



Parliament passes the Occupational Safety, Health and Working Conditions Code, 2020

28 September 2020

In brief

The Parliament passed¹ the Occupational Safety, Health and Working Conditions Code, 2020 (OSHWCC 2020) on 23 September 2020. However, it awaits the assent of the President of India and shall come into effect as the Central Government may, by notification in the official gazette appoint.

In detail

The OSHWCC 2020 amalgamates the following labour laws:

- a. The Factories Act, 1948;
- b. The Mines Act, 1952;
- c. The Dock Workers (Safety, Health and Welfare) Act, 1986;
- d. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
- e. The Plantations Labour Act, 1951;
- f. The Contract Labour (Regulation and Abolition) Act, 1970;
- g. The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979;
- h. The Working Journalist and other News Paper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955;
- i. The Working Journalist (Fixation of Rates of Wages) Act, 1958;
- j. The Motor Transport Workers Act, 1961;
- k. Sales Promotion Employees (Condition of Service) Act, 1976;
- l. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966; and
- m. The Cine Workers and Cinema Theatre Workers Act, 1981.

Key highlights of the OSHWCC 2020

- **Uniform electronic registration:** Centralised/ uniform electronic registration for the establishments has been introduced to promote the ease of doing compliance.
- **Common licence:** Provision for common licence with respect to a factory, industrial premises for beedi and cigar work, and for engaging contract workers or any combination thereof has been introduced.
- **Validity of contractor's licence increased:** The validity of licence to be undertaken by a contractor increased to five years.

¹ [PIB Press Release dated 23 September 2020](#)

- **Uniform definitions:** Uniform definitions have been provided to avoid any conflict.
- **Common registers and records:** Provision of common registers and records has been introduced for ease of compliance.
- **Threshold limit for coverage of premises as factory enhanced:** Definition of a factory has been provided to mean whereon 20 or more workers are working, or were working on any day of the preceding 12 months in any part of which a manufacturing process is being carried on with the aid of power and whereon 40 or more workers are working, or were working, on any day of the preceding 12 months in any part of which a manufacturing process is being carried on without the aid of power. The earlier definition included 10 workers with the aid of power and 20 workers without the aid of power.
- **Threshold for applicability of contract labour provisions increased:** The applicability of the OSHWCC 2020 to engage contractual labour has been increased to 50 contractual workers. Earlier many State jurisdictions had increased the threshold limit to 50 contract workers, but there is now uniformity across State jurisdictions.
- **Obligation of principal employer for the contractor:** Liability imposed on the principal employer of an establishment who has employed contract labour through a contractor who has not himself obtained a licence. With the imposition of this obligation, the compliance regime will further strengthen.
- **Experience certificate to contract workers:** The contractor is required to issue experience certificate to every contract worker, detailing the work performed by such contract labour.
- **Employer mandated to require annual health examination:** The employer has been mandated to provide such annual health examination to such employees of such age or class of employees or such class of establishments as the Government may prescribe.
- **Issuance of employment letters to the employees:** Employers have been mandated to issue employment letters to the employees. In addition, if an employee has not been issued such appointment letter on or before the commencement of the OSHWCC 2020, he/ she shall be issued such appointment letter within three months. This would promote formalisation of employment.
- **Night shift for women employee:** Women employees are entitled to be employed in all establishments for all types of work and may be employed for night shifts with their consent, subject to conditions relating to safety, holidays, working hours or any other conditions prescribed by the Government.
- **Duties of the employees:** Certain duties have been mandated on employees, such as taking reasonable care for their own health and safety and that of other persons, comply with the safety and health requirements specified in the standards, cooperate with the employer in meeting the statutory obligations, etc.
- **Constitution of National Occupational Safety and Health Advisory Board and State Occupational Safety and Health Advisory Board:** Provision prescribed for the Constitution of National Occupational Safety and Health Advisory Board by the Central Government and constitution of State Occupational Safety and Health Advisory Board by the State Government.
- **Provision of common crèche facility for establishments:** The OSHWCC 2020 allows the establishment to avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by Non-Governmental organisation or by any other organisation or group of establishments that may pool their resources to set up a common crèche in the manner they may agree for such purpose.
- **Definition of 'inter-State migrant worker' widened:** The definition of 'inter-State migrant worker' has been widened to include a person who has come on his own from one State and obtained employment in an establishment of another State or has subsequently changed the establishment within the destination State. The earlier definition was quite restrictive and provided that a person who is recruited through a contractor in one State for employment in another State, to be an 'inter-state migrant worker'.
- **Toll-free helpline to the inter-State migrant workers:** Government is required to provide facility of toll-free helpline to inter-State migrant workers in the manner prescribed. This would be a welcome step considering the problems faced by inter-State migrant workers during COVID-2019.

- **Limitation of filing compliant by the inspector:** It prescribes that the Courts are not to take cognisance of any offence, unless the complaint is made within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector-cum-Facilitator.
- **Penalties and compounding of offenses:** Stringent fines and penalties have been prescribed. Provision for compounding of offences for a sum of 50% of the maximum fine stipulated for an offence punishable with fine only and for 75% of the maximum fine stipulated for an offence that is punishable with imprisonment up to one year or with fine, except wherein any offences are repeated within three years from the first violation.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor.

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