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In This Issue



## UCS POV | Bala Harish, Associate Vice President

### Labour Codes Buzz

The Labour Codes are believed to be implemented soon, however the Centre has not made any official announcement regarding the enforcement date, and a gazette notification on the effective date is awaited.

**An overview of the Codes:** The Indian government has introduced the 4 Labour Codes in an effort towards increasing the ease of doing business in India, reduce the number of definitions, enable the use of technology (specifically for procedural compliances), rationalise penalties for non-compliances and facilitate law implementation and compliance.

As per the latest PIB report published by the Ministry of Labour & Employment, below is the status of draft rules published by various states:

- Currently 27 Indian States/Union Territories (UTs) have notified draft rules for public opinion under Wages Code,
- 23 States/UTs under the IR Code,
- 21 States/UTs under the SS Code and
- 18 States/UTs under the OSH Code

All Codes were featured on the website of the Ministry of Labour and Employment, inviting comments from all stakeholders including the general public. Nine tripartite consultations, seven regional Conferences of State Labour Ministers and Principal Secretaries/Secretaries of State (Labour) were held on all the four Codes inviting all Central Trade Unions, Employers' Associations and State Governments. The stakeholders had participated in the afore-said meetings and gave suggestions on various aspects of Labour Codes. The changes will affect areas such as wages, social security, labour welfare, health, safety, working conditions among other things. The parliament has passed these codes, but labour being a concurrent subject the Centre wants the states to implement these regulations at one go.

**A few of the high-level impacts under each code post implementation are as below:**

**Under The Code on Wages, 2019 (Wages Code)**

- Revised definition of wages leading to higher minimum wages, statutory bonus, provident fund (up to the PF ceiling), retrenchment compensation and gratuity.
- In case an employee resigns the full and final settlement to be done within 2 working days.
- Maintenance of registers in electronic form is permitted.
- Minimum wages for all employees which would end the scheduled employment and wages to be fixed based on skill and geographical location.

**Under The Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code)**

- One-stop registration and licensing.
- The employment of contract labour in core activities of any establishment is prohibited.
- Appointment letter in prescribed format with mandatory fields to be issued to every employee of an establishment.
- Annual health examination to be conducted by the employer free of cost for every worker of the factory, dock, mine and building or other construction work, who has completed 45 years of age.
- In certain circumstances reduction in the daily working hour limit.
- Grant of general permission for engaging women with employee consent between 7 pm - 6 am.
- Need for consent for overtime work.
- An annual provision for the encashment of leave.

**Under The Industrial Relations Code, 2020 (IR Code)**

- Increasing worker threshold for applicability of standing orders and government approval for retrenchment (termination) of workers.
- Disqualification for receiving statutory bonus in case of dismissal from service for conviction for sexual harassment.
- The removal of imprisonment (decriminalization) as penalty in certain offences. The employer should be given the chance to comply with the provisions before prosecution.
- Transferring labour courts into industrial tribunals.
- Standing orders are required if there are more than 300 employees.

**Under The Code on Social Security, 2020 (SS Code)**

- Nationwide ESI Coverage is provided and a new provision for ESI voluntary coverage has been introduced.
- Establishments with even one employee in hazardous sectors must be linked to ESIC.
- Providing a 5-year inspection ceiling period under the Provident Fund Chapter.
- In the event of closure of establishments, surrendering of PF/ESI code provision is specified.
- Mandatory provision of same employee benefits and pro-rata gratuity/bonus payments to fixed-term employees.
- New concepts of gig workers and platform workers are introduced.
- The concept of "Inspector-cum-facilitator" has been introduced.
- Beyond a threshold, all establishments must report their vacancies and the returns to be furnished to career centres.

The industry anticipates that the government will give it enough time before the implementation date.

## EPFO board to meet in July; separate PF scheme for gigs, universal pension scheme likely on table

The central board of the Employees Provident Fund Organisation (EPFO) will meet on July 8, and may reach consensus on separate PF scheme for gig workers and explore possibility of framing a universal pension scheme for all those who have not yet been covered by the retirement fund. The recommendations of a committee on pension reforms is being deliberated, and members of the central board of trustees (CBT) had varied opinion on how to go ahead during a previous meet. Since March, more deliberations have already taken place and some of them are with industry experts, and detailed note is likely to be presented before the central board, at least two officials with knowledge of the development said. “A separate scheme for offering PF and pension benefits may be framed for gig and platform workers after mitigating organizational challenges of EPFO” said a government official.

India has officially registered more than 717,000 gig workers, and almost 58 percent of them come from West Bengal, Uttar Pradesh and Bihar alone.

The social security code on labour has underlined the need for such a provision, but things have not moved much in last one and half years. An internal committee has suggested framing a separate scheme for gig and platform workers as mixing the existing subscribers and gig workers may create operational hiccups due to the nature of jobs both sides (formal workers and gigs) present,” the official said.“Just not PF for gig workers, and but a universal pension scheme for all are likely to be on the table as well, when the board meets in the second week of July,” said a CBT member. To be sure, the labour ministry run EPFO is still finalising the agenda items to be presented in the 2-day board meet slated to take place in Bangalore.


According to documents reviewed by Moneycontrol, an internal panel has suggested that a “a new Universal Pension Scheme may be considered in view of the clarion call of Hon’ble Prime Minister on universal social security and global trends, to cater to those not covered under EPS 95 including Gig workers and self-employed persons.”

“The Universal Pension may include provisions for minimum pension of Rs 3,000, which requires a corpus of approx. Rs 5.4 lakh with over 15 years of service. Most countries have defined contribution and have shifted from defined benefit plan. Defined contribution pension scheme allows individual accounting and amounts proportionate to the savings,” as per official documents, which was also circulated among the board members some time earlier this financial year.

There has been a growing demand from the working class to increase pension under the employees’ pension scheme (EPS) under the EPFO. But the current low contribution to EPS by EPF subscribers hinders the pension fund to pay a minimum pension of Rs 3,000 per month. Every month, an employee pays 12 percent of his basic wage and part of some allowances as statutory EPF deductions. A matching amount is given by the employer. From the employer’s share of 12 percent, 8.33 percent goes to EPS.

***Source: Money Control***

## ESIC to cover entire India under ESI Scheme by end 2022

The Employees' State Insurance Corporation (ESIC) decided its health insurance scheme ESI will be implemented throughout the country by the end of 2022.

Presently, the Employees' State Insurance (ESI) Scheme is fully implemented in 443 districts and partially implemented in 153 districts. A total of 148 districts are not covered under the ESI Scheme. The ESIC, under the chairmanship of Minister of Labour and Employment Bhupender Yadav, in its 188th meeting held has taken significant decisions to augment the medical care and service delivery mechanism across the country, a labour ministry statement said. *I*t has been decided that the ESI Scheme will be implemented in the entire country by the end of 2022, it added. By the end of the year, the districts which are partially covered and not covered under the scheme will be fully brought under the ambit of the ESI Scheme, the statement said.

The medical care services will be provided through establishing new DCBOs (dispensary cum branch offices), by empanelling mIMP (Modified Insurance Medical Practitioner) and tie-up hospitals of Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PMJAY).

Besides, the ESIC has decided to set up 23 new 100-bedded hospitals across the country. These include six hospitals in Maharashtra (at Palghar, Satara, Pen, Jalgaon, Chakan and Panvel) ; four in Haryana (at Hisar, Sonepat, Ambala and Rohtak) ; two hospitals each in Tamil Nadu (at Chengalpattu and Erode), Uttar Pradesh (Moradabad and Gorakhpur) and Karnataka (Tumkur and Udupi). ESIC will also set up one hospital each in Andhra Pradesh (Nellore), Chhattisgarh (Bilaspur), Goa (Mulgaon), Gujarat (Sanad), Madhya Pradesh (Jabalpur), Odisha (Jharsuguda) and West Bengal (Kharagpur). Besides these hospitals, five dispensaries at 62 places will also be opened. Further, 48 dispensaries in Maharashtra, 12 dispensaries in Delhi and 2 dispensaries in Haryana will be opened. These hospitals and dispensaries will ensure the delivery of quality medical care to the insured workers and their dependents.

To provide quality medical care, the ESIC is augmenting its infrastructure by setting up new hospitals and upgrading the existing ones, it stated. The ESIC in its meeting also decided to allow insured workers and their family members to avail cashless medical care services through Ayushman Bharat PMJAY empanelled hospitals in all the areas where the ESI Scheme is partially implemented or to be implemented, or where existing ESIC healthcare facilities are limited.

Beneficiaries of ESI Scheme in 157 districts are already availing cashless medical care through this tie-up arrangement. It was decided that Radiation Oncology and Nuclear Medicine Departments will be established at three ESIC Medical College and Hospitals at Sanathnagar, Faridabad and Chennai. It will be the for the first time that such services will be made available at ESIC-owned facilities, it added. Two cath labs at ESIC Medical College and Hospital at Sanathnagar, Telangana and Alwar, Rajasthan will be established. Decision was also taken to upgrade the existing 200-bedded ESIC Hospital in Pune to a 500-bed facility. The upgradation of this hospital will benefit 7 lakh workers and their family members in Pune.

Other important decisions taken in the meeting included improving the medical care services for insured workers and their family members. The ESIC has decided to take over the state government-run ESIS Hospital, Sonagiri, Bhopal to directly run it under its administrative control. For bridging the gap of non-availability of specialists/super specialists in state government-run ESIC Hospitals, ESIC will now engage the required professionals.

***Source: Business Today***

## State-owned bank Denies Jobs To Pregnant Women

Public sector bank, Indian Bank has reportedly framed a new guildelines for recruitment of staff under which pregnant women have been excluded from job opportunities. The bank has termed pregnant women 'medically unfit for the job.Taking action against such a misogynistic rule, Delhi Commission for Women's chairperson Swati Maliwal has issued a notice against the Indian Bank. The DCW said the bank has allegedly framed rules that state that if a woman candidate is three months pregnant then she would be considered as 'temporarily unfit' and would not be given an immediate joining upon her selection."This will lead to delay in their joining and subsequently they will lose their seniority," the DCW alleged.

The women's commission said it is a serious matter. "This alleged action of the bank appears to be discriminatory and illegal as it is contrary to the Maternity Benefits under the Code of Social Security 2020".According to Maliwal, DCW chairperson, the State Bank of India had also framed similar rules earlier this year, but the same was withdrawn immediately after the notice."We have issued Notice to Indian Bank for their rule denying joining to pregnant women terming them 'medically unfit'. Earlier SBI also had to withdraw similar rule after DCW Notice. Also written to RBI now requesting them to fix accountability against misogynistic rules by Banks!" Maliwal wrote on Twitter.

***Source: Live Mint***

## Extending paternity leave, incentivising employers among recommendations received on Maternity Benefit Act: NCW

Extending paternity leave to reduce the burden of raising children on mothers, incentivising employers and sensitisation of the corporate sector for employing more women workers were among the recommendations made by experts at the Final Law Review Consultation on the Maternity Benefit Act, the NCW said.The National Commission for Women (NCW) had organised the Final Law Review Consultation on the Maternity Benefit Act, 1961 and the 2017 amendment.

The meeting was aimed at reviewing and analysing the legislation affecting women and recommending amendments to meet any lacunae, inadequacies and shortcomings. Some of the important suggestions made by the panelists were to extend the paternity leave period so that the burden of raising children is shared equally between both the parents, incentivising employers and sensitisation of the corporate sector for employing more women workers. The experts also discussed the issue of women working in the unorganised sector, a provision of crèche facility on a case-to-case basis rather than number of employees and the scope for incentives for employers, the NCW said in a statement. Through the consultation, the commission sought views, suggestions and opinions of experts and stakeholders from all over the country. It invited legal experts, lawyers and academicians to deliberate upon the real challenges and technical issues faced by women, the statement said.

***Source: The Print***

## ‘No panel in most offices to hear sexual plaints’

At least four districts of the state do not have mandatory committees to oversee sexual harassment cases under the Prevention of Sexual Harassment At Workplace (Prevention, Prohibition and Redressal) (POSH) Act 2013, while most committees in 10 districts are defunct, a survey report has found. The survey conducted by the Association for Advocacy and Legal Initiatives (AALI), a national-level NGO, during the 2019-21 period in 14 districts, revealed that such committees are non-existent in Ranchi, Sahibganj, Latehar and Seraikela-Kharsawan. The 10 districts which have the committees are Giridih, Khunti, Lohardaga, Gumla, Bokaro, East Singhbhum, West Singhbhum, Dhanbad, Simdega and Dumka. Many of these committees were formed during the 2019-21 period after the AALI started taking up the survey. AALI executive director Renu Mishra said, “We live in the 22nd year of the 21st century and yet women are not safe at their workplaces. The government must act upon the issue and make necessary budget allocations for proper implementation of the POSH Act.” Other AALI representatives said they had targeted to survey all 24 districts during the two years but could complete it in only 14 because of the Covid-19 pandemic.

***Source: Times of India***

## Decriminalisation of labour penalties relieves employers

The implementation of the labour codes will relieve employers from the fear of imprisonment as the labour ministry has decriminalised all general penalty clauses under the four labour codes barring grievous cases while protecting the rights of the workers.

Further, imprisonment provisions under multiple sections of existing labour laws have been replaced with the compounding provisions, valid for three to five years, depending on the codes. A senior government official told ET that implementation of the codes will significantly ease the woes of employers while enhancing their operational flexibility. "Labour being on the Concurrent List, decriminalisation of offences in central labour laws will automatically apply to areas falling within the jurisdiction of both state and central governments," the official added. Money collected from composition of violations will be credited to the social security fund, which will be used for the welfare of the unorganised workers. This, the ministry claims, will significantly bring down cases related to imprisonment of employers for violation of labour laws while enhancing the ease of operations for employers without any fear of penal action. The four labour codes namely the Wage Code, the Code on Social Security, the Industrial Relations Code and the Occupational, Safety, Health and Working Conditions Code, are expected to be implemented soon as over 90% states have firmed up the rules across four codes. The four codes have reduced the number of sections from 1,228 to 480. Of these, only 22 sections contain imprisonment as penalty for a first time offence and just four of them provide for imprisonment of one year. Under the existing scenario, of the 1,536 laws that govern doing business in India, more than half carry imprisonment clauses. Moreover, of the 69,233 compliances that businesses have to follow, 37.8% or almost two out of every five carry imprisonment clauses, as per the recent report 'Jailed for Doing Business' by ORF and Teamlease.

***Source: Economic Times***

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