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IN THIS ISSUE

New Labour Laws: How New Wage Code Will Affect Your Take Home Pay, PF, House Rent, Gratuity, Conveyance | EXPLAINED

Centre May Allow 4-Day Work Week

India Inc Projected to Give 7.7% Salary Hike In 2021: Aon Survey

HC Gives Job Back to Woman Sacked Over Maternity Leave

Employers Keen on Hiring Freshers Across Job Roles

UCS POV

SHAIJU MATHEW
Chief Operating Officer

The definition of 'Wages' under various labour laws vary and there is no uniformity in the Wage definition even after introduction of the Labour Codes. Although the government's intent was to introduce a uniform wage definition, the same has not been implemented in the recently introduced Codes. Probably establishments are in the process of restructuring the wages for the employees considering some of the additional clauses mentioned under the Code on Wages, 2019. However, there is no such change in the existing wage ceiling or wage definition prescribed under various Acts under these Codes.

The objective of some of the additional clause in the codes is to ensure that the employees who are at par with the minimum wages, contractual employment, fixed-term employees may get the maximum benefits under the social security net and may not be intended for those employees who are already receiving wages or social security benefits above the government prescribed limit. Companies should factor in the below points while making any change in the salary structure as it may not be easy to reverse the benefits which are already extended to the employees.

1. The wage ceiling defined under the Employees Provident Fund Act is Rs.15,000 per month and it remains unchanged even under the Code on Social Security. The PF contribution on wages above the maximum wage ceiling is only on mutual agreement between the Employer and Employee, hence there is no obligation on the Employer for any additional contribution for the employees who are already receiving the PF contribution on wages of Rs.15,000 or above even after any revision of Basic wages.
2. The Gratuity payment under the Payment of Gratuity Act shall be on the last drawn Basic wage and Dearness allowances which also remains unchanged under the Code on Social Security. However, the direction under the Code on Wages for limiting various allowances maximum up to fifty per cent may lead to an impact on companies who are keeping the basic wages less in comparison with all other allowances payable to an employee. However, the Central Government plans to reduce the burden on the employer by introducing the Gratuity calculation on existing Basic/DA wages till the date of implementation of Codes and on revised Basic wages from the date of implementation of Codes. The same may be incorporated in the Code on Social Security through a separate gazette notification.
3. The wages to be considered for determining the eligibility for an employee under the Payment of Bonus Act and Employee's State Insurance Scheme remains the same at Rs.21,000 per month.
4. The Central Government may soon publish the floor wages for various class of industries and employments and further, the State Government may revise the minimum wages in line with the Central Government floor wages notification. In such a case there may be an impact on those companies who are presently paying wages to the employees only limited to the Minimum wages. However, the impact can be assessed only based on the change in the wage revisions by the respective governments.

Given the above mentioned, it is advisable to make a change in the existing salary structure only after the government publishes the notification for the implementation of Codes as there is a possibility of including explanations for all such additional clauses incorporated in these Codes.

Shaiju Mathew
Chief Operating Officer



New Labour Laws: How New Wage Code Will Affect Your Take Home Pay, PF, House Rent, Gratuity, Conveyance | EXPLAINED

New labour laws are in the offing for employees. That is because new rules under the wage code are likely to be put into effect from April. This move will directly impact the employees pay. Once implemented, these codes will bring a host of changes in salary structure as under the new laws, all allowances of an employee, including leave travel, house rent, overtime and conveyance, have been capped at 50% of the CTC. As per media reports, the Ministry of Labour and Employment is likely to complete the process to finalise the rules for four new labour codes/laws soon which would be implemented from the coming fiscal year.

Though the new labour laws may reduce the take-home pay of employees, components like PF and Gratuity might rise. Also, interestingly, the government may change the existing time limit of overtime under the new Labour Law and working more than 15 minutes beyond the scheduled hours. Companies will have to pay their employees for this. That is, after the completion of working hours, if an employee works for even 15 more minutes, the company will have to pay for it. With the allowances capped at 50% of CTC, this could result in a lesser take-home salary for employees as companies may have to bear additional costs towards provident fund and gratuity.



As per a report by Hindustan Times, the new labour laws will prompt the companies to restructure the CTC as they cap several allowances including LTA, house rent, overtime and conveyance at 50% of the total CTC. The definition of the term 'wages' has been revised under the Code on Wages 2019 and it comprises three components now - basic pay, dearness allowance, and retention payment. Some other components have been excluded from 'wages' such as conveyance allowance, HRA, pension and PF contribution, over time, gratuity, and statutory bonus. If any of these exclusions, in aggregate, are over 50% of the CTC, barring special allowance, the extra amount will be added back to the wage. According to an official associated with the development cited by Zee News, the Ministry of Labour has consulted all stakeholders regarding the new labour laws and all the processes will be completed by the end of this month. After this, the process of implementing the rules will be started.

Source: www.msn.com

Centre May Allow 4-Day Work Week

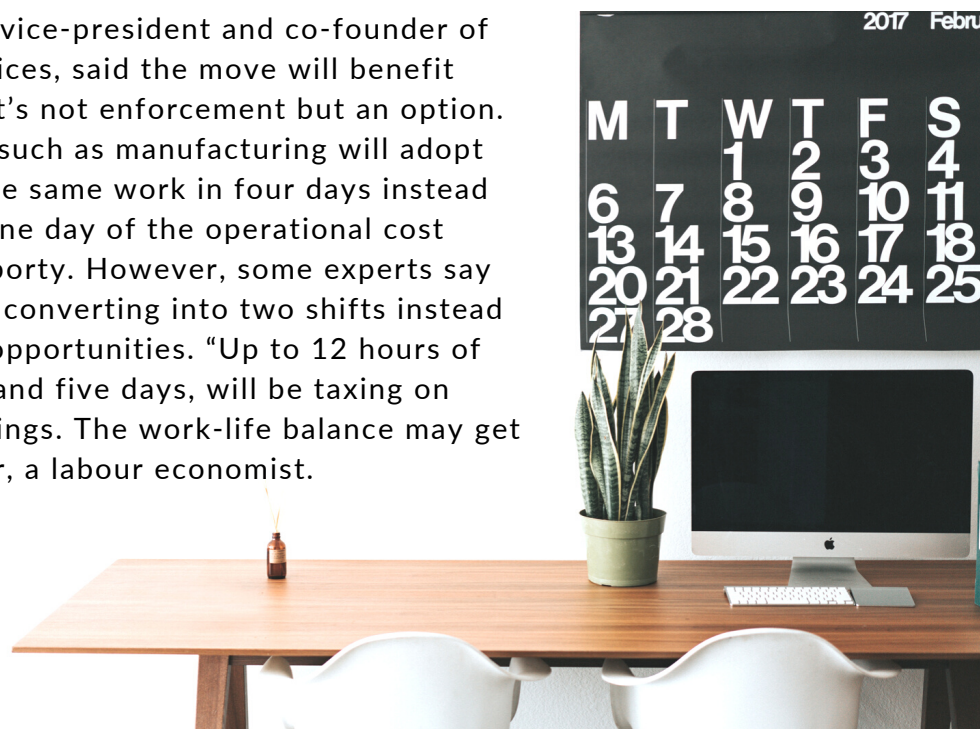
The Union government will soon offer companies the flexibility to choose a shorter four-day work week, albeit with longer shifts. The weekly 48-hour work limit will stay but employers will be able to deploy people on four, 12-hour workdays per week; or five, around 10-hour days; or six, eight-hour days, labour secretary Apurva Chandra told reporters. "We are not forcing employees or employers. It gives flexibility. It's an enabling provision in sync with the changing work culture," Chandra said. The provision will be part of the labour code, and once the new rules are implemented, employers will no longer be required to seek government permission to shift to a four- or a five-day working week if their employees approve the arrangement. Chandra said employers will have to ensure that if they choose a four-day workweek, there has to be a three-day break, and if it is a five-day week, two days of break before starting a new work week has to be implemented.

Once the new labour code is in place, experts said employers will have the freedom to choose to have 8 to 12 hours workdays, based on demand, industry and location. Many employees are likely to be thrilled with the possibility of spending extra time on leisure activities and recover effectively from their weekly pressures. Companies can also benefit from lower office rental costs and more energized and productive staff. "It will benefit sectors such as information technology and shared services. In the banking and financial services industry, 20-30% of people can use the long working hours template for four or five days and enjoy a longer break. Profiles like human resources and finance verticals can easily adopt such a practice faster," said Kamal Karanth, co-founder of human resource firm Xpheno.

"It shall also benefit a new generation of workers who value 'me time' and would prefer working long hours for fewer days to get an extra off. Besides, foreign firms will be the first to adopt it as this will reduce their real estate expenditure at one end and improve the productivity of workers on the other. The COVID-19 work culture has given companies proof of concept and its adoption won't be tough," said Karanth, a former managing director (India) of global staffing firm Kelly Services.

Rituparna Chakraborty, executive vice-president and co-founder of staffing company TeamLease Services, said the move will benefit both employees and employers. "It's not enforcement but an option. I believe labour-intensive sectors such as manufacturing will adopt them. Imagine a company doing the same work in four days instead of five and the benefit of saving one day of the operational cost that's a big positive," said Chakraborty. However, some experts say that this may lead to a day's work converting into two shifts instead of three and reduce employment opportunities. "Up to 12 hours of work plus commute time for four and five days, will be taxing on workers, especially in factory settings. The work-life balance may get impacted," said K.R. Shyam Sundar, a labour economist.

Source: www.livemint.com



India Inc Projected to Give 7.7% Salary Hike In 2021: Aon Survey

India Inc is projected to give an average salary hike of 7.7% in 2021, according to a survey by global professional services firm Aon. Eighty-eight% of the companies surveyed said they intend to hike the salaries of their employees, according to the survey that analysed data across 1,200 companies from more than 22 industries.

Despite a tough 2020 with stringent lockdowns, India continues to project the highest salary increases among the BRIC nations, Aon said in its 25th edition of the annual salary survey. E-commerce, IT, ITeS, FMCG and Life Sciences are among the sectors that are likely to see the highest projected salary increase. Meanwhile, hard-hit industries such as hospitality, restaurants, real estate and infrastructure and engineering services are that are projected to see the lowest salary increases. At the same time, implementation of the new Labour Codes could make companies review their compensation budgets in the second half of the year.

Nitin Sethi, Partner and CEO of Aon's performance and rewards business in India, commented, "We expect the increment dynamics for 2021 to play out over a longer period given the uncertainty and potential impact of forthcoming changes. The proposed definition of wages under the new Labour Codes could lead to additional compensation budgeting in the form of higher provisioning for benefit plans like Gratuity, Leave Encashment and Provident Fund." "It is also possible that some of the salary increments may not translate into higher cash-in-hand for employees if organisations choose to pay higher provident fund contributions on the new definition of wage," he added. Roopank Chaudhary, a partner in Aon's human capital business in India, added, "It's notable that the sectors that were adversely impacted by Covid-19, such as retail, hospitality and real estate, are projecting healthy increases in the range of 5-6%. Such numbers reflect their intent to stay relevant and to control attrition, which had increased for these industries last year."

Source: www.thehindubusinessline.com



New Labour Laws: Big News for Employees Regarding Overtime

The Ministry of Labour is preparing to implement the new Labour Law in the next financial year. The process is underway to finalize it. After the new laws are implemented, a round of improved rules will start in the country's labour market. Along with this, the government is also trying to clear the doubts that have arisen due to the new labour laws.

Overtime for working even 15 extra minutes: According to a report in the Hindustan Times, the government may change the existing time limit of overtime under the new Labour Law and working more than 15 minutes beyond the scheduled hours will be considered overtime. Companies will have to pay their employees for this. That is, after the completion of working hours, if an employee works for even 15 more minutes, the company will have to pay for it. Notably, this time limit is half an hour under the present rules.

Processes to completed by the end of this month: According to an official associated with the development cited by Zee News, the Ministry of Labour has consulted all stakeholders regarding the new labour laws and all the processes will be completed by the end of this month. After this, the process of implementing the rules will be started.

Rules about PF and ESI: In the new law, companies have to ensure that all employees get facilities like PF and ESI. No company can deny it saying that it has come through the contractor or third party. Apart from this, those working under contract or third party will get a full salary, it will be ensured by the employers.

Source: www.msn.com

ESI Beneficiaries Can Get Medical Services at Empanelled Hospitals

Beneficiaries of the ESI health insurance scheme can get medical care at nearby private hospitals empanelled with the Employees' State Insurance Corporation in case of non-availability of ESIC hospitals within 10 km of their residence, an official statement said. Keeping in view the sizeable increase in the number of Employees' State Insurance (ESI) beneficiaries after the expansion of the scheme in newer geographical areas, efforts are constantly being made to strengthen the ESI medical care infrastructure to provide better medical services in the vicinity of beneficiaries' residence, the labour ministry statement said.

To ease the hardship being faced by ESI beneficiaries in availing medical services in case of non-availability of ESIC's health care infrastructure - hospital, dispensary or Insurance Medical Practitioner (IMP) - within a radius of 10 km of their residences, such beneficiaries can now avail services from nearby ESIC empanelled hospitals (pan-India) without the need for any referral from an ESI dispensary or hospital, it said. To avail medical services in such areas, the ESI beneficiaries may visit the ESI empanelled hospital with an ESI e-pehchan card/health passbook along with Aadhaar/government-issued identity card and avail cashless medical consultation for OPD (outpatient department) services directly from the hospital. Such beneficiaries may seek reimbursement of purchased medicines prescribed during OPD consultation through nearest Dispensary cum Branch Office (DCBO) or Regional Office of ESIC where DCBO is not available, it added. In cases where investigation or admission for indoor treatment is required, the empanelled hospital will obtain permission from the ESI approving authority through an online system within 24 hours and provide cashless treatment to the beneficiary.

Source: *Economic Times*

Finance Minister Hints at Review of Tax Limit On EPF

Finance Minister Nirmala Sitharaman has said there is no intent to discourage higher income earners from saving with the Employees Provident Fund (EPF) and that she was open to reviewing the contribution limit of ₹2.5 lakh a year for tax-free interest, imposed in the recent Union Budget.

Reiterating that the EPF will continue to remain in its present form, the Minister said there was no plan to merge the EPF with the National Pension Scheme. "We want to continue with the EPF. We understand that there is a certain comfort with people, particularly middle-income earners when they are assured of a return," she said in an exclusive interview with Business Line. "We have taken a call not to discourage those earning more than ₹15,000 from being part of EPF," she added.

There can always be a discussion on the ₹2.5 lakh limit. I can go back and review it. But it is a matter of principle. We are only touching those who are putting far more than what an average Indian's earnings are per month," she added. The Finance Minister has proposed in the budget to tax interest earned on EPF contribution of more than ₹2,50,000 annually.

Source: www.thehindu.com (complete article available on the site)

From Govt Regulation to Self-Governance, Apprenticeship Act to Be Amended to Boost Ease of Doing Biz

The government will amend the Apprenticeship Act and integrate its provisions with the ease of doing business goal with a "shift from government regulation to self-governance" and build flexibility for employers and individuals to establish better shop-floor training and employment ecosystem. The amendment will also allow outsourcing of apprentice aggregation to third parties, including staffing companies, expand the definition of the establishment to include new sectors such as services and open up apprenticeship opportunities for students to improve their employability, skills and entrepreneurship secretary Praveen Kumar said.

The amendments will relieve the industry from the burden of paperwork for an apprenticeship, which can be taken care of by third parties, ministry officials said. There will be a "shift from government regulation to self-governance" and provisions will be made to "replace the penal provisions of fine on companies for failure to take apprentices with a fine by executive authorities".

The amendment will also enable firms to deploy apprentices in their operations abroad but the deployment of apprentices should not be construed as regularization of jobs. A bill to this effect will be tabled in the monsoon session of Parliament and once passed, it shall quadruple the current capacity of apprenticeship and help both employers and employees, Kumar said. "We believe such a move is necessary for the changing work environment," Kumar said. "The move, once implemented, will also help the amended Apprenticeship Act move in sync with labour reforms, the inbuilt safety measures, and the national education policy provisions related to multi-disciplinary education," said Atul Tiwari, additional secretary, ministry of skill development and entrepreneurship. The initiative, the ministry said, would lead to "enhancement in apprenticeship opportunities" and define establishment as a place of commerce "where any trade/commerce/industry activity is taking place including educational/ training institutions".

Source: www.livemint.com

HC Gives Job Back to Woman Sacked Over Maternity Leave

Coming to the rescue of a woman contract employee, whose services were terminated as she had sought maternity leave, which was not available for such employees, the Karnataka High Court has directed the State Government to reinstate her. “I chose motherhood; the State chose to terminate me”, was the plea of the petitioner BS Rajeshwari (35) from RPC Layout in the city.

“The pendulum of her fate swung from the buoyancy of hope to the fatigue of despair as she was terminated on the ground that she opted to become a mother and had sought maternity leave,” Justice M Nagaprasanna observed. Terming the act of the Directorate of Municipal Administration (DMA) as appalling and insensitive to the issue, Justice Nagaprasanna directed the government to reinstate Rajeshwari to the post that she held earlier with 50% back wages from the date of cancellation of appointment till the date of reinstatement, and cost of Rs 25,000 payable to her.

Quashing the order cancelling the contract, the court said that the state should pay costs to the petitioner and recover it from the officer who passed the order terminating her service, in accordance with the law. The Government Advocate vehemently argued before the court that the contract itself gave a right to terminate her services at any point in time. Then the court observed that the action of the DMA cannot be countenanced, as maternity or the Maternity Benefit (Amendment) Act, 2017 does not classify or qualify a mother to be a government servant, temporary employee, an employee on a contract basis or an employee on daily wages. Accordingly, in terms of this Act and the judgement of Apex Court, the petitioner was entitled to maternity leave for six months, the court added.

Sought leave on June 11, terminated on Aug 29, '19: Rajeshwari was appointed by the DMA as Project Information Officer/MIS Expert on a contract basis for a consolidated pay with effect from November 27, 2009. The contract was being renewed annually. She sought maternity leave through an application dated June 11, 2019. Within 15 days of receipt of the application, the DMA issued a notice directing her to report to duties forthwith. When she did not report back to duties, an order was passed on August 29, 2019, terminating her from the service on the ground that she had remained absent.

Source: www.newindianexpress.com



Employers Keen on Hiring Freshers Across Job Roles



The hiring of entry-level professionals is likely to witness a significant uptick going ahead as corporates are keen to hire freshers across job roles, according to a survey by TeamLease EdTech. According to TeamLease EdTech, formerly known as Schoolguru Eduserve, India Inc is keen on hiring fresh skilled talents and more than 15% of the corporates have expressed an intent to hire freshers. The 'Career Outlook Report Feb-Apr 21' report noted that business development, sales professionals, graphic designers, digital marketing associates, content writers and web developers are the leading job roles for freshers' recruitment. The Career Outlook Report provides insights into job roles, skills the market requires and the types of courses that prepare job seekers to effectively respond to market demand. The report analyses insights gathered from 815 employers, across 18 sectors and 14 cities in India.

"Despite the COVID-19 pandemic, hiring of freshers continues to be on a strong growth trajectory. For the period February-April 2021, freshers hiring intent has improved by 2.5 times from the lockdown period and as the economy opens up, it is expected to go up further," said TeamLease EdTech founder and CEO Shantanu Rooj and further said that "apart from the buoyancy, what stood out was the growing focus on specialised skills that employers expect from fresh job entrants". Out of the 90 job roles that corporates are looking at hiring freshers, over 65% are the ones that require specialised skills, Rooj added.

As per the findings, employers expect freshers to be equipped with domain skills like product and service advertising, data analytics, web and mobile app development, and spreadsheet skills. Additionally, according to the report, employers also expect freshers to possess soft skills like reasoning, analytical thinking, complex problem solving, active learning and critical reasoning. The courses that freshers can look at to improve their employability are automation, software development and graphic designing. "Most of the sought-out jobs profiles for freshers require additional learning, and freshers need to constantly invest in upskilling themselves and staying ahead of the curve. The need of the hour is not just honed domain skills but also soft and niche skills," said TeamLease EdTech co-founder and President Neeti Sharma.

Source: Economic Times

Labour Ministry Clarifies On Four Labour Codes' ILO Compliance

The labour ministry clarified that the International Labour Organisation has not commented on India's lack of compliance while finalising the four labour codes. "The ILO has not commented about India's lack of compliance with ILO Convention - 144 on tripartite consultations in implementing the four Labour Codes," labour minister Santosh Kumar Gangwar said in response to a question in the Rajya Sabha. According to the minister, India being a founding member of the International Labour Organisation (ILO) has a deep respect for its principles and objectives and has always upheld the basic tenets of tripartism.



"The government has done extensive consultations inviting all central trade-unions, employers' associations and state governments," the minister said. The minister further said that all the four labour codes, at the draft stage, were placed on the website of the ministry, for stakeholders consultations including the general public. "Further all the Codes were referred to the parliamentary standing committee on labour and the Committee has given its report which was taken into account before getting passed by the Parliament," he said. The four Codes include the Code on Wages, 2019, the Industrial Relations Code, 2020, the Occupational Safety, Health and Working Conditions Code, 2020 and the Code on Social Security, 2020. All the four Codes have been passed by the parliament and notified. However, the Rules for the Codes are yet to be notified following which the Codes will come into force.

Talking about the retrenchment of workers during the pandemic, minister Gangwar said the employment conditions including retrenchment of the workmen are dealt with by the appropriate government i.e. central and state governments in their respective jurisdictions. "The ministry of labour & employment had issued an advisory to the states/UTs and the employers' associations on March 20, 2020, asking them to extend their cooperation by not terminating their employees, particularly casual and contractual workers from the job or reduce their wages," the minister said. "For those establishments wherein the appropriate government is the central government, the matters pertaining to employment conditions including retrenchment is dealt by the central industrial relations machinery (CIRM) under this ministry," he added.

Source: *Economic Times*



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