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In This Issue

UCS POV

By Shaiju Mathew,
Chief Operating Officer

The New Labour Codes: What Changes and What Remains?

The Parliament recently passed three major Bills related to Labour Laws namely; The Code on Industrial Relations 2020, The Code on Social Security 2020, and The Code on Occupational Safety, Health and Working Conditions 2020. The Code on Wages 2019 was enacted last year and the Rule (Central) under the same has been implemented from July 2020. The Rules for the same is pending from the respective State governments. The Central Government intends to bring the new codes to amalgamate and combine various labour laws to help monitor compliances. Majority of the existing provisions of the Acts have been retained in these new codes except for a few changes such as the definition of 'Industry' and 'Employee' and so on.

The consolidation of various laws will help companies maintain registers and returns when the states publish the rules under these codes. It is important to note, the government has not abolished any of the existing labour laws and all these acts have been retained as separate chapters under these new codes. Although, unified registers and returns can be prepared now, yet all details and fields mentioned in the existing labour laws have been incorporated in them, with additional information to be implemented once the rules under these codes are published.

What are the Major Changes due in the New Codes?

- Consolidation of various labour laws under a code for ease of doing and monitoring the compliances.
- The unified registers and returns under various Acts can be prepared and filed after the appropriate authorities publish the rules under these codes, however the same is still pending from the respective state governments.
- The definition of 'Employee' means all employees, whether direct or through contractor including supervisors and managers. As per the existing Acts, the definition of 'employee' excludes supervisors and managers and the Code on Wages gives clarity on the same definition and includes all employees, even those in supervisor and managerial roles. This will ensure that all employees irrespective of their grade or class of employment shall be eligible for all benefits such as overtime wages, compensation and other benefits which were earlier excluded for supervisors and managers.
- Definition of 'Employer' is modified as: Head of the Dept., Occupier of the Factory, Manager of the Factory, Ultimate Control over the Affairs of the Establishment, Contractor & Legal Representative of a Deceased Employer.
- As per the Code on Wages, all other monthly allowances together should not exceed 50% of the monthly Gross wages (i.e. the Basic Wages should be at least 50% of Gross wages). The impact will be similar for companies for the settlement of Gratuity in case the employees current Basic Wages is less than 50% of Gross Wages.

- As per the Code on Industrial Relations 2020, the Industrial Standing Order is applicable for all industrial establishments having 300 or more employees. The definition of 'Industrial Establishment' has not been changed from the existing definition of 'Industry' under the Industrial Standing Order Act. However, the states shall have the right to include any other industries in the definition of 'Industry' while publishing the rules under the code.
- As per the Code on Industrial Relations 2020, the layoff, retrenchment, change of working conditions under the Industrial Dispute Act is applicable for establishments having 300 or more employees (earlier it was 100 or more employees).
- As per the Code on Social Security 2020, the unorganized sector workers, platform workers, and GIG workers are also included for social security benefits which will be implemented when the rules are published.
- Under the Code on Industrial Relations 2020 for the Standing Order, fixed-term employees will get the same benefits as extended to any regular employees which includes all social security benefits. Therefore, the eligibility criteria for certain years of service will not be applicable to them. Please note, this will be required to be implemented when the establishments are applying for Standing Order Certification.
- The Central Government is required to publish the Floor Wages and further the respective State governments are also required to publish the Minimum Wages as per the Floor wages. However, the same is still pending from respective state governments.
- Establishments will be allowed to be covered under EPFO, ESIC on a voluntary basis even if the total number of employees is less than the mandatory threshold limit of 10 and 20 respectively. The PF Voluntary option was already available, ESI voluntary coverage is newly introduced.
- Industries will be allowed to hire contract workers even for core activities, the Central Govt. can designate authority to determine the core activity.

- In case of fatal accidents, the employer/contractor is to report to both State authorities and also to the dependents, and extend benefits as per new norms.
- As per the new provision, female workers can work in the night shifts with their consent. Night shift will be from 7 p.m. and before 6 a.m., which shall also be approved by the Central or State govt.

What are the Provisions of the Acts that Remain in the New Codes?

- All the provisions of the existing Acts remain unchanged in the new codes except for a few as mentioned above.
- The Wage ceiling under various Acts such as Employees Provident Fund, Employee State Insurance, Payment of Bonus, Payment of Wages, Payment of Gratuity Acts etc. remain unchanged.
- Procedure for Prior Approval from the authority in case of layoff/ retrenchment/ change in working conditions remains the same. However, applicability of the Act has been changed to establishments having 300 or more employees.
- The filing of returns and maintaining of registers under the various Acts is required to be continued till the respective states publish the rules under these codes.
- The Registers under periodical returns under the respective states' Shops and Establishments Acts and all other state-specific statutes will remain unchanged and the companies will have to follow the compliances accordingly.
- There are no changes in the definition of 'Industry' and 'Industrial Establishment' under the Code on Wages/the Code on Industrial Relations. However, the respective states will have the right to cover or add any additional industry in the definition as and when they publish the rules under these codes for their respective states.

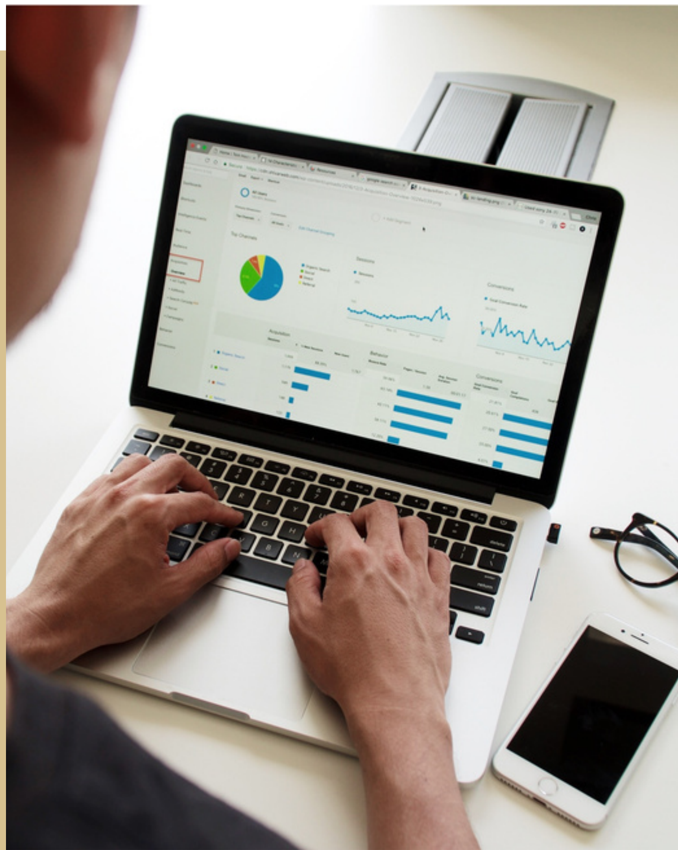
The 3 Labour codes have received the assent of the President of India on 28th September 2020 and the implementation will happen as soon as the new Labour Code Rules are notified by the appropriate government.

8.15% Interest Rate on PF to Be Paid Now, Rest Linked to Equity Returns

Source: Indian Express

The Central Board of Trustees of the Employees' Provident Fund Organisation (EPFO) has recommended splitting payment of the interest rate of 8.5% recommended for the financial year 2019-20 into two parts, citing "exceptional circumstances arising out of Covid-19". The EPFO will credit 8.15% to its over six crore subscribers for the year immediately and give the remaining 0.35%, which is linked to its equity investments, "before December 31". This, it said, is subject to redemption of its units invested in exchange-traded funds or ETFs. At 8.5%, the EPF interest rate is at a seven year low. If the redemption of ETF units does not come through as anticipated, the 8.15% interest rate would be the lowest since 1977-78, when the EPFO paid out an interest rate of 8%. The announcement effectively means that the retirement fund body is in a position to make only part payment of interest, amounting to around Rs 58,000 crore, right now, a member of the Central Board of Trustees said. The 0.35% component, or approximately Rs 2,700 crore, will be held over apparently due to liquidity issues.

The proposal will now be sent to the Finance Ministry for ratification. While it made the initial recommendation for 8.5% interest rate in March, the EPFO, which comes under the Labour Ministry, had not sought the Finance Ministry's approval so far. On March 5, while recommending the 8.5% rate for 2019-20, the Board had made no mention of redemption of ETF units for meeting the payout.



A statement by the Ministry of Labour and Employment only talked about the Board's recommendation "crediting an 8.5% annual rate of interest on the EPF accumulations in the EPF members' accounts for the year 2019 20". In its statement, the Labour Ministry said, "Given (the) exceptional circumstances arising out of Covid-19, the agenda regarding interest rate was reviewed by the Central Board and it recommended the same rate @ 8.50% to the Central Govt. It would comprise 8.15% from debt income and balance 0.35% (capital gain) from the sale of ETFs subject to their redemption by 31st December 2020. It further recommended to account such capital gains in the income of the financial year 2019-20 as being an exceptional case." The All India Trade Union Congress, which is a part of the Board, said in a statement, "It was proposed that 8.15% interest on PF accumulations (be paid) for the present, but maybe increased to 8.5% in December retrospectively, provided the securities to be sold do not make a loss. The trade unions were opposed to (a) reduction in interest on PF." In March, at the time of announcement of the 8.5% rate, Labour and Employment Minister Santosh Kumar Gangwar had said the interest rate would leave a surplus of Rs 700 crore. At this meeting, there was no detailing of the surplus left after payout of the 8.15% interest rate. Returns from equity investments of the EPFO worth over Rs 1 lakh crore turned red in 2019-20, yielding negative 8.3%, official data showed.

The Finance Ministry has been nudging the EPFO to reduce the rate to sub-8% level in line with the overall interest rate scenario, which is under strain given the economic slowdown. Small savings rates range from 4.0 7.6%. The Finance Ministry had questioned the 2018-2019 interest rate of 8.65% as well, besides the EPFO's exposure to IL&FS and similar risky entities. Concerns about risky investments were also raised at the EPFO meeting, with Board members stressing on the recovery of investments made in Reliance Capital, DHFL, IL&FS and Indiabulls, a Board member said. There have also been concerns about the EPFO interest rate for the 2020-21 financial year, which would be finalised early next year, given the volatility in stock markets. The retirement fund body might find it tough to make an interest rate payout above 8% for 2020-21, officials said. The

EPFO invests 85% of its annual accruals in the debt market and 15% in equities through ETFs. As per convention, after the Central Board of Trustees recommends the interest rate, it has to be ratified by the Finance Ministry and then it gets credited into the accounts of the fund's subscribers.

Employees' Deposit Linked Insurance Benefits Hiked

Source: www.timesnownews.com

The Employees' Provident Fund Organisation (EPFO) increased the maximum assurance benefit to up to Rs 7 lakh under the Employees' Deposit Linked Insurance (EDLI) scheme. EDLI is an insurance cover provided by the Employees' Provident Fund Organization (EPFO). A nominee or legal heir of an active member of EPFO gets a lump sum payment in case of demise of the member during the service period.

In the 227th Meeting of the Central Board of Trustees (CBT), EPF held, the board accorded approval for amendment of paragraph 22(3) of Employees' Deposit Linked Insurance Scheme, 1976 to enhance the maximum assurance benefit to Rs 7 lakhs from the present maximum assurance benefit of Rs 6 lakhs. All organizations covered under Employees' Provident Fund (EPF) and Miscellaneous Provisions Act, 1952 get enrolled for EDLI automatically. This scheme works in combination with EPF and EPS. There is no exclusion under this scheme and the insurance cover depends on the salary drawn in the last 12 months of the employment before death. Both employee, as well as the employer, contribute to all three schemes run by the EPFO. The contribution made by the employer to EDLI is 0.5% (subject to a maximum of Rs 75).

The recent amendment will provide additional succour to families and dependents of members of the Scheme in case of their unfortunate death while in service. CBT was also informed that the actuarial valuation of EDLI Fund has allowed for the continuation of minimum assurance benefit of Rs 2.5 lakhs beyond February 14, 2020, and extension of minimum assurance benefit of Rs 2.5 lakhs to the family of those deceased members who were employed in multiple establishments during the 12 months preceding the month in which they died, as approved by CBT EPF in its 226th meeting. In view of exceptional circumstances arising out of Covid-19, the agenda regarding interest rate was reviewed by the Central Board and it recommended the same rate at 8.50% to the Central Govt. It would comprise of 8.15% from debt income and balance 0.35% (capital gain) from the sale of ETFs subject to their redemption by 31st December 2020. It further recommended accounting such capital gains in the income of the financial year 2019-20 as being an exceptional case. The Central Board was apprised of the various initiatives taken by EPFO for extending nirbadh seamless service to stakeholders during Covid-19 pandemic. Members of the Board appreciated these initiatives and gave suggestions to further improve service delivery to all stakeholders.

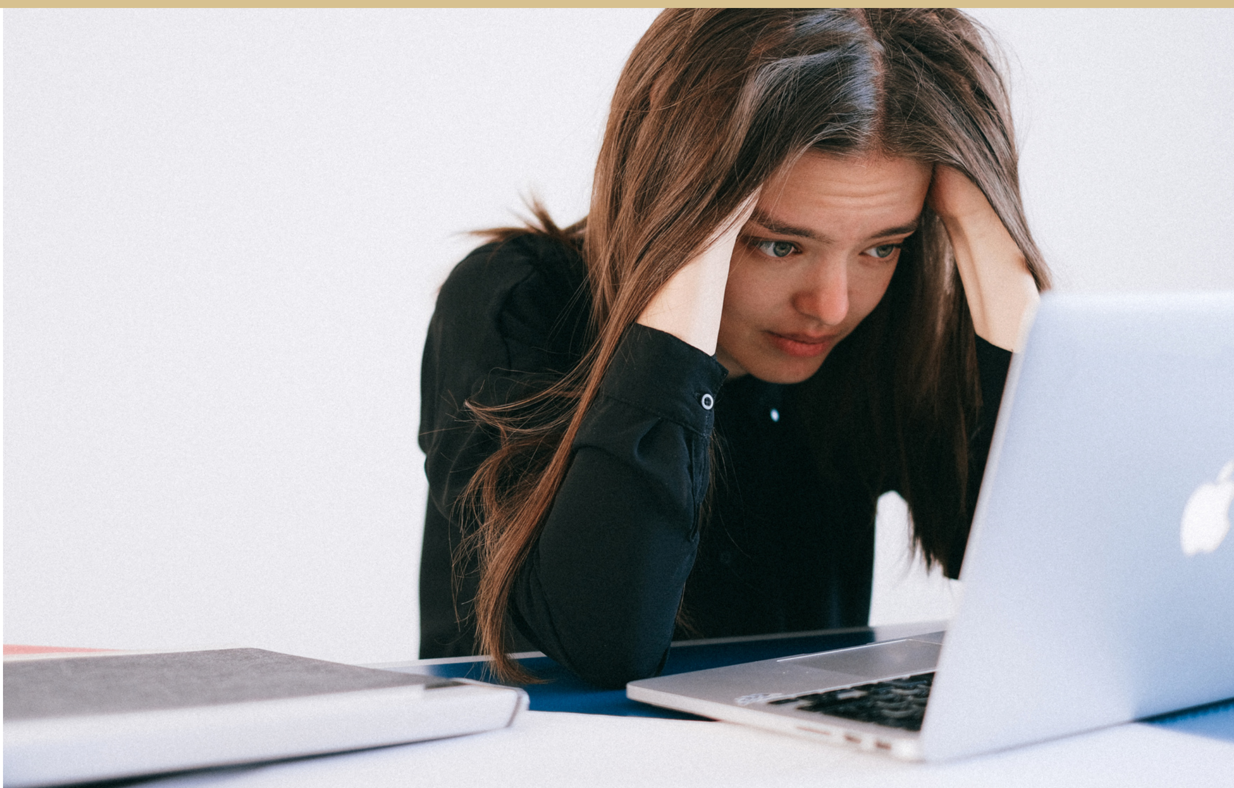
ESIC Issues Instructions for Submission of Claims for Unemployment Benefit Under Atal Bimit Kalyan Yojana

Source: Press Information Bureau

ESIC has issued instructions for submission of claims by the affected workers to claim relief under recently expanded Atal Bimit Kalyan Yojna in which relief is to be paid to those ESI members who lost their job. Claims to get the relief can be made online at website www.esic.in along with submission of the physical claim with an affidavit, photocopy of Aadhaar Card and Bank Account details to the designated ESIC Branch Office by post or in person.

It may be stated that ESI Corporation under the Chairmanship of Shri Santosh Kumar Gangwar, Minister of State (I/C) for Labour and Employment has decided to extend the scheme of Atal Bimit Kalyan Yojana for another one year i.e. from 1st July 2020 to 30th June 2021. It has also been decided to enhance the rate of unemployment relief under the scheme to 50% of wages from earlier rate of 25% along with the relaxation of eligibility conditions for insured workers who have lost their employment due to COVID-19 pandemic and related lockdown. Under the existing guidelines, claim for the unemployment benefit was required to be submitted through the employer. Shri Gangwar said that in a significant relaxation, the claim can now be submitted directly to the designated ESIC Branch Office. The enhanced benefit and relaxed conditions are applicable during the period 24th March 2020 to 31st December 2020. A notification to this intent has been issued.

The relief will be paid directly to the bank accounts of workers. Labour Minister, while lauding the efforts of ESIC said that at present, ESIC is providing benefits /services to about 3.49 Crore of family units of workers and providing matchless cash benefits and reasonable medical care to its 13.56 crore beneficiaries. Today, its infrastructure has increased many folds with 1520 Dispensaries (including mobile dispensaries)/307 ISM Units and 159 ESI Hospitals, 793 Branch/Pay Offices and 64 Regional & Sub-Regional Offices and implemented in 566 districts in 34 States/ UTs.



Salaried Workers Withdraw A Massive Rs. 39,400 Crore from EPFO During Lockdown, Govt. Tells Lok Sabha

Source: www.livemint.com

Salaried employees withdrew a massive Rs. 39,400 crores between 25 March and 31 August as Covid-19 impacted lives and livelihood of millions of workers, the union labour ministry informed the Lok Sabha. Of the total 10.4 million salaried workers who dipped into their retirement savings during the above time frame, at least 8.1 million are those who earn a salary of less than Rs. 15,000 per month each, reflective of the hardship the bottom of the pyramid faced during the Covid-19 lockdown, and the ensuing income and job loss. Giving a detailed break-up of the lockdown withdrawals, the labour ministry said that since the beginning of lockdown on 25 March, till the end of August, Rs. 39,403 crores have been withdrawn of which over 40% are from three industrial states of Maharashtra, Tamil Nadu and Karnataka.

While EPF subscribers in Maharashtra withdrew Rs. 7,837.85 crore, in Karnataka, this was Rs. 5,743.96 crore and in Tamil Nadu, including Puducherry, the amount of withdrawal was Rs. 4,984.51 crore. Delhi and Telangana are the other two states where the EPFO offices saw a good withdrawal by their subscribers amount to over Rs. 5500 crores. The withdrawal of over Rs. 39,400 crores are almost 30% of the EPFO's annual accruals and may have a long-term impact on the financial health of the retirement fund body. Though the labour ministry did not give any details about the withdrawal reasons, data from EPFO showed that at least a majority of the withdrawal numbers are related to Covid-19 advances. EPFO statement issued earlier this month has said that 55% of advance claims settled during April-August 2020 were related to the recently introduced Covid-19 advance, while around 31% of advances settled during the period pertained to illness claims. “With EPFO settling advance claims within 3 days, PF accumulations are now seen as liquid assets that can timely meet the need of the subscribers during the crisis. Consequently, members have shown greater trust in EPFO by not opting for final withdrawal or closure of account instead choosing to apply for PF advances to meet their financial needs," the EPFO had said earlier this month.

The loss of income and job loss has expedited the need for dipping into the EPFO money. According to the Centre for Monitoring Indian Economy salaried jobs were down from 86 million in FY20 to 65 million in August underling 21 million job losses the country faced due to the pandemic. In response to a separate question on the number of migrant deaths during the lockdown, the union labour ministry said there is no such data is available but added that the central government has issued comprehensive Advisory Guidelines on 27 July to all the states and union territories for the welfare of the migrant workers returning to the destination states in the backdrop of Covid-19.

Telangana to Implement Auto-Renewal of License Through Online System Under The Contract Labour (Regulation and Abolition) Act, 1970

Source: Gov. Notification

As part of Business Reform Action Plan-2019, the Govt. of Telangana has issued an order for implementation of the auto-renewal system for registrations/licenses under certain Labour laws, in addition to the reforms already implemented. The order implements automatic non discretionary deemed renewal of license through an online system, without the requirement of filing of an application for renewal, subject to payment of the fee prescribed by the Government from time to time, within the time prescribed, until further orders.

Karnataka HC Stays Govt. Order to Defer Payment of VDA Employees in MSME Sector

Source: The Hindu

In a relief to lakhs of employees working in various medium and small scale industries, the Karnataka High Court stayed the execution and operation of the July notification of the State government allowing industries to defer payment of Variable Dearness Allowance (VDA) for the period between April 1, 2020, to March 31, 2021. A Division Bench comprising Chief Justice Abhay Shreeniwas Oka and Justice Ashok S Kinagi passed the interim order while terming as "ex-facie illegal" the July 20 notification issued by the Government for deferring payment of VDA the 82 scheduled employments identified under the Minimum Wages Act, 1948 in Micro, Small and Medium Enterprises sector. The labour unions — The Karnataka Industrial and Other Establishments Employees' Federation, the All India Central Council of Trade Unions, the All India Trade Union Congress and the Centre of India Trade had questioned the legality of the July 20 notification. The government, based on the representations by the MSMEs seeking deferment of VDA payment citing COVID-19 financial crisis, had issued the July 20 notification after holding meetings with the industry representatives and the unions.

Himachal Assembly Passes 3 Bills to Amend Labour and Industrial Laws

Source: Indian Express

The Himachal Pradesh Legislative Assembly passed three amendment Bills related to labour and industrial laws in the state. The Bills will be replacing ordinances promulgated in July without any modification.

The Industrial Disputes Act, 1947, in its application to Himachal Pradesh, has been amended to include non-public utility services in the section dealing with the prohibition of strikes by employees and lockouts by employers. According to another amendment in the Act, the compensation paid to a worker at the time of retrenchment has been enhanced from 15 days' average pay to 60 days of average pay. A chapter of the Act dealing with special provisions relating to lay-off, retrenchment and closure in certain establishments has been amended so that the chapter's provisions will now apply to industrial establishments having not less than 200 workers on an average (it was 100 workers earlier).

Another bill passed by the House was The Contract Labour (Regulation and Abolition) Himachal Pradesh Amendment Bill, 2020. According to the amendment, the Contract Labour Act in its application to the state will now apply to every establishment in which thirty or more workers are employed as contract labour (instead of twenty or more workers before the amendment).

The Factories Act, 1948, in its application to Himachal has also been amended. In the definition of a factory, the existing threshold limits for the number of workers employed have been doubled from 'ten' and 'twenty' to 'twenty' and 'forty' respectively. The maximum number of overtime hours permitted per worker per quarter have been increased from 75 hours to 115 hours "subject to the condition that overtime shall have to be paid twice the rate of ordinary wages". Also, a new section has been introduced allowing compounding of offences punishable under the Act.

The amendments were opposed by members of the opposition Congress and the lone CPI(M) MLA, who argued that the amendments will lead to exploitation of employees, and will favour employers at the expense of their workers. Members of the ruling BJP, on the other hand, said the changes will increase ease of doing business, boost investment and provide more employment opportunities. The Congress and CPI(M) walked out of the Assembly over the issue.

Quick Updates

Extension of Period for Renewal of Registration by Workers Registered in Various Boards in Tamil Nadu

Source: Gov. Notification

The Tamil Nadu government has issued a notification to extend the renewal of registrations up to 31.12.2020 for those workers registered under various boards whose date of renewal falls between 01st March'20 to 31st Dec'20 as one-time relaxation. The cut-off date for submission of life certificate by pensioners has also been extended up to 31.12.2020.

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ESI New Instruction Towards Submitting Reimbursement Bills

Source: www.esic.in

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The ESI department has issued a circular to all Regional Administrative Medical Officers (RAMO)on complete instructions to be followed towards the submission of IP reimbursement bills. The IP's/ Patient to submit the bills along with all necessary enclosures within 3 months of discharge from the hospitals. After scrutiny, the concerned RAMO's to forward the bills to the Directorate within one month from the date of receiving these bills for the reimbursement process. The complete process is available on the website.

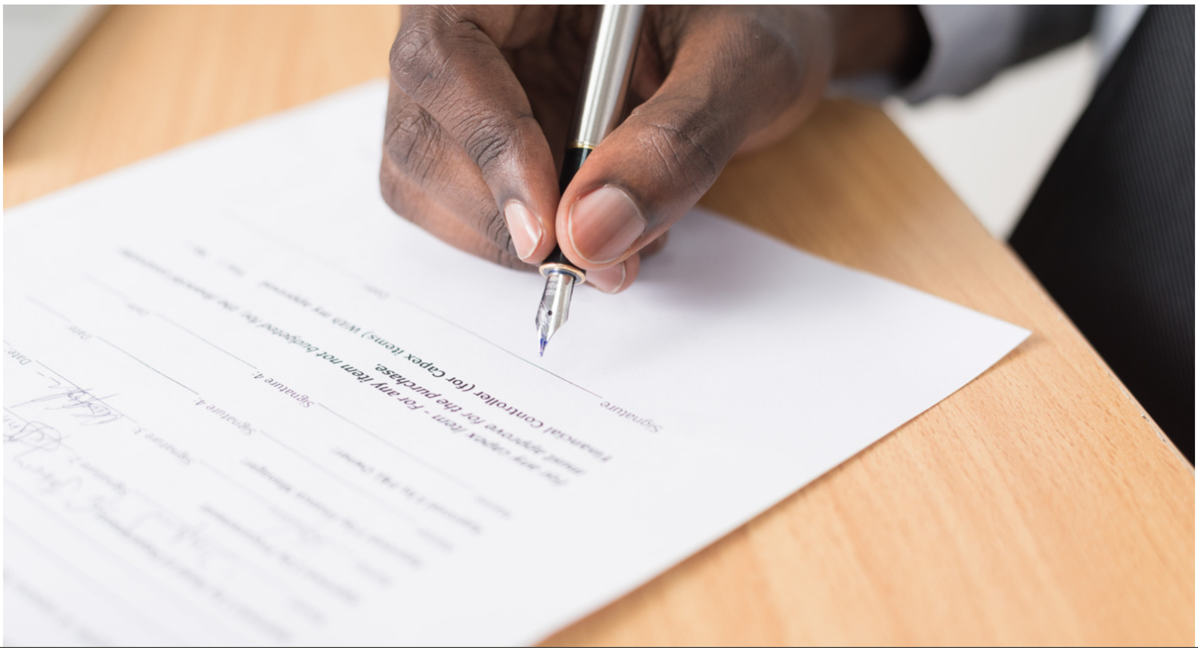
Auto-Renewal of Registration Certificates in Karnataka

Source: Gov. Notification

The Government of Karnataka has issued the Auto-renewal notification in a step to boost the ease of doing business in the state. The below services are brought under this reform by paying online fees:

- Registration under the Shops and Establishment Act
- Licence for Contractors under the provision of the Contract Labour (Regulations and Abolition) Act, 1970
- Registration of establishment under the Inter-State Migrant Workmen (RE&CS) Act, 1979
- The license under the Factories Act, 1948.

The portal is yet to open with the renewal process for this year. This is to help industries that are hard hit due to the COVID-19 pandemic. The amendment in various labour laws concerning online registrations, returns and remittance are mainly to ensure proper compliance from the establishments and the appropriate government will have real-time access to compliance status for each establishment. This will prompt many industries including IT/ITES sectors to ensure compliance in a strict manner and on a periodical basis.



Overview of Acts Being Subsumed by the Four Labour Codes

Labour Codes	Acts Being Subsumed
Code on Wages, 2019	▪ Payment of Wages Act, 1936 ▪ Minimum Wages Act, 1948 ▪ Payment of Bonus Act, 1965 ▪ Equal Remuneration Act, 1976
Occupational Safety, Health and Working Conditions Code, 2020	▪ Factories Act, 1948 ▪ Mines Act, 1952 ▪ Dock Workers (Safety, Health and Welfare) Act, 1986 ▪ Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 ▪ Plantations Labour Act, 1951 ▪ Contract Labour (Regulation and Abolition) Act, 1970 ▪ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 ▪ Working Journalist and other Newspaper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955 ▪ Working Journalist (Fixation of Rates of Wages) Act, 1958 ▪ Motor Transport Workers Act, 1961 ▪ Sales Promotion Employees (Condition of Service) Act, 1976 ▪ Beedi and Cigar Workers (Conditions of Employment) Act, 1966 ▪ Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
Industrial Relations Code, 2020	▪ Trade Unions Act, 1926 ▪ Industrial Employment (Standing Orders) Act, 1946 ▪ Industrial Disputes Act, 1947
Code on Social Security, 2020	▪ Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ▪ Employees' State Insurance Act, 1948 ▪ Employees' Compensation Act, 1923 ▪ Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 ▪ Maternity Benefit Act, 1961 ▪ Payment of Gratuity Act, 1972 ▪ Cine-workers Welfare Fund Act, 1981 ▪ Building and Other Construction Workers' Welfare Cess Act, 1996 ▪ Unorganised Workers Social Security Act, 2008

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

0124 - 2656800

enquiry@ucsdel.com

www.unitedconsultancy.com

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