



THE COMPLIANCE WATCH

February 2024

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UCS POV: Karnataka Implements Compulsory Insurance Under The Payment of Gratuity Act

-Bala Harish, Vice President

All establishments in Karnataka covered by The Payment of Gratuity Act are required to comply with the recently implemented Karnataka Compulsory Gratuity Insurance Rules, 2024 (Rules) with effect from January 10, 2024. These Rules appear to be modelled after the 2011 policy of Andhra Pradesh, which mandates that businesses seek insurance coverage for their gratuity payout as per the Payment of Gratuity Act, 1972. After Andhra Pradesh and Telangana, Karnataka is the third state to impose mandatory insurance under the Payment of Gratuity Act.

It is important to note that establishments with multi-state presence are governed by the Payment of Gratuity Central Rules where this notification is not binding. These Rules are binding only for establishments that have a presence exclusively in Karnataka.

The definition of 'appropriate government' as outlined in the Core Gratuity Act plays a crucial role in determining the applicable jurisdiction for gratuity compliance. Currently, multiple-state establishments file Forms A, B, L, and so on pertaining to gratuity compliance, with the Central Labour Department, as stipulated under Section 2(a) of the Act. This aligns with the fact that the above-mentioned three state governments which hold the controlling authority for establishments solely located within the state (as defined in Section 2(a)(ii)), are not considered the 'appropriate government' for those establishments with multi-state presence for gratuity compliance.

Summary of the Karnataka Compulsory Gratuity Insurance Rules, 2024:

- **New Requirement:** Employers in Karnataka must obtain gratuity insurance for eligible employees (as per the Payment of Gratuity Act, 1972).
- **Timeline:** Existing companies have 60 days (till March 10, 2024) to obtain insurance, and new companies within 30 days (till February 10, 2024) of the rule becoming applicable.
- **Insurance Options:** LIC or any other approved insurance company can be opted.
- **Registration:** Employers must register with the Controlling Authority within 30 days of obtaining insurance.
- **Premium Payments:** Ensure timely payments, and renewal of insurance, and inform the Controlling Authority within 15 days of renewal on an annual basis.
- **Gratuity Payments:** The Controlling Authority can recover gratuity directly from the insurance provider.
- **Approved Gratuity Fund:** Existing Gratuity Trusts for those companies with 500+ employees can continue, but must cover all employee liabilities.
- **Gratuity Trust Conditions:** Specific requirements for trust management, investments, income tax approval, fund usage, etc. to be adhered to.

Under the Payment of Gratuity Act, eligible third-party contractors are responsible for obtaining compulsory insurance for their employees and not the Principal Employer. The obligation is distinct from other Acts like the Provident Fund Act, Employees' State Insurance Act, and Minimum Wages Act, where the Principal Employer holds direct liability. However, the Principal Employer needs to oversee the compliance and ensure eligible contractors fulfil their insurance obligations. In the event of a contractor's non-compliance, the Principal Employer may be directed to fulfil the obligation and subsequently recover the cost from the contractor.

The compulsory insurance provision in the Payment of Gratuity Act is a positive step towards strengthening employee protection and financial security. Implementing compulsory insurance and monitoring compliance can ensure the provision delivers on its promise and contributes to a more stable work environment in the country.



Giftng Leave To One In Need Is A Good Deed Indeed

Some companies are offering such employees a chance to gift their leaves to colleagues who are in need of time off and, in return, get incentives. According to the findings of a recent Deloitte survey shared exclusively with ET, the reasons for adopting such a policy include promoting a culture of camaraderie and collaboration. It also helps new employees who may have a low leave balance. The Deloitte India Benefits Study, conducted in 2023, covered more than 200 firms spanning sectors such as manufacturing, services, pharmaceuticals, technology, financial services and consumer. ET spoke to executives at companies including Marico, Persistent Systems and BT Group India who confirmed that they have adopted such a policy.

"This promotes a culture of camaraderie, collaboration and looking out for one another in times of need. In addition, it also reduces the financial liability on account of leave accrual for an organisation," said Neelesh Gupta, director, Deloitte India.

'Gift-a-leave policy', where employees can gift leaves to another employee during emergencies, is a differentiated practice being adopted by progressive companies, especially now, Gupta said. The local unit of UK-based telecoms company, BT Group, rolled out the policy in August 2023, as part of its HR policy refresher project for India.

"The utilisation is picking up gradually (as of now, it is less than 1%) and it is primarily because it is utilised only in crisis situations. However, the feedback has been great," said Jay Muthu, HR director, BT Group India. Starting this year, the BT Group has also introduced a 'Flexi Bank Holiday' option for all employees in India. "This provides an opportunity to all colleagues in India to select their public holidays from a state-gazetted list (excluding mandatory holidays) and also choose one personal day," said Muthu.



Marico has a 'Leave Sharing' policy. "Through this, members enable and support each other in meeting personal and professional commitments," CHRO Amit Prakash said. Persistent Systems implemented a 'Donate/Gift Your Leave' policy during the Covid-19 pandemic. As fewer people started utilising it after the pandemic, the company expanded the scope of the policy. "A couple of quarters ago, we enhanced this policy to extend support to underprivileged segments of society by enabling employees to donate leave (its cash equivalent through the leave encashment route) to our CSR fund," said chief people officer Yogesh Patgaonkar. Gift a leave helps in providing a safety net to employees, especially new employees, said experts.

Source : Economic Times

First Job As Contract Employment? From Termination To Limited Benefits, Things To Be Cognizant Of

- In employment contracts, it is customary to include a 30-day notice period, providing both the employer and the employee with a reasonable timeframe for transitions.
- In certain cases, there could be a lock in period which needs to be kept in mind while invoking notice period clauses.
- The termination of employment is governed as per terms and conditions of the employment contract signed at the time of joining the organisation.

While permanent employment is still a thing, many companies have gone the way of hiring employees on contracts. Such contracts specify details like job responsibilities, compensation, benefits, and termination clauses. Employment contracts have become common because employers do not want to commit to employees for a long duration and instead draw up a contract for a specified period, after which the contract needs to be renewed. Moreover, non-renewal of a contract means termination of employment, but is not necessarily a layoff. Since a contract is drafted in legal terms, it is important that an employee understands what he is getting into when signing on a contract. This is more important for GenZ who may be in their first jobs and thus may be less aware of how contracts work. We break it down for you.

Main Aspects Of Job Contract To Be Aware Of

“While entering into a contract for employment it is essential that employees are aware of the purpose and the period for which their services are hired. Special attention should be paid to the terms and conditions that are being specified in the contract and whether they align with their ideal work experience,” says Kartika Sharma, advocate, Delhi High Court.

Sharma elaborates on the key aspects that need to be kept in mind in a contract.

Purpose: The Contract should specify the purpose of employment, key roles of the employee, details of the project for which the employee is hired.

Fixed duration: The duration of the contact can be for months or years and once the contract is terminated the employer and employee can consider renewing or extending the employment contract as per the requirement of the project or purpose for which the contract is entered into.

Limited benefits: The employee entering into contractual employment shall also be aware of the fact that such contracts do not specify long-term benefits such as health insurance, or retirement benefits that are often available to the permanent employees.

Flexibility: The GenZ employees are aware of the multiple opportunities available and with the facility of working from home they can take on other ventures as well. However, this should be specified in the contract that their employer doesn't restrict them from working on other projects with different employers.



How The Notice Period Works

"In employment contracts, it is customary to include a 30-day notice period, providing both the employer and the employee with a reasonable timeframe for transitions," says Rudra Srivastava, partner, Singhania & Partners, a law firm. Additionally, the contract should specify that monthly payments are expected to be settled within seven days from the end of each month. These provisions contribute to a well-defined and fair framework for the notice period and timely compensation. In certain cases, there could be a lock in period which needs to be kept in mind while invoking notice period clauses. "The contract will specify the amount that will be paid/deducted from the employee if he is leaving/asked to leave during the lock in period. Further, the contract will specify the due date of payment along with deductions, overtime, bonuses, if any," says Manmeet Kaur, Partner, Karanjawala & Co, a full service dispute resolution firm.

Termination Of Contract Before Contract Period Is Over

The employment contracts can be terminated before the contract period is over, depending on the terms outlined in the contract. The contract itself usually includes provisions that specify under what conditions either the employer or the employee can terminate the agreement before its stated expiration. Common reasons for early termination may include breaches of contract, mutual agreement, or specific clauses addressing termination with or without cause. It's essential for both parties to understand these terms before signing the contract.



Legal Recourse If Contract Is Not Honoured

"When an employer breaches a contract, employees have two options: compel the employer to fulfil the contract, ensuring related payments; or seek the competent court determination that the contract is void due to the employer's actions," says Advocate Rohan Rai, Associate Partner, RR LEGAL PARTNERS, a law firm. Choosing between the two depends on factors like potential entitlements without contractual constraints and an evaluation of litigation costs and risks. The court's decision would dictate the employee's entitlements based on contract enforcement or common law and relevant statutes, considering specific circumstances. "Where there are clauses in the employment contract regarding mandatory arbitration or dispute resolution then it is enforceable and the dispute between the employer and employee needs to be addressed in the manner provided by the contract," says Rai.

Thus, understanding an employment contract before signing is crucial as it clarifies job expectations, compensation, benefits, and termination conditions. It ensures alignment with personal and professional goals while avoiding potential legal and financial issues.

Source : Business Insider

Interim Budget 2024: Highlights

FM Nirmala Sitharaman presented the Interim Budget in the Lok Sabha. In her Budget speech, Ms. Sitharaman highlighted the Centre's various programmes for women, youth and poor. She noted that the Indian economy has seen a "profound" transformation, and that the Government carried out structural reforms. She said the government's focus was on four major 'castes' – women, youth, poor and farmers. "The country progresses, when they progress," she said.

Here are highlights:

- FM Sitharaman said that the Government pulled 25 crore people out of poverty in ten years. She noted that government provided free food for 80 crore people through various schemes.
- Direct Benefit Transfers of Rs. 34 lakh crore through PM Jan Dhan Yojana accounts has led to savings of ₹2.7 lakh crore.
- The PM Vishwakarma Yojana scheme provides end-to-end support to artisans. The government provided credit assistance to 78 lakh street vendors under the PM-SVANidhi scheme. 30 crore Mudra Yojana loans disbursed to women entrepreneurs.
- Upskilling and reskilling was a focus for the government, and over 1.4 crore youth were trained under the Skill India Mission. 43 crore loans sanctioned under PM Mudra Yojana. The Government will also expand the 'Lakshpati Didi' scheme to empower rural women and boost the rural economy.
- The Government highlighted the role of the India-Middle East-Europe Economic Corridor can play in world trade.
- The Government will pay more attention to developing the East to fuel India's growth.
- Inflation has moderated and is within the target band (2%-6%).
- Economic growth has picked up and the average real income of people increased by 50%.
- The Government will subsidise the construction of 30 million affordable houses in rural areas.



- The Centre will encourage cervical cancer vaccination and combine maternal and child health care schemes into one comprehensive programme.
- The Ayushman Bharat scheme will be expanded to all ASHA workers, Anganwadi workers and helpers.
- Government to encourage 'Nano DAP' for various crops and to expand its use for all agro-climactic zones.
- It will also formulate policies to support dairy farmers and defeat the Foot and Mouth Disease.
- The government will formulate a strategy achieve AtmaNirbharta (self-reliance) for oilseeds. This will cover research for high-yielding varieties, procurement, value addition and crop insurance.
- A new department – Matsya Sampada – to be set up to address the needs of fishermen.
- 40,000 normal rail bogeys will be converted to Vande Bharat standards. Government to enhance safety, convenience and safety of passengers. Government to focus on metros in a bid to provide transit-oriented development
- The Government has announced several schemes to turn Net Zero by 2070. This includes providing funding to harness offshore wind energy generation for an initial capacity of 1 Giga Watt, procuring biomass aggregation machinery and expanding the e-vehicle sector by encouraging more manufacturing and charging infrastructure.
- Spends on capital expenditure have been increased to ₹11.11 lakh crore for 2024-25. The Government will continue on path of fiscal consolidation to reduce fiscal deficit to 4.5% in 2025-26.
- The Government proposed to maintain the same tax rates for direct and indirect taxes, including import duties.
- The Government borrowings on a gross and net basis for 2024-25, at Rs. 14.13 lakh crore and Rs. 11.75 lakh crore, respectively, lower than 2023-24.

Source : The Hindu



EPFO Removes Aadhaar As Valid Proof For Date Of Birth. Check Valid Documents

EPFO has followed a directive from the Unique Identification Authority of India (UIDAI). As per UIDAI's directive (Circular No. 08 of 2023), Aadhaar was being considered as proof for date of birth by several beneficiaries. Aadhaar, while a unique identifier, was not recognized as proof of date of birth according to the Aadhaar Act, 2016. In its directive, UIDAI emphasized that Aadhaar was a proof of identity, not proof of birth. In light of UIDAI's directive, EPFO has removed Aadhaar from the list of acceptable documents for correcting date of birth. The circular noted that Aadhaar's removal pertained to Table-B of Annexure-1 of the Joint Declaration SOP issued earlier.

Necessary modification in EPFO's application software will be made to align with the updated guidelines. Internal System Division (ISD) will make the necessary changes. EPFO has directed all its zonal and regional offices to ensure widespread implementation of the latest guidelines. Notably, recent court judgments, including the one by the Bombay High Court, reinforced that Aadhaar could not be considered as proof of date of birth.

Here are the documents which are valid as proof of Date of Birth for EPFO

- Birth Certificate issued by the Registrar of Births and Deaths
- Marksheet issued by any recognised Government Board or University
- School Leaving Certificate (SLC)/ School Transfer Certificate (TC)/ SSC certificate containing Name and Date of Birth
- Certificate based on the service records
- PAN card
- Central/ State Pension Payment Order
- Domicile Certificate issued by the Government
- Medical certificate issued by Civil Surgeon after examining the member medically and supported with an affidavit on oath by the member duly authenticated by a competent court.



Source : Hindustan Times

Karnataka Government Will Reconsider 12-Hour Workday Law Brought By BJP, Says CM Siddaramaiah

The Karnataka government will consider revoking a labour law that facilitates 12-hour workdays and will revert to the previously prescribed eight-hour workdays at establishments in the state, Chief Minister Siddaramaiah has said. Siddaramaiah made the assurance during a meeting held recently with a delegation of leaders of the Samyukta Horata-Karnataka Forum featuring farmers, Dalits, labour leaders, students and women groups. Trade union activists have been demanding the revoking of the Factories (Karnataka Amendment) Bill, 2023, passed by the previous BJP government in February 2023 which allowed establishments to have 12-hour workdays instead of eight-hour workdays.

Siddaramaiah told the Samyukta Horata Karnataka delegation that he would check the legal position under the law and would “review and reduce it to eight hours as before”. In February 2023, the Karnataka legislature passed an amendment to the Factories Act of 1948 in its application in the state to allow industries to extend working hours for labour up to 12 hours a day - while keeping the maximum weekly work hours at 48.

The Factories (Karnataka Amendment) Bill, 2023 was passed without a debate in the Legislative Assembly by the BJP but was opposed by the Congress, JDS, and even a member of the BJP in the Legislative Council when the law was passed on February 24 amid a walkout. According to the statement of reasons in the bill, the changes in working hours are necessary to “create more economic activities and employment opportunities”. The law allows the state “to increase the number of hours of work from the existing nine hours up to twelve hours inclusive of rest intervals in any day, subject to a maximum of 48 hours in any week”.



It also allows the state “to extend the total number of hours of work by a worker without an interval to six hours to any group or class or description of factories to facilitate the increase in the daily maximum hours of work”. It allows the state “to prescribe the hours of work in any day or in any week above which wages at the rate of twice the rate of ordinary in respect of overtime work is payable to a worker in respect of overtime work” and lets “factories to engage workers on overtime for an increased period of time in a quarter to deal with an exceptional press of work”.

The IT/BT minister in the then BJP government, Dr C N Ashwathnarayan, told the Legislative Council that the extension of working hours was being done to provide a boost to manufacturing where India is lagging behind China. The amended law allows overtime to extend from 75 hours in three months to 145 hours in three months and also allows women to work night shifts with adequate security. "Now the rule is that workers should work for 48 hours and the aim is to reduce work from six days a week to four or five and in a total week the work still remains at 48 hours. In the case of those working for 10 hours a day, the workers will work for five days a week and those who work for eight hours a day will work for six days a week," Ashwathnarayan said in 2023.

The bill was opposed as anti-labour by BJP MLC and former MP Ayyanur Manjunath among others. "This will be an anti-labour law if it is generalised and it must be specified as being applicable to a particular sector. Unfortunately, it was not discussed in the Vidhan Sabha, there were no discussions with trade unions and it is slavery to exploit workers for 12 hours in a day," Manjunath had argued in the council.



Then law minister J C Madhuswamy had argued that the government was not making it compulsory for industries to impose 12-hour work days. "It is not a compulsory law and it is a flexible law. Manpower in industries is low in the country. The maximum hours remain at 48 hours a week. We have not mandated any industry. We are facilitating agreements between industry and labour. It is as per the law but if someone wants to work 12 hours it can be done," he said.

The revoking of the 12-hour work clause in the Factories Act is among several demands of trade unions and groups like the Samyukta Horata Karnataka. Siddaramaiah assured the association that the government would consider their demands as per law.

Source : Indian Express



Maternity Leave For Women In Construction Work, Wages To Be Deposited In Bank Account: Govt

Maternity benefits will now be extended to women in the construction sector, an unorganised workforce. Union Minister of Women and Child Development Smriti Irani said that, to this end, the labour ministry has sent out an advisory to employers asking them to ensure women are given the benefits of maternity leave and the emoluments under the PM Matru Vandana Yojana. A similar advisory was issued by the ministry of highways and road transport, too. Women who suffer miscarriage will also be entitled for 6 weeks leave, Irani said. Irani said that the labour ministry sent out a directive to all companies in the infrastructure sector that registered construction workers will need to be given 26 weeks of maternity leave by their employers.

"If a woman part of the construction industry, constructing highways today, miscarries, as per the advisory, she will be entitled to leave with wages at the rate of maternity benefits for the period of six weeks immediately following the day of her miscarriage," Irani said. Irani added that every female employee in the construction site should have their wages deposited in their account by the company. She said that migrant women workers, too will come under the ambit of these benefits. "We have been seeing for ages that when women employees, to take their wages, need to give a thumb imprint or sign a paper, then the supervisor usually takes a cut. This is a proud implementation of the digital democracy. Under PM Modi's government, 24 crore women today have bank accounts," Irani said.



Irani added that with the digitisation of the country's 14 lakh anganwadis, even migrant workers can avail the benefits. "Over 10 crore (women and children) beneficiaries are now availing the benefits of anganwadis. And, this includes over 1,10,000 migrant women workers," Irani said. The labour ministry, in its advisory, has asked companies to ensure gender neutral creche breaks, in addition to providing women workers maternity benefits, health provisions such as safe sanitation facilities, Internal Complaints Committee, night transport facility, gender neutral job advertisements as well as adequate women in leadership roles. "(Companies must) ensure that both men and women have equal opportunities to take care of their children or dependents without facing discrimination or biases based on gender roles," the advisory says.

Source : Deccan Herald



[Gratuity Compulsory Insurance Notified In The State Of Karnataka](#)



[EPFO – Regulating EPS Entitlement For Members Having Multiple Accounts Number Reg.](#)



[EPFO Extends Five Months Time For Employers To Upload Wage Details Etc. Regarding Pension On Higher Wages](#)



[Karnataka : BOCW\(Amendment \), Rules 2024](#)



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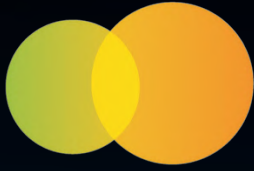
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