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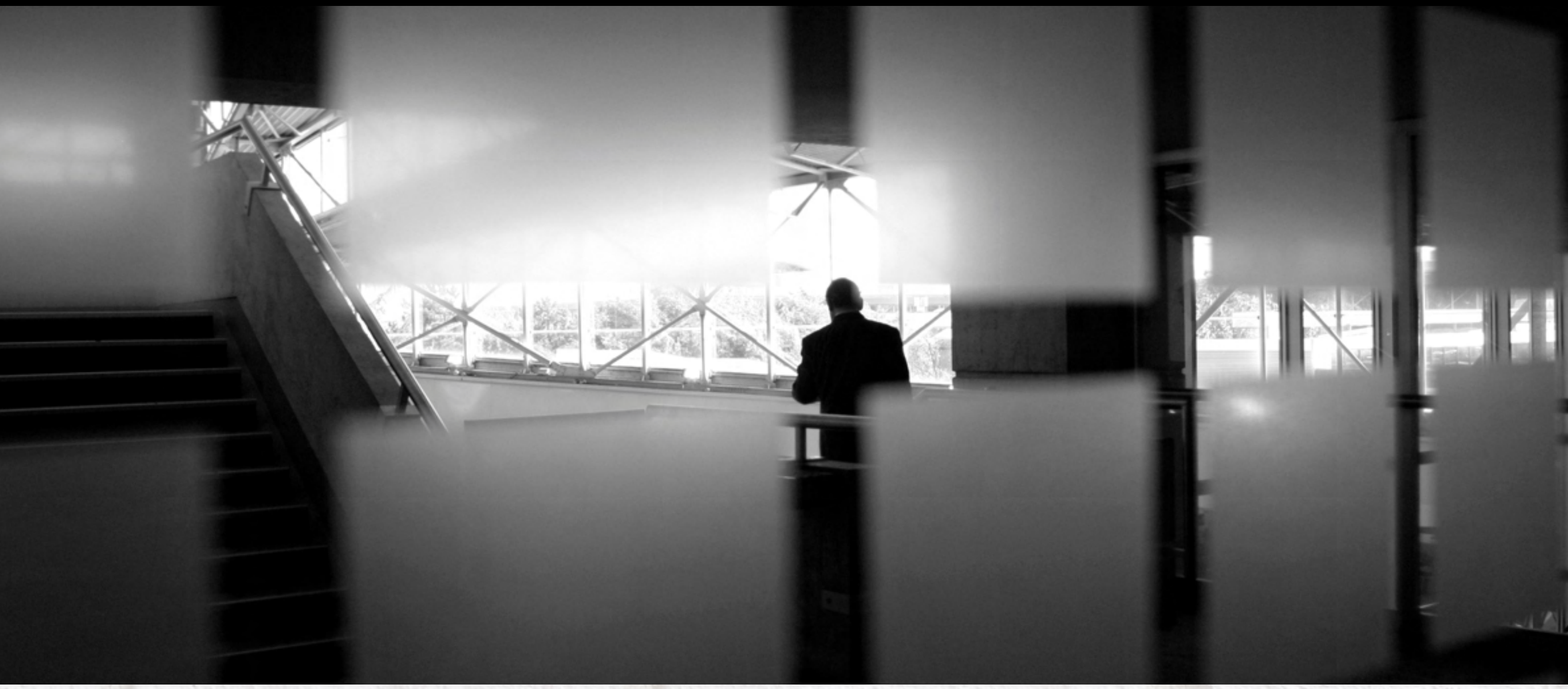

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UCS POV | Shaiju Mathew, Chief Operating Officer

Annual Leave Compliance

An annual leave is the legal right of every employee. Employers must make provisions for it apart from other leaves like CL, SL, weekly offs, national holidays, festival holidays etc. The Shops and Establishment Act (S&E Act) and the Factory Act 1948, states that every employee who has worked 240 days in a factory or establishment in a calendar year has the right for an annual leave with wages (earned leave) for the number of days as prescribed by each state. As per the S&E Act, the annual leave (earned leave) eligibility and the number of leaves varies state-wise, and there is no uniformity in the number of annual leaves applicable for each state.

An employee who has completed 240 days of service shall be eligible for annual leave (earned leave) in the subsequent year as prescribed by the respective state. In the state of Punjab and Haryana, the annual leave is applicable as per the days of employment in the same calendar year.

For an employee who applied for annual leave and was not granted the same by the company, such accumulated earned leaves should be carried forward to the succeeding year and such carry forwarded leaves should not exceed the maximum accumulation limit as prescribed by each state.

However, the S&E Act in some states mentions, "if an employee has not availed the whole leaves allowed to him/her for the year, it shall be carried forward to the succeeding year" and there is no such condition that mentions these carry forwarded leaves are only in case of leaves applied and refused by the employer.

As per the Andhra Pradesh and Telangana S&E Act, 50% of total annual leaves allowed to the employees can be carried forward to the succeeding year and the rest to be encashed at the end of the year. Therefore, the intent of the said provision of the Act for all locations is to ensure that the employees may be able to get the full benefit of such annual leaves either by availing it during the year, carried forward to the succeeding year, or the same to be encashed at the end of the year.

As per the S&E Act for all the states, the annual leaves which are due to an employee at the time of separation should be encashed at the rate of his/her last drawn wages (i.e., gross wages). However, in Maharashtra, the leaves which are exceeding the accumulation limit should be encashed and for Andhra Pradesh and Telangana at least 50% of the total leaves should be encashed at the end of every year.

Companies who have presence in multiple states face challenges in framing a uniform leave policy for their employees working across the locations considering the variance in provisions of annual leaves prescribed by various state governments.

> *Companies can encourage the employees to plan & avail themselves of the maximum number of earned leaves during the year & the encashment load at the end of the year may be reduced*

Given the above points, the company can encourage the employees to plan and avail themselves of the maximum number of earned leaves during the year and the encashment load at the end of the year may be reduced.

This may help, to some extent, ensure employees get the leave benefit on a yearly basis rather than carrying forward to the succeeding year for mere monetary benefit. It may also reduce the burden on the employer for the encashment of the entire unavailed leaves at the time of separation on the last drawn wages.

Establishments having multiple locations can frame a uniform leave policy by meeting the number of leaves prescribed by the respective states. However, it will be beneficial for the company to have a de-centralized leave policy. The possibility of adopting the central leave policy by states is low as the Shop Act governance is entrusted with the respective state governments.

Draft Rules Relating To Employee's Compensation Under The Code On Social Security, 2020 Notified

The Ministry of Labour and Employment, Government of India has notified the draft rules relating to Employee's Compensation under the Code on Social Security, 2020 on 03.06.2021 for inviting objections and suggestions, if any, from the stakeholders. Such objections and suggestions are required to be submitted within 45 days from the date of notification of the draft rules.

Chapter VII (Employee's Compensation) of the Social Security Code, 2020 envisages, inter-alia, provisions relating to employer's liability for compensation in case of fatal accidents, serious bodily injuries or occupational diseases.

> *The Code on Social Security, 2020 amends & consolidates the laws relating to social security to extend social security to employees & workers in the organised as well as unorganised sectors*

The draft Employee's Compensation rules notified by the Central Government provide for the provisions relating to the manner of application for claim or settlement, rate of interest for delayed payment of compensation, venue of proceedings and transfer of matters, notice and manner of transmitting money from one competent authority to another and arrangements with other countries for the transfer of money paid as compensation.

The draft rules under the Code on Social Security, 2020 relating to Employees' Provident Fund, Employees' State Insurance Corporation, Gratuity, Maternity Benefit, Social Security and Cess in respect of Building and Other Constructions Workers, Social Security for Unorganised Workers, Gig Workers and Platform Workers and Employment Information were notified on 13.11.2020.

The draft of the Code on Social Security (Employee's Compensation) (Central) Rules, 2021 (Hindi and English) can be accessed at https://labour.gov.in/whatsnew/draft-social-security-employees-compensationcentral-rules-2021-framed-inviting-objections

Source: Press Information Bureau

Labour Codes Will Miss July Date as States Aren't Ready, Govt Target Now 1 Oct

The implementation of the Narendra Modi government's four labour codes is being delayed due to the tardiness on the part of the states to finalise rules that are in their sphere, said Santosh Kumar Gangwar, Minister of State (Independent Charge) for Labour and Employment. Labour is part of the concurrent list and both states and the Centre have to notify the rules under their respective jurisdiction. Without the notification of rules, the codes cannot become operational.

In an interview with The Print, Gangwar said: "It's true we wanted to start it (notifying rules) earlier but many states are yet to finalise their rules. They are slowly working towards it". He added: "We wanted to notify the rules from 1 July but I think we will have to give some more time to the states. I am hopeful states will be able to finish their part by September and we will be able to notify the rules from 1 October."

While the Parliament had passed the code on wages in August 2019, the other three on industrial relations, occupational safety, health and working conditions, and social security were passed in September 2020. The move simplified the archaic labour laws by consolidating the over 100 state and 40 central laws into four codes. The labour ministry, which has finalised the rules under the central jurisdiction, had planned to notify the rules from 1 April but could not as states were not ready.

Gangwar said that as labour is on the concurrent list, anything that has to be done must have the consensus of the states as well. "We are pursuing with states to conclude all exercises required for notification of rules. We want to avoid a legal vacuum where the Centre notifies the rules under its sphere but the states are yet to finalise their rules," the minister said. He added that they have had several rounds of discussions with states and all other stakeholders.

> *States, be it from our party or the opposition are giving positive views. But the process to finalise the rules takes time. The recent assembly elections in some of the states followed by the Covid pandemic delayed the process*

4 states, 1 UT have published draft rules under all labour codes: So far, only Madhya Pradesh, Bihar, Uttar Pradesh, Uttarakhand and the Union Territory of Jammu and Kashmir have published the draft rules under all the four codes, according to the labour ministry officials.

"Some states like Punjab have published draft rules under all three codes except the occupational safety, health and working conditions. Gujarat and Odisha have published draft rules under the wages code while Karnataka has published draft rules under industrial relations code," said a ministry official, who did not wish to be named.

Labour Codes Will Miss July Date as States Aren't Ready, Govt Target Now 1 Oct

States like Haryana, Meghalaya, Chhattisgarh, Goa, Sikkim, Tripura and Jharkhand are in the last stages of finalising their draft rules, the official added. It will take another month or two before Tamil Nadu, Kerala and Assam, which recently concluded their assembly elections, finalise their rules. After the draft rules are published, states have to give time between 30 and 45 days to invite comments and suggestions from all stakeholders. The rules can be finalised and notified only after relevant comments and suggestions are incorporated.

Labour reforms are 'historic: Calling the labour reforms "historic", Gangwar said the process to reform these laws started after Independence. "It has been going on. It got momentum when Atal Bihari Vajpayee was the prime minister. A labour commission was set up. It had recommended that labour laws should be amalgamated into four or five codes," he said. "But it was only in 2014, after our government came again under the leadership of PM Narendra Modi, we restarted the process and finally got it approved by the Parliament," added Gangwar.

The labour minister said it's for the first time that this government thought of the welfare of unorganised sector workers. "So far, most of the policies and schemes catered to the organised sector workers only, whose number ranged from 9 to 10 crore. And there are approximately 40 crore unorganised sector workers. Nobody thought about them. But now we are trying to bring them under the ambit of labour codes so that they get the maximum benefit," he said.
For the first time, Gangwar said, the labour code will universalise social security coverage for unorganised sector workers including migrant workers, gig and platform workers working in app-based companies like Zomato and Uber.

Talking about the impact of the labour reforms, the minister said it will give a big impetus to economic activity without compromising the welfare of workers. "It will streamline all the processes.

> *The idea is to make it user-friendly, simple & at the same time effective*

Earlier, employers had to file some 31 returns, now it has come down to just one. Earlier, there were 12 definitions of wages, now we have just one definition. Similarly, we have just one definition of establishment from earlier 10 definitions," the minister added.

Aggressively readying the national database for unorganised workers: Asked about the status of the national database for unorganised workers, Gangwar said his ministry is aggressively working towards it. The labour ministry informed the Supreme Court that it will require another three-four months to make the national database operational.

The database, being set up at Rs 704 crore, will have details of different social sector and welfare schemes run by the central and state governments targeting the unorganised sector workers. Besides, the workers will also be able to avail the benefits of these schemes by registering and applying through this portal.

Source: www.theprint.in

5 EPF Updates That EPFO Subscribers Should Know

The Employees Provident Fund Organisation (EPFO) has made various announcements in recent times to make EPF withdrawal possible from one's Provident Fund (PF) balance. These recent EPFO updates include a second Covid-19 advance to a non-refundable advance from the EPF account. These updates regarding PF withdrawal can be an avenue for a fund raiser, in case, the EPF account holder comes across any kind of financial crisis.

Here are the 5 EPF updates that EPFO member should know:

1] Second Covid advance: The EPFO has announced that an EPF account holder who has availed of Covid advance in the first wave is now eligible for a second Covid advance from one's PF account. In this EPFO relief, an EPF account holder can withdraw up to 75% of the EPF balance or 3-months basic wages plus Dearness Allowance (DA).

2] Non-refundable advance: An EPFO member, who is not in the job for one month or more, can withdraw up to 75% of their PF balance. This facility has been given to the EPF account holder without closing their PF account enabling the EPFO member to continue pension benefit under EPFO pension rules.

3] Covid advance after leaving a job: An EPFO member is now eligible for Covid advance from one's EPF account even after leaving his or her job provided full and final PF withdrawal hasn't been claimed.

4] Rise in insurance benefit under EDLI scheme: The EPFO has raised the maximum insurance benefit under the EDLI scheme from ₹6 lakh to ₹7 lakh. Now, if an EPF account holder dies during the services, then its nominee or legal heir (whichever applicable) will be eligible for insurance benefit up to ₹7 lakh. However, the minimum threshold has been left unchanged at ₹2.5 lakh

5] EPF Aadhaar seeding: The EPFO has made it mandatory for the EPF and PF account holders to link their respective EPF account with the Aadhaar card. In the case of non-linking of the Aadhaar-EPF account, employers won't be able to contribute to such EPF accounts as EPFO won't allow employers to file ECR (Electronic Challan-cum Return) for such EPF accounts. Earlier the deadline for the Aadhaar EPF link was 31st May 2021, which has been now extended to 1st September 2021.

Source: www.livemint.com

ESIC to Cover Casual, Contractual Employees of Municipal Bodies

The Centre has decided to bring all casual and contractual workers working in municipal bodies under the social security schemes run by the Employees' State Insurance Corporation (ESIC). "The ESI Corporation has been directed to take up the matter with the states/ UTs, being the appropriate government(s) under the ESI Act, for the issue of notification for coverage of casual and contractual workers in the municipal corporation(s)/ council(s) in their respective jurisdictions," an official statement quoting labour minister Santosh Kumar Gangwar said.

The statement said that for the National Capital Region of Delhi, the Central Government being the appropriate government under the ESI Act, the labour ministry has already issued such 'intention' notification on June 7.

Gangwar said that ESI coverage of casual and contractual employees working with municipal bodies shall go a long way in providing social security cover to a very vulnerable segment of the workforce. This shall contribute to the social upliftment of this segment of the workforce and their families.

Once notifications on this are issued by states, the casual and contractual workers working with municipal bodies will be able to avail the full gamut of benefits available under the ESI Act such as sickness benefit, maternity benefit, disablement benefit, dependent's benefit, funeral expenses etc. These workers will be eligible to avail of medical services through ESI's 160 hospitals and over 1,500 dispensaries spread over the country.

The ESI scheme is currently applicable to non-seasonal, manufacturing establishments employing 10 or more workers. For health and medical institutions, the threshold limit is 20 or more workers.

In the contributory scheme, an employer needs to pay 3.25% of the monthly wages paid to an employee while the employee requires to pay 0.75% of the wages. Under the social security code, passed in Parliament last year, the government has proposed to bring gig and platform workers under ESI. Option for becoming a member of ESIC has also been given to establishments with less than 10 workers under the social security code.

Source: Financial Express

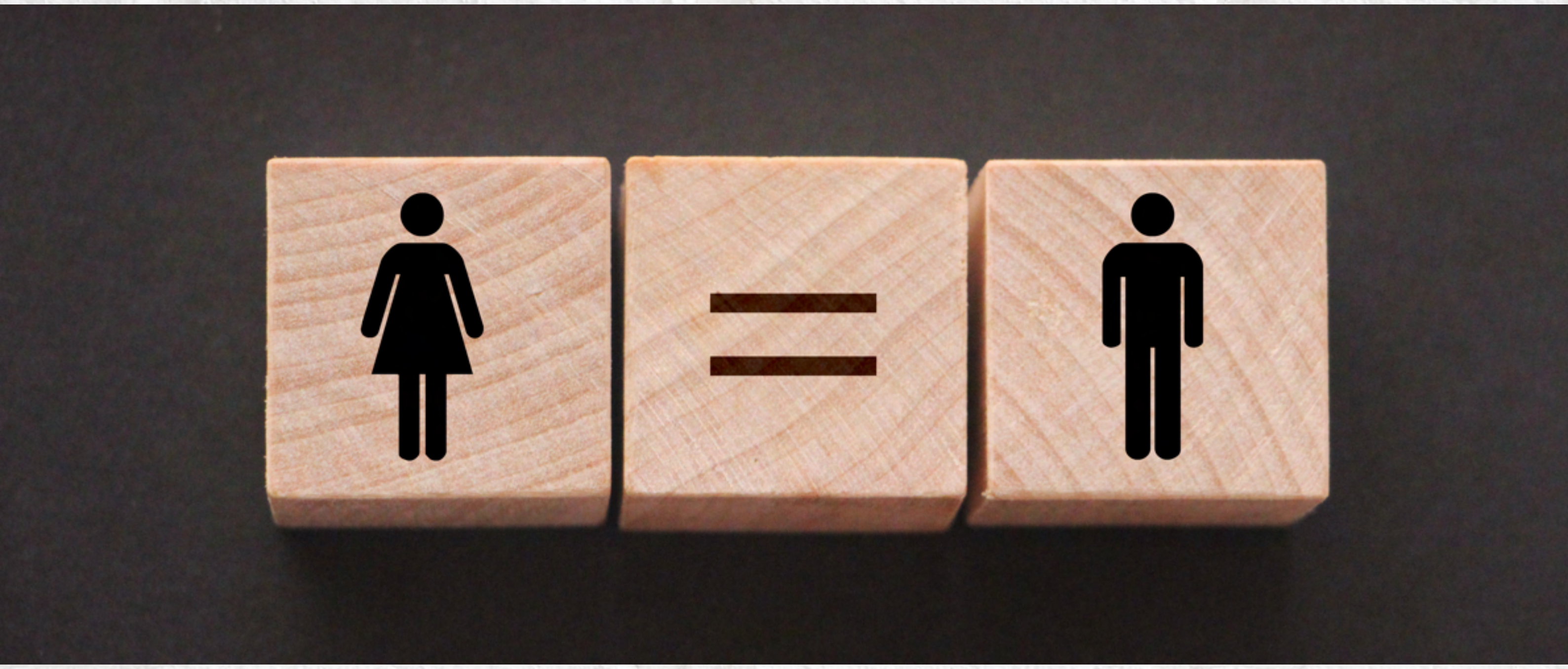
Expert Group on Fixation of Minimum Wages and National Floor Wages to Give Early Report

The Central Government has constituted an Expert Group under the Chairmanship of Professor Ajit Mishra, a renowned economist, to provide technical inputs and recommendations on the fixation of Minimum Wages and National Floor Wages to the Government. The tenure of the Expert Group is three years. It has come to the notice that certain section of the Press and some of the stakeholders have opined this as an attempt to delay the fixation of Minimum Wages and National Floor Wages by the Government.

This is clarified that Government does not have any such intention and the Expert Group will submit its recommendations to the government as early as possible. The tenure of the Expert Group has been kept as three years so that even after the fixation of Minimum Wages and National Floor Wages, Government may seek technical inputs/advice from the Expert Group on subjects related to Minimum Wages and National Floor Wages, as and when required.

Source: Press Information Bureau

India Making Efforts to Reduce Gender Gap in Labour Force



India is making collective efforts to reduce gender gaps in labour force participation, Union Minister Santosh Gangwar said. He said the country is ensuring education, training, skilling, entrepreneurship development and equal pay for equal work. The minister was delivering Ministerial Address on Declaration and Employment Working Group Priorities at G20 Labour and Employment Ministers' Meeting.

The new Code on Wages 2019 shall reduce gender-based discrimination in wages, recruitment and conditions of employment, a labour ministry statement quoted him as saying. Listing the steps taken by the government, he said women are entitled to all types of work in all establishments and employers have to ensure their safety and provisions for working hours.

Women can now work even during night hours, Gangwar said, adding that the duration of paid maternity leave has been increased from 12 weeks to 26 weeks. Further, the labour minister said Pradhan Mantri Mudra Yojana provides financial support to women entrepreneurs to start small enterprises.

Further, the labour minister said Pradhan Mantri Mudra Yojana provides financial support to women entrepreneurs to start small enterprises. Collateral free loans worth Rs 9 lakh crore have been disbursed under this scheme. There are around 70% accounts of women in this scheme, the ministry stated.

Gangwar said the new Code on Social Security may now include even self-employed and all other classes of the workforce into the folds of social security coverage. A voluntary and contributory pension scheme introduced in 2019 for the unorganised sector workers provides for minimum assured pension after the age of 60 years.

While supporting the adoption of the Joint Ministerial Declaration, Gangwar emphasised that such an initiative by the member countries shall be very helpful for the overall development and capacity building of the entire young generation, which is rapidly evolving and has now become more challenging due to the pandemic.

The Employment Working Group deliberated upon key issues, including women employment, social security and remote working. In 2014, G20 leaders pledged in Brisbane to reduce the gap in labour force participation rate between men and women by 25% by 2025, to bring 100 million women into the labour market, increasing global and inclusive growth, and reducing poverty and inequality.

In recent years, almost all G20 countries made progress in terms of equal opportunities, participation of women in the labour market and reduction of the gender pay gap. The process of reducing gender inequalities has slowed down due to the impact of the COVID-19 pandemic on the global economy.

The measures implemented by G20 countries helped mitigate the employment and social impact of the COVID-19 crisis. Yet, evidence from many countries shows a disproportionate impact on women.

> *To achieve this goal, it should be ensured that policy measures are informed by behavioural insights based on data, evidence & adapted per national circumstances*

Acknowledging the risk of increasing gender inequalities in labour markets and societies, G20 leaders at the Riyadh Summit called for a roadmap to achieve the Brisbane goal along with improving the quality of women's employment.

In response to this call, the G20 Roadmap Towards and Beyond the Brisbane Target has been developed for achieving equal opportunities and outcomes for women and men in the labour markets as well as societies in general. Many factors continue to hinder the participation of women in the labour market and the improvement of the quality of their employment.

Overcoming these barriers is key to achieving not only the Brisbane target and previous commitments of member states, but also aiming at full gender equality in the labour market and societies. To achieve this goal, it should be ensured that policy measures are informed by behavioural insights based on data, evidence and adapted per national circumstances.

Source: Business Standard

FM Sitharaman Extends Atmanirbhar Bharat Rozgar Yojana till March '22

Finance Minister Nirmala Sitharaman on 28th June, announced several fiscal relief measures for the country as the economy recovers from the effects of the pandemic. She announced that to boost employment, the Atmanirbhar Bharat Rozgar Yojana has been extended from 30 June 2021 to 31 March 2022.

With an approved outlay of Rs 22,810 crore, the scheme entails a subsidy for two years to new employees drawing monthly wages of less than Rs 15,000. The government would subsidise both employers' and employees' share of provident fund (PF) contribution, amounting to 24% of wages for establishments having a strength of up to 1,000 employees. In the case of a company with more than 1,000 employees, the government would provide subsidy only for the employee's share on 12% of the wages.

> *The new Credit Guarantee Scheme will also help reach out to the smallest of the small borrowers in the hinterland, including in small towns*

ECLGS Gets Additional Rs 1.5 Lakh Crore: Additionally, Sitharaman also enlarged the scope of the Emergency Credit Line Guarantee Scheme (ECLGS) by providing an additional spending limit of Rs 1.5 lakh crore. Accordingly, an overall cap of admissible guarantee under the scheme has been raised from Rs 3 lakh crore announced in May 2020 to Rs 4.5 lakh crore now.

The ECGLS was launched in May 2020 as part of the Atmanirbhar Bharat package. Contact intensive sectors already covered under the scheme will continue to get funding. So far Rs 4,000 crore given to these sectors through the window.

The finance minister also unveiled a scheme to give loans of up to Rs 1.25 lakh to 25 lakhs to small borrowers at lower interest rates. The focus is on new lending and not on repayment of old loans, she said. The interest rate under the new Credit Guarantee Scheme is 2% below the RBI's prescribed rate, with a loan duration of three years, she announced. "The new Credit Guarantee Scheme will also help reach out to the smallest of the small borrowers in the hinterland, including in small towns," Sitharaman added.

Source: The Quint

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