

## HIGHLIGHTS OF CODE ON WAGES, 2019

### WAGES

- Fixation of minimum wages for time work or piece work by the Government. For piece work, minimum rate of wages shall be fixed on time work basis. The minimum rate of wages on time work basis shall be fixed by hour, day or month.
- If on any day, an employee is employed for a period less than the requisite number of hours due to omission of the employer to provide him with work, the employee shall be entitled to receive wages as full normal working day.
- Where an employee is engaged in two or more classes of work, he shall be entitled to minimum wages for each such class.
- Overtime work wages for the excess number of hours (or part of an hour) in a day to be paid at a rate twice the normal rate of wages.
- Wage period fixed by an employer cannot be more than a month and wages can be paid at the end of day shift, last working day of the week, fortnightly or before expiry of seventh day of a month depending on the wage period as fixed by the employer.
- Release of wages within 2 working days (or any other reasonable time limit as fixed by the Government) in case of removal, dismissal, retrenchment, resignation or unemployment due to closure of an establishment.
- No deductions from wages shall be permissible except on account of *inter-alia*, fine, absence from duty; damage / loss to goods or property entrusted to the employee for custody; house accommodation or amenities & services provided by employer; advance payments; loans from welfare funds; tax deductions.
- A notice specifying the acts or omissions attracting imposition of fine shall be affixed by the employer at the office premises / establishment and no fines other than on account of such notified acts / omissions can be imposed. Fine imposed during a wage period cannot exceed 3% of the wages for such period.
- Loss of wages on account of withholding of increment or promotion; reduction to lower post or time-scale or suspension shall be not treated as deduction from wages for the purposes of Code.
- 'Wages' include basic pay, dearness allowance and retaining allowance, if any. Bonus (which does not form part of remuneration under employment contract), house accommodation or amenities, conveyance allowance, PF or pension contributions by employer, HRA, overtime allowance, commissions, gratuity, retrenchment compensation are not included in the definition of wages.

### BONUS

- Annual bonus to shall be payable out of allocable surplus for an accounting year i.e., the amount derived after deducting any amount by way of depreciation under Section 32 of Income Tax Act, direct taxes and any further sums as may be prescribed by the Government. The allocable surplus shall be 60% of gross profits minus in case of banking companies and 67% of gross profits in case of other establishments.
- Minimum annual bonus at the rate of 8.33% of the wages earned by an employee who has worked for atleast 30 days in an accounting year.
- Any additional bonus amount dependent on other factors like production / productivity shall be governed by the agreement between the employer and employee and it shall not exceed 20% of the wages.
- Earned leave, maternity leave and absence due to temporary disability caused by accident in the course of employment, shall not be treated as non-working days for the purposes of computing annual bonus.
- *Puja* bonus or any customary bonus or any part of the bonus paid in advance of due date shall be subject to deduction at the time of computing annual bonus for an accounting year.
- Dismissal from service on account of fraud, theft, riotous or violent behavior or conviction for sexual harassment, shall disentitle the employee from receiving bonus.
- In the event, an employee is found guilty of misconduct causing financial loss to the employer, such amount of loss can be deducted by the employer from the annual bonus.
- Bonus shall be paid within a period of 8 months from the date of closing of an accounting year and credited in the bank account of the employee. The said period can be extended, subject to maximum time period of two years, by the Government upon an application received from an employer to this effect.
- Computation of bonus for first 5 years shall be limited to the accounting years in which employer derived profit from establishment. For 6<sup>th</sup> and 7<sup>th</sup> accounting year, the computation shall be subject to set on or set off depending on excess or deficiency of allocable surplus for last two accounting years. 8<sup>th</sup> accounting year onwards, the principle of set on or set off shall apply on yearly basis until four successive accounting years.

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### OTHER PROVISIONS

- The Code prohibits discrimination on the basis of gender in matters pertaining to recruitment and wages in respect of same work or work of similar nature done by employees.
- No fine shall be imposed by any employer upon an employee aged less than fifteen years.
- Appointment of Inspector-cum-Facilitators by the Government to inspect the establishments and also advise employers and workers regarding compliances under the Code. Said officials are empowered to examine employees and employer during inspection, direct furnishing of information and search and seize documents from the premises of establishment.
- Apart from a register containing details about the persons employees, muster roll and wages, the employer shall be duty bound under the Code to put up a notice at a prominent place in the premises containing the category-wise rates of employees, wage period, day or date of payment of wages and also the details of concerned Inspector-cum-Facilitator.
- Imposition of penalty upto INR 50,000 for any default on the part of an employer in paying the amount due to an employee under the Code. On a subsequent default within a period of 5 years, the Code further provides for imprisonment for a term which may extend to 3 months or fine to the extent of INR 1,00,000.
- Imposition of penalty upto INR 20,000 for contravention of any other provision or order and rules made under the Code and any subsequent default within a period of 5 years, imprisonment for a term which may extend to 1 year or fine to the extent of INR 40,000.
- Upon death of an employee, any amounts due and payable under the Code to such employee shall be paid to the nominee.
- In the event of any dispute regarding any claims under the Code an aggrieved employee, registered Trade Union or Inspector-cum-Facilitator can file an application before the concerned authority (to be notified by the Government) within a period of three years from the date on which claims arise. However, an application beyond a period of three years can also be entertained on sufficient cause being shown for such delay.
- Bar on Jurisdiction of civil courts to entertain any suit for recovery of minimum wages, deductions from wages, discrimination of wages and payment of bonus which forms subject matter of the Code.
- Any contract which has the effect of relinquishment the right of an employee to any amount or bonus due to him from the employer is prohibited.
- Any amount deposited by the employer with the Government under a contract or receivables from the Government can be attached pursuant to a decree or order in respect of the debts due to an employee employed for the purposes of such contract.
- The Central Government and State Government shall constitute its respective advisory boards. The board shall consist of equal members representing employer and employees and independent persons not exceeding one-third of the total members of the board.
- These Boards shall advise respective governments on the issues regarding fixation & revision of minimum wages, increasing employment opportunities for women. To look into these issues better, these boards may constitute one or more committees or sub-committees and regulate its own procedure.
- The Payment of Wages Act, 1936; The Minimum Wages Act, 1948; The Payment of Bonus Act, 1965; and Equal Remuneration Act, 1976 stand repealed.