishment and the investigation and settlement of industrial disputes. It now covers sales promotion staff, journalists, and supervisory employees earning up to ₹18,000/month

Section 3: Employers of industrial establishments that employed 100 or more workers in the preceding 12 months may be required by the appropriate Government, through a general or special order, to constitute a Works Committee, with the objective of promoting and maintaining harmonious relations between the employer and workers. Where the number of representatives of workers shall not be less than the number of representatives of employers.

Section 4: Every industrial establishment employing 20 or more workers must constitute one or more Grievance Redressal Committees to address individual employee grievances having equal number of representatives from the employer and the workers. That should not exceed 10. The Chairperson shall be selected alternately from employer and worker representatives on a rotational basis every year. The Committee must ensure adequate representation of women workers, proportionate to their share in the total workforce

Any aggrieved worker can submit application within 1 year from the date on which the cause of action of such dispute arises before GRC. GRC should complete its proceedings within 30 days from the date of receipt of the application

Section 14: If only one registered trade union is functioning in an industrial establishment, that should be recognized as Negotiating Union; If more than one registered trade union operates then it must recognise the trade union that has the support of 51% or more of the workers on the muster roll as the negotiating union. If none has the support of 51% or more workers, the employer must constitute a Negotiating Council, that have the support of at least 20% of the total workers, with one representative for each 20% of membership, with validity of 3 years

Section 28, Section 29, Section 30

The provisions on Standing Orders apply to industrial establishments employing 300 or more workers. Employers may adopt the Model Standing Orders and only need to intimate the Certifying Officer. If the Model Standing Orders is not adopted, employers must prepare draft Standing Orders within 6 months of commencement of the Code, based on the notified Model Standing Orders

Employers must consult the Trade Unions, the recognised negotiating union, or the members of the negotiating council before finalising the draft of the Standing Order. The draft Standing Orders must be submitted to the Certifying Officer (electronically or otherwise) for certification

The Certifying Officer must certify the Standing Orders or modifications within 60 days, failing which the draft Standing Orders or modifications in the Standing order shall be deemed to be certified.

Section 40: If an employer intends to change any service condition listed in the Third Schedule (Annexure 3), the employer must give a prescribed notice to the affected workers. The change can take effect only after 21 days from the date of the notice

Chapter (IX), (X): Compliance for retrenchment provision in Industrial establishments such as factories, mines, and plantations employing 50 to 299 workers and 300 or more worker: Employer must serve notice on appropriate government or specified authority; additionally, prior notice of 1 month and 3 months' respectively to the worker

If a worker is laid off, the employer must pay compensation equal to 50% of the basic wages plus dearness allowance that the worker would have received if she/he had not been laid off. Retrenchment compensation must be paid at the rate of 15 days' average pay for each completed year of continuous service; and contribute an amount equal to 15 days' wages for each retrenched employee to the Workers' Re-Skilling Fund

An employer planning to close an industrial establishment must serve prior notice on the appropriate government at least 60 days and 90 days respectively in advance, and in clearly stating the reasons for closure and serve a copy of the application to the workers' representatives.

When ownership or management of an establishment is transferred, workers with at least one year of continuous service are entitled to notice and retrenchment compensation. If an employer receives a strike notice from persons employed in industrial establishment, the employer must report the same within 5 days to the appropriate Government or the prescribed authority, and to the Conciliation Officer

Section 62: The employer must report the strike notice and lockout notice within five days to the appropriate government and conciliation officer

In case of Lockout an employer must give a 14 days prior notice to employees.

The Occupational Safety, Health & Working Conditions Code, 2020

(OSH&WC) was enacted to consolidate and simplify the 13 Central Labour laws into a single comprehensive legislation, thereby reducing multiplicity of compliances and bringing uniformity across industries and States/ UT

Compliance: under **Section 5**, Every establishment employing 10 or more employees must apply for registration within 60 days, electronically on the portal prescribed by the appropriate Government and send an electronic notice of commencement or cessation of operations of establishments

Section 6, Section 7, Section 10-Section 12: Duties of Employer

- Issuance of appointment letter to all employees.
- Provide annual health check-ups free of cost.
- Ensure workplace is free from hazard likely to cause injury or disease

Every establishment must constitute a Safety Committee consisting of representatives of both the employer and the workers. In establishments employing 250 or more workers, and mines employing 100 or more workers, the employer shall appoint the prescribed number of safety officers

Employers are responsible for maintaining safe, healthy, and suitable working conditions in the establishment, **Section 23** cleanliness and hygiene; proper ventilation and lighting; safe drinking water; separate toilet facilities for male, female, and transgender workers; adequate space; and effective arrangement for waste disposal, as prescribed

Section 10, Section 11, Section 12: The employer must notify certain accident that results in death, serious injury preventing work for 48 hours or more; dangerous occurrence, whether or not it causes injury or disability, and certain diseases specified in the Third Schedule

Section 18: Employer must comply with occupational safety and health standards notified for docks by the Central Government.

Section 24: Employer must provide washing facilities, separate bathing facilities for male, female, and transgender workers, sitting arrangements, locker rooms, first-aid, and rest or shelter rooms. Other facilities provided and requisite number of employees are, for Canteen: 100, 100+; Ambulance Room: 500+, Adequate, suitable, and separate shelters or rest rooms for male, female, and transgender employees, along with a lunchroom: 50+; A creche for children below 6 years of the employees, either on their own or through shared/common facilities: 50+ employees

Section 24: Employer must provide free temporary living accommodation to all building workers at or near the worksite and for ensuring removal of such accommodation and restoration of land obtained from local authorities after its use.

Section 33: Employers must maintain Registers – Register of Employees, Register of Attendance -cum-muster roll, of wages, overtime, deduction and dangerous occurrence, must issue wage slip & File annual return electronically

Section 43: Where women are employed before 6:00 a.m. or after 7:00 p.m. employers must obtain their consent and ensure compliance with prescribed safety measures, holidays, working hours, and other conditions as prescribed by the appropriate Government

Section 45, Section 47, Section 48: Every contractor employing 50 or more contract workers employed on any day of the preceding 12 Months must obtain a licence, which shall be valid for 5 years

Section 61: Employers must pay every inter-State migrant worker employed in the establishment a lump-sum journey allowance once in a year to cover the to-and-fro travel fare between the place of employment and the worker's native place.

Section 82: The employment of pregnant women in manufacturing processes or operations involving serious risk of bodily injury, poisoning, or disease may be prohibited or restricted, as prescribed

Section 119: Any person seeking a common licence for a factory, industrial premises for beedi and cigar work, engaging contract workers, or any combination of these—or a single licence for any one of them—must apply electronically in the manner prescribed by the appropriate Government

The Code on Social Security, 2020

The Code on Social Security, 2020 subsumes 9 labour laws The applicability criteria of the respective provisions are in the First Schedule of the Code on Social Security, 2020, reproduced at Annexure 5.

Employee's Provident Fund: The provisions are applicable to all establishments employing 20 or more employees. The employee's Provident Fund contribution must be equal to the employer's contribution, however if an employee opts to contribute more than 10% of the wages the employer is not required to contribute beyond its prescribed share There are three types of schemes framed by central government:

1) **Section 15:** Employees Deposit Linked Insurance Scheme for providing life insurance benefits to the employees.

2) **Section 16:** Employees' Provident Fund Scheme (EPF), for any class of employees; EPF inquiries limited to 5 years lookback, must complete within 2 years (extendable by 1)

3) Employees' Pension Scheme, for the purpose of superannuation pension, retiring pension or permanent total disablement pension. pays a pension to employees who are EPFO members where employer's contribution is 8.33% of employee's salary

Employees' State Insurance (ESI): The provisions apply to every non-seasonal factory and establishment (shops, hotels, newspaper, cinemas) employing 10 or more persons; Plantation workers, mines, port or vicinity of port where dock work is carried out, establishments engaged in hazardous or life-threatening activities, even if only one employee is employed

Section 31, Section 32: The employer must pay both the employer's and the employee's contributions in respect of every employee; Different type of benefits to which an insured person is entitled to are, Sickness benefit, Maternity Benefit, Disablement benefit, Dependent's benefit, Medical, Funeral expenses

Section 53 Gratuity: must be paid to permanent employee on termination of his employment after completing at least five years of continuous service. The termination must be due to superannuation, retirement or resignation, death or disablement due to accident or disease, or any other event notified by the Central Government

To a fixed term employee on termination of their contract period after completion of one year service, at the rate of 15 days' wages for each completed year of service; paid within 30 days from the date it becomes payable

Section 74: Every employer must pay compensation if an employee suffers injury or death due to an accident arising out of and in the course of his employment.

Section 100: Employers must pay a cess ranging from 1% to 2% of the total construction cost for building and other construction work, to fund social security and welfare benefits for Building and other construction workers

Section 114: Aggregators are required to contribute between 1% and 2% of their annual turnover, subject to a cap of 5% of the total amount paid or payable to Unorganized, gig and platform workers

Conclusion:

The new Labour Code Regime with its uniform national standards and a facilitative inspection system, represents a watershed change in the labour governance framework of India. By providing flexibility in employment practices where even MSMEs can grow with ease; inclusion of unrecognized class of worker, promoting voluntary adherence and worker-centric reforms, this new labour code has truly enhanced welfare, dignity and social security among workers.