



THE COMPLIANCE WATCH

QUALITY | WILL TO WIN | BUILDING & LEVERAGING RELATIONSHIPS



UCS POV

BY SHAIJU MATHEW,
CHIEF OPERATING OFFICER

Suspension / Abolition of Labour Laws: A Boon or Bane for Industries' Ease of Doing Business?

Recently, some state governments like Uttar Pradesh, Madhya Pradesh, and Gujarat made some amendments and/or exemptions in their labour laws which were limited primarily to factories and manufacturing units. This was to help industries that were hard hit due to the COVID-19 pandemic and facilitate setting up of new manufacturing units etc.

UCS NEWSLETTER JULY HIGHLIGHTS

- 01 *EPFO Launches AI Tool to Settle Claims*
- 02 *Employee Mobile Number and Bank Details Mandatory for ESI Registration*
- 03 *Now, Shops Can Remain Open on All Days in Chandigarh*
- 04 *Draft Amendments to Tamil Nadu Maternity Benefit Rules, 1967*

However, these state governments had to rollback some proposed changes, such as the Uttar Pradesh government in the case of an increase in working hours. The Central Labour Ministry continued its stand against such exemption in the applicable laws and have not suspended or abolished the Central Acts especially during this crisis.

The recommended reforms do not mean suspension or abolition of existing labour laws. They have more to do with the procedure and process on following such applicable laws. The amendment in various labour laws concerning online registrations, returns and remittance are mainly to ensure proper compliance by the establishments by which appropriate governments will have real-time access to compliance status for each establishment. It has certainly prompted many industries including IT/ITES sectors to ensure compliance in an efficient manner and ensure no lapses. Labour and employment laws are meant to provide a structure to the workplace or establishment. It defines the responsibilities of both the employer and employee. The applicability of labour laws always protects the employee and employer and such regulations give both parties necessary direction for resolving workplace conflicts. These laws are important because it enables the employer to focus on business productivity and profitability rather than being engaged in resolving issues with employments in an ambiguous environment. It also empowers the employee and protects him from exploitation etc.

The Ministry of Home Affairs issued an order on 29th March 2020, under Section 10(2) of the Disaster Management Act, stating no pay-cut and no termination of employment during the lockdown period, primarily to secure and ease the hardship of migrants and contractual workers. The Central Government issued this order due to the non-existence of any such provision related to dispute on employment and wages in a lockdown kind of a situation. The existing provisions under the Payment of Wages Act do not cover such deduction of wages due to a lockdown. The Industrial Dispute Act provision is limited to lay off and retrenchment due to close down of office or units and the same is required to be done as per the procedure prescribed in the Act. Therefore, the MHA's notification led to an ambiguity in the industry and various employer associations challenged the notification's validity with the Supreme Court and the matter is under *sub judice*. The absence of any such provision in labour laws may lead to confusion, especially for the industry to take a decision. Hence, the applicability and clarity of labour laws always benefits the industry, as well as the employees.

The ambiguity on definitions of "Workmen" and "Industry" under various labour laws, often leads to disputes related to applicability of certain laws to employees working in commercial establishments and IT/ITES sectors. Nevertheless, the Central Government has made a significant effort to consolidate some of these

acts and to bring it under the Code on Wages Act, the Code on Industrial Relation, the Code on Social Security and others. The implementation of these codes will bring clarity on such definitions of Industry and Workmen, and it will help the industries to efficiently follow the compliances under various acts. The Government's intent for consolidation of these old acts is to ensure proper compliances by establishments and also to provide clarity on applicability of all existing labour laws to establishments. Therefore, stop gap/hasty announcements on abolition or suspension of these statutes will not help industries in their ease of doing business, rather It will lead to ambiguity in various matters related to employment and resolving conflict in workplaces.

The least that the Industry and employees require in these times of uncertainty is clarity. Hope things become clearer in the days to come.

Let's come back stronger!



EPFO Launches Multi-Location Claim Settlement to Expedite Member Claims

Source: Press Information Bureau

Taking a big leap towards ensuring uniform standards of service delivery across the country and optimum utilisation of its workforce during COVID-19 Pandemic, EPFO has recently launched a multi-location claim settlement facility. This facility will bring a paradigm shift by allowing EPFO offices to settle online claims from any of its regional offices, across the country. All types of online claims i.e. provident fund, pension, partial withdrawal and claims and transfer claims can be processed under this novel initiative.

COVID-19 crisis has affected 135 regional offices of EPFO with different levels of severity depending on their location. It was observed that though many offices in Mumbai, Thane, Haryana and Chennai zones operate with even less than skeletal



staff on account of COVID-19 Pandemic, but there has been a disproportionate increase in claim receipt due to recently introduced COVID-19 advance. Consequently, claim pendency in these offices rose to higher levels leading to delay in claim settlement cycle while other offices, working with 50% workforce and with the help of recently introduced auto settlement mode could bring the claim settlement period down to 3 days for COVID-19 advances. To reduce the delays by uniformly distributing the claim settlement related workload nationwide, EPFO has moved away from the existing system of geographical jurisdiction for claim processing by rolling out multi-location claim settlement facility. This will allow offices with the lesser workload to share the burden of offices that have accumulated a higher level of pendency, due to COVID-19 restrictions. It enables fast-tracking of settlement process through the most appropriate engagement of EPFO's workforce in all its regional offices across the country.

The initiative aimed at enhancing the ease of living experience for its members has been achieved in record time. The first batch of multi-location claims under this path-breaking project was settled for Gurugram Region on 10th June 2020. The claims of employees pertaining to the regional office of Gurugram Region were settled by EPFO staff deployed in Chandigarh, Ludhiana and Jalandhar offices. After settlement, the payment was made from the Gurugram office to the bank account of the individual member. Since its launch, claims pertaining to offices that fall in containment zones are being distributed to offices in other locations for expeditious processing. Further, the launch of multi-location claim settlement facility is a momentous step towards the larger objectives of ushering faceless claims processing thereby bringing greater levels of transparency, efficiency, reduction of member grievances and expeditious settlement of online claims in line with Prime Minister's vision of Digital India.

Despite its functioning being adversely impacted due to COVID-19 restrictions, EPFO's officers and staff through their dedication and constant innovations have been settling more than 80,000 claims amounting to Rs 270 crore per working day since 1st April 2020. With multi-location claim facility, EPFO is set to achieve higher benchmarks in service delivery ensuring social security for its more than 6 crore subscribers during the time of crisis.

EPF Withdrawal: EPFO Launches AI Tool to Settle Claims

Source: www.livemint.com

As the number of provident fund subscribers opting for EPF withdrawal went up substantially during the ongoing coronavirus pandemic, the Employees' Provident Fund Organisation (EPFO) was left overburdened with the processing of claims. EPFO offices had only skeletal staff and the number of Covid-19 withdrawal claims kept on piling up. Turning the crisis into an opportunity, the retirement funds body then came up with the idea of having artificial intelligence (AI)-based fully automatic claim settlement system which was set up in a record five days. "Almost 54% of the COVID-19 claims are now being settled through the auto mode," EPFO said. Despite the shortage of manpower, EPFO brought down the EPF withdrawal claim settlement period from around 10 days to roughly 3 days for COVID-19 related withdrawals. The AI tool processes claims of all eligible subscribers if they are fully e-KYC compliant.

As compared with 33.75 lakh claims settled in April-May 2019, a total of 36.02 lakh claims were settled in April-May 2020, with less than 50% staff being able to attend work. "Apart from the commitment of staff, use of artificial intelligence played a big role in achieving new benchmarks in claim settlement," EPFO said. Automation is now helping EPFO to settle more than 80,000 claims worth ₹270 crores every day. If the EPFO uses this AI tool to process other types of non-COVID related claims also, then claim settlement time will come down drastically in the future. "EPFO should show a similar interest and develop their technology in resolving general withdrawals and loan processing applications which are pending or rejected by giving various reasons," Team Lease Services' Compliance and Payroll Outsourcing head Prashant Singh said. EPFO manages social security funds of workers in the organised and semi-organised sector in India, and it has more than 6 crore active members.



Employee Mobile Number and Bank Details Mandatory for ESI Registration

Source: www.esic.in

All employers are required to submit the valid and correct mobile number and bank details for registering its new employees in the ESIC portal with effect from 01st July 2020. Also, the employers are required to update/rectify the same details of its already existing employees under the ESI scheme.

Supreme Court Gives Relief to Employers, Says Centre Cannot Coerce to Pay Full Wages, Govt. to Reply In 4 Weeks

Source: India Today

The Supreme Court has given a big relief to employers, private companies and factories etc and said the government cannot force them to pay full wages to workers during the lockdown period. The Supreme Court bench of Justices Ashok Bhushan, SK Kaul and MR Shah gave the Union government 4 weeks to reply on the legality of its March 29 notification in which the Ministry of Home Affairs (MHA) made it mandatory for employers to pay full wages to workers. While pronouncing the verdict, Justice Bhushan said, "We directed no coercive action to be taken against employers. Our earlier orders will continue. A detailed affidavit has to be filed by the Centre in the last week of July. Negotiation between employees and employers will have to be facilitated by state government labour departments." As employers argued in court that they do not have the financial capacity to pay full wages to workers for the period of the lockdown when they saw no business, the court asked the Centre to reply. The Supreme Court has also said negotiation between employees and employers regarding wage payment will have to be facilitated by the state government labour departments. The court has said labourers will have to negotiate for the payment of wages of 54 days of lockdown. The matter will again be heard in the last week of July after Centre files its reply.

The Ministry of Home Affairs (MHA), in its March 29 circular, had asked all employers to make payment of wages to their workers without any deduction for the period their establishments were under closure during the lockdown to contain COVID-19. The Secretary (Labour & Employment) had also written to chief secretaries of states to advise employers not to terminate employees from their jobs or reduce their wages amid the challenging situation of the pandemic. Attorney General KK Venugopal, appearing for the Centre, had earlier told the court that as the people were migrating after the lockdown, the government came out with the notification to ensure that the workers are paid to help them in staying put at workplaces. The top law officer had referred to the provisions of the National Disaster Management Act to argue the validity of the March 29 circular. The Centre had also filed an affidavit justifying its March 29 direction saying that the employers claiming incapacity in paying salaries must be directed to furnish their audited balance sheets and accounts in the court. The government had said that the March 29 directive was a "temporary measure to mitigate the financial hardship" of employees and workers, especially contractual and casual, during the lockdown period and the directions have been revoked by the authority with effect from May 18. While requesting the top court to dispose of as infructuous the batch of pleas challenging the March 29 notification,

the government had said the "impugned notifications have outlived their life and adjudication of the same would only entail an academic exercise as it would not be in the interest of the public to seek recovery of salaries paid to employees and workers for the said 54 days".

Karnataka Factories Act Weekly Hours and Daily Hours Amendment Notification Withdrawn

Source: Gov. notification

The Karnataka State Government has withdrawn the notification issued about the increase of working hours under the daily provisions and weekly provisions of Factories registered under the Factories Act. The existing provision under the Factories Act continues with per day limit of 9 hours and per week limit of 48 hours.



The Contract Labour (Regulation and Abolition) Rules, 1973 Amendment in Puducherry

Source: Gov. notification



As per the notification issued, the Government of Puducherry has amended the rules under the Puducherry Contract Labour (Regulation and Abolition) Rules, 1973. The application can now be filed through the online portal of the labour department Puducherry. The fees can be paid online and the certificate will be granted through the online portal. Further details about filing of returns, maintaining registers is available in the notification.

Quick Updates

Now, Shops Can Remain Open on All Days in Chandigarh

Source: Hindustan Times

1

The UT administration in order to give a boost to economic activity hit by the Covid-19 lockdown allowed shops and commercial establishments to remain open on all days. However, the odd-even formula applicable to congested markets will continue to remain in operation. Issuing orders under the Punjab Shops and Commercial Establishment Act, UT administrator VPS Badnore made the exemption for three months while directing the traders to ensure all provisions relating to employment, working conditions, rest interval and weekly offs are complied with. Welcoming the decision, Charanjiv Singh, chairman, Chandigarh Beopar Mandal, said: "This will help traders cover their rentals, salary and other expenses. But it should be optional to the trader to whether remain open on Sunday or not. We assure the administration that weekly off will be given to the staff. Traders will also take a weekly off on rotation."

Development of New Rozgar Portal in Haryana

Source: Gov. notification

2

The Employment department has developed a new portal under the name rozgar.hrex.gov.in which enables interaction between job seekers and industries situated in Haryana. The portal has the data of skilled and unskilled job seekers so that industries interested in hiring may make use of this portal.

Draft Amendments to Tamil Nadu Maternity Benefit Rules, 1967

Source: Gov. notification

3

Draft amendment in Tamil Nadu Maternity Benefit under rule 6, 6A added for crèche within 500 meters for every establishment have fifty or more employees. One crèche for every thirty children who are below the age of 6 years. More details about the location, staff, the facilities that need to be provided, maintenance of records and others are all specified in the notification.



UCSCompliTool is a technology to ease the complexities of navigating through the changing Labour laws. With our past experiences and feedbacks, we have developed an in-house Software solution and have created this robust mechanism which represents our motto - Compliance simplified. It provides a real time and 360-degree view of compliance status for the Principal employer (**Complitoool-Compliance**) and with risk matrix to monitor the contractors (**Complitoool -Audit**). We have developed a Role Based Access Control model and being a cloud-based system, we are offering an absolute security and protection of data.

Following are some of the Major benefits of the Tool:

- * Real Time Statistical Data
- * Informative Tool
- * Transparency
- * Ease of Documentation
- * Ease of Monitoring
- * Highlighting of Critical Points
- * Security and Data Confidentiality
- * Centralization of Data
- * Readily Available Documents
- * Data Integrity
- * Extensive Reporting
- * User friendly Dash Boards
- * Overall compliance review from front end manoeuvre

**For Demo, Please write to us at enquiry@ucsdel.com
or Call us @ 0124 - 2656849**

About Us

United Consultancy Services is one of the leading consulting firms in India providing compliance, advisory and audit services in the field of Labour Laws, Human Resource Development and Legal matters pertaining to Industrial Relations. We provide meaningful, forward looking and compliance oriented solutions to help organizations grow while being compliant under labour laws. Proactive teams led by domain experts, use insight, experience and best practices to understand complex issues of publicly listed and privately owned clients and simplify compliance.

With over 25 years of existence and with more than 200 professionals the firm provides robust compliance services and solutions on complex requirements under Labour law. The information shared in the newsletter is on the basis of Government notifications and newspaper articles. This is for general information purposes only and does not constitute legal advice. Please reach out to your UCS contact or the Company legal counsel before taking any action.

We simplify compliance for you.



Unit No: 852 - 856
8th Floor JMD Megapolis,
Tikri, Sector 48, Gurugram
122001, Haryana



0124 - 2656800



enquiry@ucsdel.com



www.unitedconsultancy.com