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IN THIS ISSUE

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The COVID-19 pandemic has brought a new norm in 2020 due to which the private sector establishments had to implement the work from home options for certain class of employees. The Union Labour Ministry has incorporated the 'Work From Home' (WFH) option in establishments as part of its draft model standing order for the service sector. The Model Standing Order has incorporated the concept of 'Work from Home' and states that the employer may allow a worker to work from home for the period as may be determined by the employer and subject to conditions agreed between the employer and the worker. The respective Government has not framed any conditions for the 'work from home' arrangement for the employees and some of the states have directed the companies to give this option during the lockdown period. As per the draft of The Occupational Safety, Health and Working Conditions Code, 2020, the crèche provisions need to be extended even to the female employees who are working from home, and further guidelines regarding this is given in the draft.

Position under Labour Codes

Draft Model Standing Orders for Service Sector, 2020: This Code is applicable to the employer having more than 300 workers. This Draft model permits an employer to allow employees to work from home on the basis of condition agreed between both of them. However, even this order cannot be termed as having some enforcement capabilities as this does not define the WFH and the underlying regulations for it.

Code on Social Security 2020: This Act defines home-based work as the work which is carried out at the home of employees. However, this Code does not cover the definition of Work From Home. But through the set out legal principles and the definition of home-based work, certain provisions of WFH is attempted in this Code.

Many IT companies have already made the provision of WFH for certain class of employees even before the Covid-19 situation considering their nature of work. There is no change concerning the compliances that need to be followed under various Labour Laws even in the scenario where the employees are working from home or work remotely from a location where there is no office premise of the establishment. The provisions mentioned under the Labour Codes is also for companies to ensure that all benefits are extended to all employees who are also working from remote locations. Since there are no exemptions given under any of the Labour Laws for the employees who are working remotely, we suggest that employers ensure all their compliances are maintained as per the respective state requirements. A few are listed below:

1. Employees who are working from home or from remote locations need to be tagged under the establishment's nearest office location and such list of employees should be included in various compliances as applicable to other regular employees of the particular location. The headcount in the registrations, registers, remittances under the state-specific government contributions and all the periodical returns should be inclusive of these employees who are being tagged to the said office location.
2. It is advisable to record the working hours of the employees who work remotely as it is done for any regular employees working from the office to avoid any concerns regarding the claim of Overtime wages for additional hours of work. Considering the present situation, the appropriate government authorities may demand for such working hours as proof for the employees working from home or remotely. Few IT companies that have given the option for the employees to work from home have implemented a daily time-sheet or online time tracking process. The same may help companies to monitor hours of work, overtime claim and will also help in addressing any query if raised from the government authorities about any concerns on working hours for the employees.
3. The leaves, holidays, contribution under Professional Tax, Welfare schemes etc. for the employees who work remotely should be as per the base office location under which they are being tagged.

Given the above points, the employees who are working remotely should be provided with all the benefits which are being extended to employees working from office and the companies should not deprive them from any of the provisions/ benefits which is applicable as per the particular state where they are being tagged. The compliances are required to be followed for all such employees as there is no exclusion for them under the Labour Laws and the same may be the government intent considering the certain provisions that are included in the new labour codes. The government should clarify WFH as a well settled legal option. The new labour codes just seem as a beginning.

Labour Code: India Inc Wants Cap on Allowance Component of Wages to Be Hiked to 60%

Industry lobby group the Confederation of Indian Industry (CII) has asked the government to relax the cap on the allowance component of wages from the proposed 50% under the Labour Code, saying that it would financially hit companies. CII has also reached out to top industrial states seeking relaxation even from the state governments in the above provisions for establishments under their domain, the Economic Times mentioned in a report. The industry body wants that the cap be relaxed to 60% from 50% and gratuity norms, which mandate pay-outs to be calculated for the past years based on last drawn wages on the last working day, be deferred to offset the immediate financial impact at a time when the Covid-19 pandemic had dented revenues.

“The definition will lead to a sudden increase in the wages on a CTC basis. Given the industries are still trying to recover from the impact of Covid, the additional financial impact will only be going to add to their financial woes,” the business daily quoted CII as saying in its letter to labour minister Santosh Kumar Gangwar. As per the letter reviewed by the publication, the general industry-wide practice showed that wages typically remain in the range of 30-35% of the total remuneration while the balance comprises allowances, which are increasingly based on performance incentives, bonuses and other benefits, it said. According to CII estimates, if allowances were brought down to 50% of total CTC as per the Labour Code as against the current practice of 70% at present, companies will see a 67% escalation in gratuity pay out. Jump in final gratuity payment would be as much as 25% if the allowances component is capped at 60%. Worth mentioning here is that under the Code on Wages, the government has capped allowances at 50% of the total wages but has the flexibility to notify any other rate of allowances from time to time. “Our request is that the power is availed by the government to notify the capping at 60-65% and if needed, bring it down to 50% over a period of time,” CII suggested. The industry did not specify the duration over which the cap on allowances can be reduced to 50% of the wages.

In its meeting with the labour secretary last month, IT industry body NASSCOM also pressed for the prospective application of gratuity provisions to minimise the unintended financial impact on the industry. It has also asked the government to clarify the definition of wages with respect to the treatment of variable pay. The IT sector is known to keep performance bonus and other allowances as a large component in their compensation packages. The publication citing Deloitte India, which advises big corporates on the computation of salary structures, mentioned that the gratuity provisions for past service periods based on the new definition of wages would significantly impact companies. “There has to be a transition period for companies to realign to the new compliance requirements. Lack of clarity may lead to litigation,” the ET report quoted Saraswathi Kasturirangan, partner, Deloitte India as saying. Other experts concurred. “The new definition of wages will have a significant impact on gratuity payments,” Pooja Ramchandani, partner at law firm Shardul Amarchand Mangaldas said, adding that this would be an additional financial burden on organisations.

Source: www.timesnownews.com

Labour Law Implementation Might Get Delayed Further

The rapid surge in coronavirus cases may further delay the implementation of the Centre's ambitious labour reform proposals. This means businesses will have to wait longer for the freedom to retrench workers or close units without prior government permission. Of course, for workers too, minimum wages and timely payment ensured in the laws may not become a reality soon.

Amalgamating 29 central labour laws into four codes, the Centre wanted to bring in a sea change in the way business and industry functions today. While the code on wages was passed in August 2019, the Parliament approved three other codes on industrial relations, social security and occupational safety & health on September 23 last year. The Centre had earlier put on hold the original plan to roll out the codes from April 1, 2021, citing the lethargy displayed by several states. Though no fresh deadline was given, senior government officials hinted that by June rules may be implemented in the central sphere hoping that major industrialised states will come out with the rules to implement them in their arena. The codes have a concept of the appropriate government. The central government is the appropriate government for public sector undertakings, railways and ports. But for the vast majority of the industry, which practically covers all the private sector, the state government is the appropriate government. Until the states come out with their own rules, then there is no framework at all that will apply to those entities. However, as of now, not more than half a dozen states have framed draft rules and also, while some of them have drafted rules for all codes, others have drafted for only a couple of them.

On its part, the Centre is ready with the rules for implementation under all the four codes, codes on wages, industrial relations, social security and operational safety & health but while central rules are applicable for the central sphere such as ports and railways, the codes empower the states to make rules, modelling on central rules, for establishments under their jurisdiction. The delay in implementation of the codes might hit India's prospects of attracting fresh investments, at a time fixed asset creation in the economy needs to gather pace for the much-awaited economic rebound. The delay would also prolong the wait for increased labour flexibility by the existing establishments. Apart from various industry-friendly proposals, the new laws propose to bring all workers under the social security net.

Source: Financial Express

Govt. To Take A Call on Permanent WFH For SEZ ITs by Month-End

Employees of IT companies operating out of Special Economic Zones (SEZ) may soon be able to work from home permanently. The Ministry of Commerce and Industry is discussing the issue internally and a decision is likely by month-end, senior officials told ET. The $191 billion IT industry, led by lobby group NASSCOM, has been seeking permanent work from anywhere arrangement for units within the SEZ, from where nearly 60% of IT services are exported. The government had earlier eased regulations for the industry under the Other Service Provider (OSP) guidelines of the Department of Telecom (DoT). Units in the SEZs are, however, still battling with uncertainty on this front. The industry is seeking relaxations and clarity on the SEZ rules and related tax procedures so that it can implement a long-term blended work model with remote working as a key component, especially due to the second Covid-19 wave now on in the country. “The idea is that the IT units in SEZs should have flexible but stable work from home regime without many compliances. The talks for permanent work from home are in an advanced stage and a decision is likely by the end of this month,” an official in the know of the details said.

The commerce and industry ministry has already done away with the requirement of inspections in case of debonding of IT/ ITeS units in SEZs, under which they can opt for simple payment of duty without inspection, subject to the condition that they produce all relevant import and other documents of goods to establish their identity and to avoid the requirement of physical inspection of duty-free assets. This reduces their operational and administrative burden, another official said. “The SEZs have been directed to allow the units such relaxations so that employees can easily work from home,” the official added. NASSCOM and IT companies have held several consultations with the ministry in the past over this issue.

“We are hopeful that the commerce ministry will soon enable long term WFH in the SEZs. This is important as out of 358 total SEZs, over 60% are IT-BPM focussed. Permanent FH in SEZs will benefit the industry and also ensure that the SEZs continue to be relevant to the industry’s changing operating model,” said Ashish Aggarwal, head of public policy at NASSCOM. The long term WFH relaxation is expected to come with some riders, but the industry expects the conditions to be reasonable. “It is important that this upcoming reform should not disrupt the current situation where 100% WFH is being allowed due to the pandemic,” Aggarwal added. While Rule 43 of the SEZ Rules allows companies to enable employees to work from home based on their requirements, the industry is seeking clarity on whether WFH can be enabled on a permanent or long-term basis.

The industry is also seeking clarity on whether services rendered by SEZ employees while WFH will be treated on par with such services rendered from SEZs and be eligible for exemption under the Income Tax Act, 1961. This will address issues of unwarranted tax litigation and uncertainty over the eligibility to claim benefits under Section10AA of the Income Tax Act. Aggarwal said multinational companies that either offshore to India or set up their centres are increasingly looking at the blended work models as a clear differentiator as this enables both cost competitiveness, a more inclusive workforce and employee wellness. “Indian companies, too, are looking to boost productivity by adopting a blended work model across the country. This reform will get a boost from a permanent WFH enablement in the SEZs,” he said.

Many IT companies, including Tata Consultancy Services (TCS)and HCL Technologies, have already said that they would transition a significant part of their employees to work from anywhere once the pandemic is contained. HCL has also started increasing local hiring in smaller cities. The government had set up an inter-ministerial task force to look into the issue of enabling changes in labour and taxation that would help the industry transition to permanent work from anywhere. While easing the regulations for the industry under the OSP guidelines, the government had also done away with the registration requirement for OSPs and the BPO industry engaged in data-related work was taken out of the ambit of OSP regulations. Other requirements, such as deposit of bank guarantees, frequent reporting obligations, penal provisions, were also removed last year.

Source: Economic Times

ESIC Presses Almost 50 Hospitals into Covid Services

As India's healthcare infrastructure cracks under the renewed surge of the pandemic, the Employee State Insurance Corporation (ESIC) of the labour ministry has pressed almost 50 hospitals into covid services and may push more resources for fighting the health emergency in collaboration with states. Of these hospitals, at least 21 are directly run by ESIC, and the rest by states with support from the corporation. Authorities said so far, its hospitals have pressed at least 6,000 beds for the purpose.

“The country is dealing with a very challenging situation due to COVID-19 Pandemic resurgence. To deal with the crisis, ESIC has undertaken multiple steps to cater to its stakeholders and the general public at large," it said in an e-mail. Regional offices of ESIC have been deploying resources on-demand from states. For example, in Haryana, ESIC has seven hospitals of which three are directly under the corporation and four are run along with states. As of now five hospitals, of the seven, including one each in Gurgaon and Faridabad and three of state ESIC hospitals are treating covid patients. Similarly, in Gujarat, of the 11 ESI hospitals, six are treating covid patients. “Over 300 doctors and almost 750 beds of these hospitals in Haryana are being used for covid-19 patients, and we are almost full. The cases are surging all over India and there is growing demand from the public. As doctors and officials, we are trying our best," said Anil Kumar Gupta, state medical officer of ESIC Haryana. Gupta said the ESIC ecosystem is putting its might to deal with the health crisis.

ESI hospitals in Nashik, Aurangabad (both Maharashtra) and Prayagraj (Uttar Pradesh) with 100 beds each are now working as covid hospitals. Similarly, the ESIC medical college in Faridabad with over 500 beds, large hospitals in Gulbarga (Karnataka), Jaipur and Noida are treating covid cases. The corporation runs at least 49 hospitals directly, of the 159 ESI hospitals across India. The others are run in collaboration with states. Besides, there are 1,520 ESI dispensaries across India. These hospitals and dispensaries offer health facilities to industrial workers who are its subscribers from primary to tertiary care. India has been battling a ferocious surge in covid cases which has overwhelmed its healthcare system, with medicines, hospital beds, and medical oxygen running out. Prime Minister Narendra Modi has asked states to cooperate and ensure smooth and speedy movement of oxygen.

While ESIC has diverted a good portion of its resources to fight covid, it is also arranging its subscribers. Instruction has been issued to each ESIC hospital to function with a minimum of 20% of bed capacity as dedicated covid beds for ESI insured persons, beneficiaries, staff and pensioners. “Alternate provisions have been made for providing medical services from tie-up hospital, if an ESIC Hospital is declared as a dedicated Covid-19 Hospital to cater exclusively to Corona suspected/confirmed cases. In such cases, ESI beneficiaries can be referred to tie-up hospitals for providing prescribed secondary/SST consultation/admission/investigation, during the period for which concerned ESIC Hospital functions as dedicated Covid-19 Hospital," the ESIC head office in Delhi said in an email.

Source: www.livemint.com

Rejuvenation Of 20 Control Rooms Set Up to Address Grievances of Workers

In view of the resurgence of COVID-19 and subsequent imposition of certain restrictions by state governments, the Ministry of Labour and Employment has rejuvenated the 20 control rooms set up in April 2020 to mitigate the problems of migrant workers through coordination with various state governments" under the Office of Chief Labour Commissioner (Central) across the country. Lakhs of workers used this facility last year and got their grievances resolved.

The aggrieved workers can access these control rooms through email, mobile and WhatsApp. These control rooms are being managed by Labour Enforcement Officers, Assistant Labour Commissioners, Regional Labour Commissioners, and Deputy Chief Labour Commissioners of the respective regions. The functioning of all 20 call centres is being monitored and supervised by the Chief Labour Commissioner (C) at headquarters on daily basis and the same also reviewed with concerned regions during the state visit by CLC(C) & other senior officers personally.

All the concerned officers/officials have been advised to adopt a humane approach to "assist the aggrieved workmen to the maximum possible extent and ensure delivery of timely relief to the needy ones." The Chief Labour Commissioner (C) of the country also said that though pandemic challenges are huge because workers are affected in various ways but also assured that with a team of dedicated officers, they will try to mitigate problems of workers as much as possible. The control room wise details of officers/officials, WORKERS HELPLINE numbers and email ids and details of officials are available in the given link https://pib.gov.in/PressReleseDetailm.aspx?PRID=1712849

Source: Press Information Bureau

Want to Check Your PF Balance Without UAN? Follow These Steps

Provident Fund (PF) is the retirement fund for a lot of people and is an important investment option as it comes with an assured fixed return. People usually want to know how much they have accumulated in their Employees' Provident Fund account. Every employee of a company has a Universal Account Number or UAN as it is popularly called. Employees' Provident Fund Organisation (EPFO) allows its members to check their Employees' Provident Fund (EPF) balance using Universal Account Number (UAN). This is a 12-digit number allocated to the employee by the Company with an active PF (Provident Fund) account. However, with the Umang app and EPFO portal, it's now easier to check EPF balance check online. You can even use the EPFO SMS service to know your balance.

Here is a way to check EPF account balance without a UAN number:

1. Users need to log in at the EPF home page of epfindia.gov.in
2. After login, users need to click on the EPF balance section- 'Click Here to Know your EPF Balance'
3. After you click on the log-in page, you will be automatically redirected to epfoservices.in/epfo/. Go to "Member Balance Information".
4. Select your state and click on your EPFO office link.
5. Enter your PF Account Number, name, and registered mobile number. Then click on 'Submit' and your PF balance will be displayed on the screen.

NOTE: PF account holders can check their EPF balance without a UAN number by logging in at passbook.epfindia.gov.in. Members can check PF balance only 6 hours after activating UAN.

PF balance check with UAN number

Members registered on the UAN portal can get their PF details by sending an SMS from their registered mobile numbers to SMS ‘EPFOHO UAN’ to 7738299899 or by giving a missed call at 011-22901406 from their mobile number registered with UAN.

Oftentimes, an employee doesn’t know their UAN.
Follow these steps to generate a UAN
Step 1- Go to the official portal of UAN at unifiedportal-mem.epfindia.gov.in/memberinterface/
Step 2- Click on the ‘Know your UAN’ section. A new page will appear.
Step 3- From the dropdown menu, select your state and EPFO office. Now enter your PF number/ member ID and other details like name, date of birth, mobile number and captcha code. (Your PF number/member ID will be mentioned in your salary slips.)
Step 4- Now click on the ‘Get Authorization Pin’ option. You will receive a PIN on your mobile number.
Step 5- Enter this PIN and select the ‘Validate OTP and get UAN’ option.
Step 6- Your UAN will be sent to your mobile number.
It is important to note that for you to generate UAN, your organisation should be registered with the Employees’ Provident Fund Organisation (EPFO).

Source: www.msn.com

Karnataka Govt. Requests Not to Cut Wages or Terminate Employees

The Karnataka State Government has issued an appeal in view of the public interest dated 28th Apr 2021. In exercise of the powers vested under the Disaster Management Act, Employers cannot either terminate the employees or reduce the wages of the employees. This appeal is applicable for the curfew period till 12th May 2021 for all on roll employees and contract employees.

Source: Gov. Notification

Uttar Pradesh Issues Order to Grant Paid Holidays for COVID Positive Employees

The Uttar Pradesh Govt. has issued an order dated 26th Apr 2021 to grant 28 days of paid holiday for those employees who have been tested positive for Covid. Such leave shall be permissible only when the workman or employees provide/submit a medical certificate in this regard to their employer or authorised person at the time of joining duties after fitness.

Source: Gov. Notification

ESI Medical Care and Relief Measures During Covid19

The Labour Ministry has issued a press note stating that Employees' State Insurance Corporation has reached out to its beneficiaries to provide medical care and relief during COVID 19 pandemic. The Insured Persons or their family members in case of being infected with COVID-19 can avail free of cost medical care in any of the ESIC Hospitals which have been declared as COVID-19 dedicated hospital. ESIC hospitals will function with a minimum of 20 % of their bed capacity as dedicated COVID beds for ESI insured persons, beneficiaries, staff and pensioners. ESI Beneficiaries may also seek Emergency and non-Emergency medical treatment from tie-up hospitals directly without a referral letter, per entitlement.

Cash Benefits:

- In case the Insured Person abstains from his work being infected with COVID-19, he can claim Sickness benefit for his period of abstention as per his entitlement. Sickness benefit is paid @ 70% of average daily wages for 91 days.
- In case any Insured person becomes unemployed, he/ she may avail relief under Atal Beemit Vyakti Kalyan Yojana (ABVKY) under @ 50% of average per day earning for a maximum of 90 days. For availing this relief, the Insured Person can submit his claim online at www.esic.in.
- In case, any Insured Person becomes unemployed due to retrenchment or closure of factory/establishment as per ID Act, 1947, he/ she may claim unemployment allowance for 02 years subject to qualifying conditions under RGSKY.
- In the event of the unfortunate demise of any Insured Person, funeral expenses of Rs.15000/- are paid to the eldest surviving member of his family.

Source: Press Note

Max Sum Assured Under EDLI Scheme Hiked to Rs 7 Lakh

The labour ministry notified the new Employees' Deposit Linked Insurance Scheme, 2021 under which it has been decided to hike the maximum sum assured from the existing Rs 6 lakh to Rs 7 lakh, and for minimum sum assured to continue at Rs 2.5 lakh to member beneficiaries. The decision to this effect was taken in September 2020 during a meeting of the Central Board of Trustees (CBT) of the retirement fund body, where it was also decided to continue payment of minimum sum assured of Rs 2.5 lakh under the scheme beyond February 14, 2020. With the issuance of the gazette notification on 29th April, a senior labour ministry official said the hike in the maximum sum assured will be enforced immediately, while the provision of a minimum sum assured of Rs 2.5 lakh will be applicable retrospectively from February 15, 2020.

The ministry of labour and employment had on February 15, 2018, through a notification increased the minimum assurance benefit ceiling to Rs 2.5 lakh under the EDLI scheme for a period of two years, which had expired on February 15, 2020. To continue the benefits, the CBT had in September 2020 accorded approval to the amendment of portions of the Employees' Deposit Linked Insurance Scheme (EDLI), 1976 to enhance the maximum assurance benefit to Rs 7 lakh from Rs 6 lakh. This amendment was aimed at providing additional assistance to families and dependents of members of the scheme in the event of their death while in service. In the meeting of the CBT in March 2020, EPFO trustees had recommended an extension of the provision of minimum assurance benefit of Rs. 2.5 lakh to family members of deceased employees who died while in service.

Source: Times of India

UCS CompliTool

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