

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020



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Category IV

Labour laws subsumed

- The Factories Act, 1948
- The Working Journalists (Fixation of Rates of Wages) Act, 1958
- The Plantation Labour Act, 1951
- The Mines Act, 1952
- The Working Journalists and the other newspaper (Condition of Services) and Misc. Prov, Act, 1955
- The Motor Transport Workers Act, 1961
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
- The Contract Labour (R & A) Act, 1970
- The Sales Promotion Employees (Condition of Service) Act, 1976
- The Inter State Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979
- The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
- The Doc Workers (Safety Health and Welfare) Act, 1986
- The Building and Other Construction Workers Act, 1996

New Labour code

Occupational Safety, Health and Working Conditions Code 2020 (Section:2 to 143)

Scope:

The Code applies to factories having 20 or more workers and manufacturing process is being carried on with the aid of power or 40 or more workers where manufacturing process is being carried on without the aid of power.

Emphasizes on health, safety and welfare of the workers employed in various sectors like,

Industry	Factory	Audio-video production
Trade	Motor transport undertaking,	Plantation
Business	Building and other construction work	Mine & dock-work and service sectors
Manufacturing	Newspaper establishments	

Occupational Safety Health and Working Condition Code,2020

Key Definitions

Audio visual production
(Sec 2e)

Feature films, non-feature films, television, web-base serials, talk shows, reality shows etc and under the new definition of Audio Visual- Worker” singer, news reader, dancer, stunt person, technical, artist and work like supervisory etc.

Employee (sec 2t)

Includes person doing any skilled, semiskilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward.

Factory (sec 2w)

under section 2(w) and threshold limit of employees is now 20 in case of use of power and 40 in case without power and has specifically excludes hotels, restaurant, eating place, Electronic Data Processing Unit or a Computer Unit etc.

Industrial premises
(Sec 2zc)

premises in which any industry, trade, business etc. is being carried on with or without the aid of power includes a godown.

Inter State Migrant
worker (sec 2zf)

has been modified and ceiling limit of Rs 18000/- has been introduced.

Key Definitions

Newspaper
establishment (sec 2q)

Feature films, non-feature films, television, web-base serials, talk shows, reality shows etc and under the new definition of Audio Visual- Worker” singer, news reader, dancer, stunt person, technical, artist and work like supervisory etc.

Producer (sec 2zzb)

Means a person who is making arrangement for necessary of production is also included.

Sales Promotion
Employees (sec 2zze)

Has been revised including a persons in supervisory capacity, managerial, administrative capacity getting salary up to Rs 18000/- per month or as may be notified by the Central Government from time to time.

Worker (sec 2zzl)

Has been revised and includes persons in supervisory capacity and working journalists, sales promotion employees getting salary up to Rs. 18000/- per month or as may be notified by the Central Government from time to time.

KEY CHANGES LICENSE AND REGISTRATION (SEC 3)

i) Establishments covered by the Code are required to register within 60 days (of the commencement of the Code) electronically to the registering officers, appointed by the Central or State government.

ii) Further, some establishments such as factories and mines and those hiring workers such as Beedi and Cigar workers may be required to obtain additional licenses to operate.

KEY HIGHLIGHTS

- i) Single registration for all establishment.
- ii) **Issuance of Appointment letter to employees /Workers is mandatory.**
- iii) Employers are required to conduct free annual health check-up for their employees.
- iv) Employers are required to ensure the disposal of hazardous and toxic waste including e waste.
- v) Constitution of Safety Committee and appointment of safety officer in Prescribed industries
- vi) Constitutional of national Occupational Safety and health advisory board for monitoring the implementation of Code.

Duties of Employer:(Sec. 6 to 12)

- i) To ensure that the workplace is free from hazards which cause or likely to cause injury or occupational disease to the employees and comply with the OSH Code and the Government's directions on the same.
- ii) Provide free annual health examination or test, free of costs to certain classes of employees.
- iii) Provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees.
- iv) Issue letters of appointments to employees.
- v)To ensure that no charge is levied on any employee for maintenance of safety and health at workplace including conduct of medical examination and investigation for the purpose of detecting occupational diseases.
- vi)The maintenance of all places of work in the workplace in a condition that is safe and without risk to health and the provision and maintenance of such means of access to from such places as are safe and without such risk.

Duties of Employee: (Sec 13)

- i) Take reasonable care for the health and safety of himself/herself and of other persons who may be affected by his/her acts or omissions at the workplace.
- ii) Comply with the safety and health requirements specified in the standards.
- iii) Co-operate with the employer in meeting the statutory obligations of the employer under this Code.
- iv) Not willfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety, and welfare of workers.
- v) Not do, willfully and without reasonable cause, anything, likely to endanger himself/herself or others; and
- vi) Perform such other duties as may be prescribed by the appropriate Government.

Audio-Visual Workers (sec 66)

No person shall be employed as an audio-visual worker in or in connection with production of any audio-visual programme unless,

- i) an agreement in writing is entered into
- ii) with such person by the producer of such audio-visual programme; or
- iii) with such person by the producer of such audio-visual programme with the contractor, where such person is employed through such contractor; or
- iv) with such person by the contractor or other person through whom such person is employed; and

such agreement is registered with the competent authority, to be notified by the appropriate Government, by the producer of such audio-visual programme. Every such agreement shall,

- i) be in the prescribed form;
- ii) specify the name and such other particulars as may be prescribed by the appropriate Government with respect to, such person to be employed under the agreement as audio-visual worker;
- iii) include, where such audio-visual worker is employed through a contractor, a specific condition to the effect that in the event of the contractor failing to discharge his obligations under the agreement to the audio-visual worker with respect to payment of wages or any other matter, the producer of the audio-visual programme shall also be liable to discharge such obligations and shall be entitled to be reimbursed with respect thereto by the contractor

OFFENCES AND PENALTIES (SEC 114 TO 154)

- * Obstructing discharge of duties of Inspector, imprisonment upto 3 months & fine upto Rs. 1 lakh
- * An offence that leads to the death of an employee will be punishable with imprisonment of up to two years, or fine up to Rs. 5 lakhs, or both.
- * Where penalty is not specified, the employer will be punished with a fine between Rs. 2 - 3 lakh.
- * If employee violates provisions of the Code, fine upto Rs.10,000.
- * Offences committed by a Company shall hold each person liable who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business.

Conclusion:

- * While the above measures brought in by the Government in the OSHWC Code are a big step towards simplifying India's complex regulatory framework, there still remain several grey areas that need to be addressed.
- * One such area is the conflict between State shops and establishments laws and the [labour Codes](#), there needs to be a way to reconcile provisions that are conflicting or repugnant to the framework under the Codes
- * Another major area for concern is the sheer amount of delegated legislation in the form of rules, notifications, and orders that the Codes require as part of their framework.
- * Keeping track of the same will be essential for HR and [Compliance](#) experts to ensure that their organizations are up to date with the latest changes in labour laws.