

TAX FLASH NEWS

3 August 2019

Key takeaways on the Code on Wages Bill, 2019

Background

The Code on Wages Bill, 2019 (hereinafter referred to as “the Code”) was passed by the Lok Sabha on 30 July 2019 and by the Rajya Sabha on 02 August 2019. The Code on Wages Bill, 2017 was introduced before the last Lok Sabha on 10 August 2017 and was referred to Parliamentary Standing Committee, which submitted its report on 18 December 2018. Out of 24 recommendations made by the standing committee, 17 were accepted by the Government.

The Code 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
- d) The Equal Remuneration Act, 1976

Once the President of India gives his assent, the Code shall be effective from the date of publication in the Official Gazette.

Highlights of the Code

• Coverage

The Code universalises the provisions of minimum wages and timely payment of wages to all employees irrespective of the sector and wage ceiling. The Code extends:–

- To all establishments where any industry, trade, business, manufacturing or occupation is carried out which includes Government establishments.
- To all kinds of employees irrespective of wage limit whether skilled, un-skilled, manual, supervisory, managerial, administrative, technical or clerical across all sectors whether organised or un-organised.
- To all kinds of employers i.e. any person who employs one or more employees.

For instance, the wage limit of INR 24,000 per month for the applicability of the Payment of Wages Act, 1936 has been removed.

Many unorganised sector workers who were out of the ambit of minimum wages Act will now get legislative protection of minimum wages under the Code.

• Definitions

The definitions of wages in the different Labour Law statutes have been consolidated into single definition. This is expected to reduce litigation and cost of compliance.

• Floor wage

The Code proposes a floor wage to be set by the Central Government after taking into account the minimum living standards of the workers. The Code provides that different floor wage may be fixed basis different geographical areas and/or the skill of the workers.

The floor wage will be fixed and shall constitute the minimum base, below which the state government cannot prescribe minimum wages. The rationale behind introduction of floor wage is to provide a basic standard of living for all employees across the country.

• Digitisation of payment of wages

The Code provides that the wages to employees may also be paid by cheque or through digital or electronic mode or by crediting it in the bank account of the employee.

• Deductions

Under the Code, an employee's wages may be deducted on certain grounds including fines, absence from duty, accommodation given by the employer, or recovery of advances given to the employee, among others. These deductions should not exceed 50 per cent of the employee's wage.

- **Overtime**

The Central or state government shall fix the number of hours that constitute a normal working day. Overtime rate is proposed to be not be less than twice the normal rate of wages. Presently, the employer is liable to pay overtime for hours worked in excess at a rate fixed by the Government.

- **Payment of bonus**

The Code empowers the appropriate government to determine the ceiling of wage limit for the purpose of eligibility of bonus and calculation of bonus, by notification, which will make it easier to revise the ceilings. The Code, further, provides that the provisions with respect to payment of bonus shall apply to such establishment in which twenty or more persons are employed or were employed on any day during an accounting year.

- **Advisory Boards**

Advisory Boards are proposed to be constituted by the Central and state government. The Central Board shall constitute representatives from employees, employers, independent persons and representatives from state government.

- **Inspector-cum-facilitators**

In addition to powers of inquiry and investigation, they are also empowered to provide the employers and workers with advice regarding effective means of complying with the law.

Many changes have been introduced in the inspection regimes, including web based randomised computerised inspection scheme, calling of information electronically for inspection etc. These changes have been brought about to ensure enforcement of labour laws with transparency and accountability.

- **Penalties and fines**

The penalties for non-compliances are proposed to be enhanced under the Code. It provides for graded penalty for different types of contraventions of the provisions of the Code. The Code has introduced provisions for compounding of offences which are not punishable with imprisonment.

- **Limitation period for claims**

The period of limitation for filing of claims by an employee has been enhanced to 3 years as against existing time period varying from 6 months to 2 years, to provide more time to file their claims.

Our comments

The Code promotes ease of doing business by simplification and consolidation of compliances which will induce investor confidence. The multiplicity in definitions and compliances under the existing labour laws have often been cited as a bottleneck by the industries and foreign investors. Hence, the pressing need for reforms to bring simplicity, flexibility, use of technology in the enforcement, transparency and accountability seems to be addressed in the Code.

However, the enforcement of provisions with respect to minimum wages is a question on hand since sectoral and regional gaps in India are huge.



home.kpmg/in

Ahmedabad

Commerce House V, 9th Floor,
902, Near Vodafone House,
Corporate Road,
Pralhad Nagar,
Ahmedabad – 380 051.
Tel: +91 79 4040 2200

Bengaluru

Maruthi Info-Tech Centre
11-12/1, Inner Ring Road
Koramangala,
Bengaluru – 560 071.
Tel: +91 80 3980 6000

Chandigarh

SCO 22-23 (1st Floor),
Sector 8C, Madhya Marg,
Chandigarh – 160 009.
Tel: +91 172 664 4000

Chennai

KRM Towers, Ground Floor,
1, 2 & 3 Floor, Harrington Road,
Chetpet, Chennai – 600 031.
Tel: +91 44 3914 5000

Gurugram

Building No.10, 8th Floor,
DLF Cyber City, Phase II,
Gurugram, Haryana – 122 002.
Tel: +91 124 307 4000

Hyderabad

Salarpuria Knowledge City,
6th Floor, Unit 3, Phase III,
Sy No. 83/1, Plot No 2,
Serilingampally Mandal,
Ranga Reddy District,
Hyderabad – 500 081.
Tel: +91 40 6111 6000

Jaipur

Regus Radiant Centre Pvt Ltd.,
Level 6, Jaipur Centre Mall,
B2 By pass Tonk Road,
Jaipur – 302 018.
Tel: +91 141 - 7103224

Kochi

Syama Business Centre,
3rd Floor, NH By Pass Road,
Vytilla, Kochi – 682 019.
Tel: +91 484 302 5600

Kolkata

Unit No. 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata – 700 091.
Tel: +91 33 4403 4000

Mumbai

1st Floor, Lodha Excelus,
Apollo Mills,
N. M. Joshi Marg,
Mahalaxmi,
Mumbai – 400 011.
Tel: +91 22 3989 6000

Noida

Unit No. 501, 5th Floor,
Advant Navis Business Park,
Tower-A, Plot# 7, Sector 142,
Expressway Noida,
Gautam Budh Nagar,
Noida – 201 305.
Tel: +91 0120 386 8000

Pune

9th floor, Business Plaza,
Westin Hotel Campus, 36/3-B,
Koregaon Park Annex,
Mundhwa Road, Ghorpadi,
Pune – 411 001.
Tel: +91 20 6747 7000

Vadodara

Ocean Building, 303, 3rd Floor,
Beside Center Square Mall,
Opp. Vadodara Central Mall,
Dr. Vikram Sarabhai Marg,
Vadodara – 390 023.
Tel: +91 265 619 4200

Vijayawada

Door No. 54-15-18E,
Sai Odyssey,
Gurunanak Nagar Road, NH 5,
Opp. Executive Club, Vijayawada,
Krishna District,
Andhra Pradesh – 520 008.
Tel: +91 0866 669 1000

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2019 KPMG, an Indian Registered Partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

This document is meant for e-communication only