

Occupational Safety, Health and Working Conditions Code, 2020

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Background

The Occupational Safety, Health and Working Conditions Code, 2020 ("OSH Code") has been enacted to amend and consolidate the laws relating to occupational safety, health, and working conditions with the objective of ensuring safe and healthy workplaces for all workers, whether in factories, mines, plantations, or other establishments, and for matters connected therewith or incidental thereto. The OSH Code was passed by the Lok Sabha on September 22nd, 2020 and subsequently by the Rajya Sabha on September 23rd, 2020, with a view to amalgamate, simplify and rationalise the provisions of 13 central labour enactments relating to safety, health, and welfare. The OSH Code has come into force with effect from 21 November 2025.

Laws subsumed under the OSH Code:

1. The Factories Act, 1948
2. The Plantations Labour Act, 1951
3. The Mines Act, 1952
4. The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

5. The Working Journalists (Fixation of Rates of Wages) Act, 1958
6. The Motor Transport Workers Act, 1961
7. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
8. The Contract Labour (Regulation and Abolition) Act, 1970
9. The Sales Promotion Employees (Conditions of Service) Act, 1976
10. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
11. The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
12. The Dock Workers (Safety, Health and Welfare) Act, 1986
13. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996

Comparison of Key Legal Provisions between Old Regimes and OSH Code 2020

| Feature | Old Labour Laws | Occupational Safety, Health and Working Conditions Code, 2020 | Impact |
|---------------|--|---|--|
| Applicability | Applicable to specified threshold limit requirement under various Act. | Applicable to establishments employing 10+ workers in all mines and docks and includes commercial establishments. | More establishments come within the mandate of OSH Code |
| Establishment | Different definitions across laws; largely limited to factories and specific sectors | Uniform definition covering all establishments with ≥ 10 workers, including commercial establishments | Expands applicability to IT/ITeS and service sector; broader compliance burden |
| Factory | 10+ for manufacturing process with power and 20+ for without power | 20+ for manufacturing process with power and 40+ for without power | Increase in hiring of employees for factories |

| Feature | Old Labour Laws | Occupational Safety, Health and Working Conditions Code, 2020 | Impact |
|---------------------|---|--|---|
| Registration | 13 different registrations under various Acts separately | Electronic registration by the employer of the establishment, 1 single registration. | Ease of registration and conducting business for employer |
| Returns | 16 different returns | 1 annual return | Ease of filing returns |
| Working Hours | 9 hrs per day, 48 hrs per week | 8-12 hrs per day, 48 hrs per week | Shorter standard workday with consent-based overtime |
| Annual Leave | Eligibility as per Factories Act after working 240 days, Accrual Rate of 1/20 | Eligibility after working 180 days, Accrual Rate of 1/20 | Increases employees and expands applicability to a wider range of establishments who will be eligible for leave |
| Leave Encashment | Was primarily allowed when a worker was discharged, dismissed, retired, etc. | Any leave days in excess of 30 days shall be encashed mandatorily. It is payable within 2 days from the date of discharge/resignation and 2 months where separation is due to death or superannuation. | Mandatory duty of encashment of excess leaves increasing payroll |
| Weekly Holidays | Present but fragmented across laws | Max 6 working days/week; compensatory leave mandated | Uniform leave entitlement |
| Audio-Visual Worker | Lacked specific and comprehensive provisions for Audio-Visual Workers. | Code prohibits the employment of Audio-visual workers unless an agreement in writing is registered with competent authority. | Requirement of an agreement to avoid exploitation of such workers. |
| Welfare Officer | Appointment in every factory wherein 500 workers are ordinarily employed | Appointment in every factory, mine or plantation wherein 250 workers are ordinarily employed | Duty on employer to appoint such officer when it meets threshold |

| Feature | Old Labour Laws | Occupational Safety, Health and Working Conditions Code, 2020 | Impact |
|----------------------------------|--|---|---|
| Advisory Boards | 6 different advisory boards under 6 different Acts | 1 Single Advisory Board named National Occupational Safety and Health Advisory Board | Ease of Implementation |
| Creche Facilities | Available only when there are 30+ woman workers | Available when there are 50+ total workers employed. | Gender-neutral provision and heavy cost implications |
| Core Activity | Not defined | Defined as activities for which the establishment is set up, including those essential or necessary to it | Brings clarity, reduces interpretational disputes, and forms the basis for restricting contract labour in core functions |
| Contract Labour Threshold | 20 workers triggered applicability | 50 workers trigger applicability | Smaller contractors exempt from compliance burden |
| Work-Specific License | Annual license for contractor | Work-specific license (can be for specific duration/project) | More flexible licensing for project-based work |
| Women Night Shifts | No woman shall be allowed to work except between 6 A.M. and 7 P.M. | Women are permitted to work night shifts and in all types of work (including underground mining and heavy machinery), subject to their consent and mandatory safety measures. | Can allow for night shifts with express consent and safety measures. Duty on employers to secure them for flexible staffing. This paves way to Greater employment opportunities for women |
| Health Check-Ups | Limited to hazardous workers only | Employers must provide all workers above the age of 40 years with a free annual health check-up. | Increases costs for medical camps and maintains unified health records. |
| Inter-State Migrant Registration | Employer-registered system | Self-declaration via Aadhaar, portable benefits | Simplified process with benefit portability |

| Feature | Old Labour Laws | Occupational Safety, Health and Working Conditions Code, 2020 | Impact |
|-------------------------------------|---|---|---|
| Journey Allowance for Migrants | Not standardised | Annual journey allowance (not one-time) | Recurring benefit for migrant workers |
| Employer Duties (Health & Safety) | Primarily under Factories Act | Extended to all establishments ≥ 10 workers | Extended to all establishments ≥ 10 workers |
| Health & Safety Rights of Employees | Limited express rights | Limited express rights | Limited express rights |
| Reporting of Accidents/Diseases | Applicable mainly to factories | Applicable mainly to factories | Applicable mainly to factories |
| Welfare Facilities | Mandatory mainly for factories | Mandatory mainly for factories | Mandatory mainly for factories |
| Penalties | Imprisonment of 2 years or Fine of Rs.1,00,000 or both with further penalty of Rs.1,000 per day for continuous contravention. | Fine of Rs.2,00,000 extendable to Rs.3,00,000 with further penalty of Rs.20,000 per day for continuous contravention. Allows for compounding of offences. | Decriminalised as no imposition of imprisonment but higher fines. |

Categories of Employment under the OSH Code

The Occupational Safety, Health and Working Conditions Code classifies workers and employees into distinct categories based on the nature of work, mode of engagement, and sector of employment. This categorisation is significant as it determines the applicable wage structures, statutory benefits, and working conditions, including safety, social security, and welfare

entitlements. The table below outlines the key categories along with their definitions and corresponding wages and benefits.

- **Part I -- Core Categories:** Covers the primary classifications (*Worker, Employee, Contract Labour*) that determine the general applicability of wages, protections, and working conditions under the Code.
- **Part II -- Specialised Categories:** Focuses on sector-specific roles with tailored provisions addressing industry-specific working conditions and welfare needs.

Part I

| Classification | Definition | Wages & benefits | Exclusions |
|----------------|---|--|--|
| Worker | Person employed in any establishment to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied and includes working journalists and sales promotion employees. | Applicable to workers earning wages up to Rs.18,000 per month. Entitled to protections in cases of lay-off, including prior notice and related safeguards. Eligible to be part of workplace safety committees, where constituted. Overtime must be compensated at twice the ordinary rate of wages (2x pay). | Excludes members of Armed Forces; Police service as officer or employee of prison; person employed mainly in a managerial or administrative capacity and person employed supervisory capacity drawing wages exceeding Rs.18,000 per month. |

| Classification | Definition | Wages & benefits | Exclusions |
|-----------------------|---|--|--|
| Employee | Establishment: Person other than Apprentice employed on wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be expressed or implied. Mine: Person is "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not in any mining operation and any kind of work connected with mining operations. | "Wages" definition applies universally ($\geq 50\%$ basic+DA). All OSH benefits such as registration, leave, creche, health checks, and safety measures apply to employees. | Excludes Apprentices under the Apprentices Act, 1961 and the members of the Armed Forces of the Union but includes employees declared by appropriate government. |
| Contract Labour | Worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor with or without the knowledge of the principal employer. | Workers get periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment. | It includes inter-State migrant workers but does not include a worker (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on a permanent basis). |

Part II

| Classification | Definition | Wages & benefits | Exclusions |
|-----------------------|--|---|--|
| Audio-Visual Worker | Person employed in connection with audio-visual production to work as an artist including actor, musician, singer, anchor, news reader, dancer, dubbing artist or stunt person or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise. | Such remuneration does not exceed where remuneration is by way of monthly wages or where such remuneration is by way of lump sum, in each case, such amount as may be notified by the Central Government. | Excludes persons employed with pure managerial roles. |
| Building Worker | Person employed to do any highly skilled, skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward. The terms of such employment are express or implied in connection with any building or other construction work. | Minimum wages + journey allowance for migrants; "wages" for PF/ESI. Benefits such as Safety gear, ESI, accident compensation, rest shelters | Does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity. |

| Classification | Definition | Wages & benefits | Exclusions |
|--------------------------|---|---|--|
| Motor Transport Worker | <p>Person employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend the duties in connection with the arrival, departure, loading or unloading of such transport vehicle. It includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant.</p> | <p>Workers are entitled to statutory minimum wages, with overtime payable for extra hours; fatigue rules must be followed. Maximum of 8 hours of continuous work, with mandatory rest intervals. Eligible for PF (Provident Fund) and ESI (Employee State Insurance) benefits, as applicable. Requirement of valid fitness certificates to ensure workers are medically fit. Provision for insurance/compensation in case of workplace accidents.</p> | <p>Excludes persons employed in a factory and persons to whom conditions of service of persons employed in shops or commercial establishments apply.</p> |
| Sales Promotion Employee | <p>Person employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business or both.</p> | <p>Commission is treated as part of wages; employees are entitled to minimum wages along with applicable incentives. Safeguards relating to working hours, leave, and service conditions apply to such employees. Standing orders govern terms of employment, including conduct, discipline, and conditions of service.</p> | <p>Does not include persons employed supervisory capacity drawing wages exceeding Rs.18,000 per month and persons employed or engaged mainly in a managerial or administrative capacity.</p> |

| Classification | Definition | Wages & benefits | Exclusions |
|----------------------------|--|---|---|
| Working Journalist | <p>Person whose principal vocation is that of a journalist and who is employed as such, either whole-time or part-time in relation to one or more newspaper establishments or other establishments relating to any electronic media or digital media such as newspaper or radio or other like media. Includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy tester, reporter, correspondent, cartoonist, news-photographer and proof-reader.</p> | <p>Basic Pay + Dearness Allowance (DA), subject to the 50% rule. Determined through special wage boards. Maximum of 144 working hours over a period of 4 weeks. Entitled to gratuity and leave benefits at par with other workers.</p> | <p>Excludes any such person who is employed mainly in a managerial, supervisory or administrative capacity.</p> |
| Inter-State Migrant Worker | <p>A person who: is recruited in one State and employed in another; or migrates on their own and secures employment in another State; must earn wages up to Rs.18,000 per month (or higher as notified by the Central Government).</p> | <p>Entitled to all benefits available to other workers in the establishment (including PF/ESI, medical facilities). Employer/contractor must ensure suitable working conditions considering out-of-state employment. Mandatory reporting of fatal/serious accidents to authorities of both States and next of kin. Annual to-and-fro travel allowance to native place. Option to access public distribution system in either native or destination State. Access to benefits (e.g., construction cess fund) in destination State. Provision for toll-free helpline and welfare schemes by Government.</p> | <p>Not applicable to workers earning above Rs.18,000 per month (unless revised by notification).</p> |

Key Definitions

1. **Contractor:** A "contractor", in relation to an establishment, refers to a person who undertakes to produce a given result through the engagement of contract labour or supplies contract labour as a human resource for any work of the establishment. This definition is broad and also includes sub-contractors, thereby covering layered contracting arrangements.
2. **Core Activity of an Establishment:** "Core activity" refers to the primary activity for which an establishment is set up, including activities that are essential or integral to such primary function. However, the Code clarifies that certain support, or ancillary services will not be treated as core activities unless the establishment is specifically set up for them. These include:
 - sanitation and cleaning services
 - security/watch and ward services
 - canteen and catering
 - loading and unloading
 - support services such as hospitals, guest houses, training institutions
 - courier services
 - construction and maintenance work
 - gardening and housekeeping
 - transport services (including ambulance)
 - intermittent activities

This distinction is important, particularly in determining the permissibility of engaging contract labour in core versus non-core activities.

3. **Employer:** An "employer" means any person who employs one or more employees, either directly or through another person, in an establishment. The definition is intentionally wide and varies based on the nature of the establishment. It includes:
 - the occupier in case of a factory
 - the owner, agent, or manager in case of a mine
 - the person or authority having ultimate control over the establishment (including a manager or managing director)
 - a contractor
 - the legal representative of a deceased employer
 - in government establishments, the designated authority or head of department

4. **Establishment:** An "establishment" broadly refers to any place where economic or commercial activity is carried on with a threshold of ten or more workers. It includes:
- places engaged in industry, trade, business, manufacturing, or occupation
 - motor transport undertakings, newspaper establishments, audio-visual production units, construction work, and plantations
 - factories (for specific chapters)
 - mines and ports or dock work areas

The threshold of workers may be relaxed in cases involving hazardous or life-threatening activities, as notified by the Central Government.

5. **Wages:** "Wages" refers to all remuneration expressed in monetary terms payable to an employee in respect of employment or work done, provided the terms of employment are fulfilled. Included components: basic pay, dearness allowance, retaining allowance (if any). Excluded components: bonus (not forming part of contractual remuneration), employer contributions to PF/pension, house rent allowance, conveyance allowance, overtime allowance, commission, gratuity and retrenchment benefits, any sum paid to meet employment-related expenses. Key rule: If excluded components (except certain specified items) exceed 50% of total remuneration, the excess is deemed part of wages. Certain allowances (like conveyance, HRA, etc.) are still considered for equal wage computation. Remuneration in kind (up to 15% of total wages) is included in wages.

Implication of The OSH Code, 2020 for Non-profit Organisations

A. Registration

Applicability and Requirement: The Code mandates that every employer of an establishment employing 10 or more employees, to which the provisions of the Code apply, must obtain registration within sixty days from the date the Code becomes applicable to such establishment, if not already registered. The registration is required to be made electronically before the registering officer. While the requirement is mandatory, delayed applications may still be entertained upon payment of prescribed late fees, thereby providing limited flexibility in compliance. The application can be made electronically in Form-I on the Shram Suvidha Portal of the Ministry of Labour & Employment or designated Portal.

Application Process and Particulars: The application for registration must be submitted in the prescribed form, manner and along with the requisite fees. It is required to contain detailed particulars of the establishment, including information relating to the employment of inter-State migrant workers. This ensures a standardised and comprehensive database of establishments and workforce composition under the Code.

Grant of Registration and Deemed Approval: Upon receipt of the application, the registering officer is required to issue a certificate of registration electronically within the prescribed time and subject to prescribed conditions. A significant reform under the Code is the concept of deemed registration. In cases where the registering officer fails to act within the stipulated timeline, the establishment is automatically deemed to be registered, and the certificate is auto generated. This reduces administrative delays and limits discretionary inaction.

Amendment of Registration: Post-registration, any change in ownership, management or other particulars furnished at the time of registration must be intimated electronically within thirty days. Upon such intimation, the registering officer is required to amend the registration certificate accordingly. This ensures that regulatory records remain accurate and up to date.

“ **Is cancellation of registration allowed?** Yes, registration can be cancelled, especially if obtained through false information. The employer must be given a 30-day opportunity to show cause before cancellation is affected.

Closure of Establishment: In the event of closure, the employer is required, within thirty days, to notify the registering officer and certify that all dues payable to workers have been settled. The registering officer must cancel the registration within sixty days of such intimation. Similar to registration, the Code provides for deemed cancellation where the authority fails to act within the prescribed timeline, ensuring closure formalities are not indefinitely delayed.

Revocation of Registration: The Code provides for revocation of registration in cases where it has been obtained fraudulently, through misrepresentation, or suppression of material facts, or where it has otherwise become ineffective. While misrepresentation is treated as a contravention attracting penalties, revocation in substantive cases can be carried out only after giving the employer an opportunity of being heard and must be completed within sixty days.

Prohibition on Employment without Registration: A critical compliance requirement under the Code is that no employer shall employ any worker in an establishment that is not registered, or where the registration has been cancelled or revoked and no appeal is pending. Registration thus becomes a pre-condition for lawful operation of establishments.

Deemed Registration for Existing Establishments: To facilitate transition, establishments already registered under any Central labour law or other notified law are deemed to be registered under the Code. However, such establishments are required to furnish their existing registration details to the registering officer within the prescribed time and manner.

Appeal Mechanism: Any person aggrieved by an order relating to registration may file an appeal within thirty days before the designated appellate authority. The authority may condone delays for sufficient cause and is required to dispose of the appeal within thirty days, ensuring time-bound adjudication.

Notice of Commencement and Cessation: In addition to registration, certain categories of establishments -- such as factories, mines, contract labour establishments and construction establishments -- are required to provide prior electronic notice before commencement of operations and to intimate cessation of operations. This requirement enables regulatory oversight and tracking of industrial activity.

B. Duties of Employer and Employees

General Duties of Employer: The Code places a primary and overarching obligation on every employer to ensure that the workplace is free from hazards that may cause injury or occupational disease. Employers are required to comply with prescribed occupational safety and health standards and maintain a working environment that is safe and without risks to employee health, so far as reasonably practicable. This includes responsibility for:

- Provide free annual health examinations for employees above 40 years across all establishments, workers engaged in hazardous factory workers in establishments with 10 or more employees including those exposed to occupational risks and contract labour, as well as workers in sectors such as mines, plantations, docks, building and construction, and motor transport.
- Ensuring safe disposal of hazardous and toxic waste, including e-waste

- Issuing appointment letters to all employees (Refer **Annexure I** for format)
- Ensuring that no cost is charged to employees for safety measures or medical examinations

In high-risk sectors such as factories, mines, construction and plantations, the employer's duty extends beyond employees to all persons present at the workplace, whether authorised or not.

Specific Safety Obligations: In addition to the general duty, employers are required to take specific measures to ensure workplace safety. These include maintaining safe plant and systems of work, ensuring safe handling, storage and transport of substances, and providing adequate training, supervision and information to employees. Employers must also ensure:

- Safe access to and exit from workplaces
- Continuous monitoring of working conditions
- Adequate welfare facilities

These provisions collectively impose a proactive and preventive safety obligation, rather than a reactive one.

Duties of Designers, Manufacturers and Suppliers: The Code extends safety obligations beyond the employer to include all persons involved in the supply chain of equipment and substances. Designers, manufacturers, importers and suppliers are required to ensure that articles and substances are safe when properly used and do not pose risks to workers' health. They are also required to:

- Conduct necessary testing and examination
- Provide adequate information and usage instructions
- Ensure compliance with applicable safety standards (including for imported goods)

This ensures that workplace safety is embedded at the design and production stage itself.

Reporting Obligations (Accidents, Occurrences, Diseases): The Code imposes strict reporting requirements on employers to ensure regulatory oversight. Employers must notify the appropriate authority in case of:

- Accidents causing death or serious injury (leading to absence of 48 hours or more)
- Dangerous occurrences, even if no injury occurs

- Occupational diseases specified in the Schedule

Additionally, medical practitioners are also required to report notified occupational diseases, ensuring early detection and accountability.

Duties of Employees: Employees are also subject to statutory duties and are required to take reasonable care for their own safety and that of others. They must comply with safety standards, cooperate with the employer, and report unsafe conditions. Employees are specifically required to:

- Not misuse or interfere with safety equipment
- Not engage in acts that may endanger themselves or others
- Report hazards promptly

This establishes a shared responsibility model for workplace safety.

Rights of Employees: The Code recognises that safety is not only a duty but also a right. Employees are entitled to obtain information relating to workplace safety and may raise concerns either directly or through safety committees. Where there is a reasonable apprehension of imminent danger, employees have the right to:

- Report the situation immediately
- Seek remedial action
- Escalate the issue to the Inspector-cum-Facilitator if unresolved

The employer is required to take immediate action or refer the matter to the authority, whose decision is final.

Prohibition on Misuse of Safety Measures: The Code expressly prohibits any person from intentionally or recklessly interfering with or misusing anything provided for health, safety or welfare at the workplace. This reinforces the integrity of safety systems.

C. Health, Safety and Working Conditions

Employer Responsibility: The Code places a primary obligation on the employer to ensure that adequate health, safety and working conditions are maintained in the establishment, as may be prescribed by the Central Government. This is a broad, enabling provision which allows the

Government to standardise workplace conditions across sectors.

Core Workplace Conditions: Without limiting the general obligation, the Code specifically requires employers to ensure essential workplace standards relating to hygiene, safety and environment. These include:

- Cleanliness and maintenance of hygiene
- Proper ventilation, temperature and humidity control
- Work environment free from dust, fumes, gases and impurities
- Availability of safe drinking water
- Prevention of overcrowding with adequate space
- Adequate lighting
- Separate and hygienic sanitation facilities for male, female and transgender employees
- Proper disposal of waste and effluents

These provisions collectively aim to ensure a safe, dignified and healthy working environment.

D. Welfare Provisions

General Welfare Measures: In addition to safety and health, the employer is required to provide welfare facilities necessary for ensuring a decent standard of life for employees. These include basic amenities such as washing facilities, bathing places, locker rooms and suitable arrangements for employees who are required to work in a standing position. Canteen facilities are mandatory in establishments employing 100 or more workers, including contract labour. Further, first-aid facilities must be readily available during working hours, and specific sectors such as mines require periodic medical examinations of workers.

Additional Welfare Requirements: The Central Government may prescribe additional welfare measures depending on the nature and size of the establishment. Key requirements include:

- Ambulance room in establishments with 500 or more workers
- Restrooms, shelters and lunchrooms in establishments with 50 or more workers
- Appointment of welfare officer in establishments with 250 or more workers
- Provision of protective gear and facilities for specific sectors such as transport workers
- Temporary accommodation for construction workers near the worksite

Where work is carried out through contractors, the principal employer may also bear responsibility for certain welfare-related expenses.

E. Hours of Work and Annual Leave with Wages

Working Hours: The Code limits working hours to ensure safety and prevent fatigue. No worker shall be required or allowed to work for more than 8 hours in a day, with intervals and spread over as prescribed. Special provisions apply:

- Mines: Separate daily hour limits; mandatory shift system; presence restricted to recorded shift hours.
- Motor Transport Workers: Working hours include running time, subsidiary work, and short attendance periods.

Certain categories have exceptions:

- Working journalists: Max 144 hours over 4 weeks + minimum 24-hour weekly rest.
- Sales promotion employees/journalists: Entitled to earned leave, medical leave, accumulation, encashment, and compensation on termination or death.
- Adolescent workers: Governed by separate child labour law.

Weekly Holidays: Workers cannot work for more than 6 days a week. A weekly holiday is mandatory.

- In transport undertakings, workers may work on a weekly off to avoid disruption but cannot work more than 10 consecutive days without a full-day break.
- If deprived of weekly holidays, compensatory holidays must be provided within the prescribed period.

Overtime: Where a worker works beyond prescribed daily or weekly hours, overtime wages at twice the normal rate must be paid.

- Overtime calculation: daily or weekly basis (whichever is more favourable)
- Requires worker consent
- Subject to maximum limits prescribed by Government

Night Shifts: For workers whose shifts extend beyond midnight:

- A "day" is counted from the end of the shift (24-hour period)
- Weekly holiday is also calculated accordingly
- Post-midnight hours are treated as part of the previous working day

Shift Work: Work cannot be arranged such that multiple relays perform the same work simultaneously, except where exemptions are granted by the appropriate Government or authority. This restriction does not apply to mines.

Restriction on Double Employment: A worker cannot be employed in a factory or mine if they have already worked in another such establishment within the preceding 12 hours, except in prescribed circumstances.

Notice of Work Periods: Every establishment must:

- Display a notice of working periods for each day
- Maintain it accurately
- Inform authorities before making any changes
- Wait at least one week before implementing changes unless approved earlier

Annual Leave with Wages: Every worker is entitled to paid annual leave, subject to minimum service conditions. A worker must have worked at least 180 days in a calendar year to qualify.

Accrual of Leave: Leave accrual is as follows:

- 1 day leave for every 20 days worked
- Adolescent workers: 1 day for every 15 days
- Underground mine workers: 1 day for every 15 days

Certain periods are counted for eligibility but do not earn leave: lay-off, maternity leave, previously availed annual leave. Holidays falling between leave periods are not counted as leave days.

Special Situations: If employment starts mid-year, leave is allowed if the worker has worked at least one-fourth of remaining days in that year.

- If a worker is dismissed, resigns, retires, or dies, they (or their nominee/heir) are entitled to wages in lieu of earned leave, even if they have not completed 180 days.

- Payment timelines: Within 2 working days (resignation/dismissal); Within 2 months (retirement/death)

Carry Forward and Encashment: Unused leave can be carried forward to the next year, subject to maximum 30 days carry forward. If leave was applied for but refused, it can be carried forward without limit. Workers are also entitled to:

- Encash leave at year-end (on demand)
- Mandatory encashment of leave exceeding 30 days

F. Maintenance of Registers, Records and Returns

The Code mandates employers to maintain proper records and ensure transparency in employment conditions. Every employer is required to maintain registers, records, notices, and returns in the prescribed manner electronically or otherwise (**Refer Annexure II**).

Registers and Records: Employers must maintain a register containing prescribed particulars of workers, including:

- nature of work performed
- daily working hours
- weekly day of rest (every 7 days)
- wages paid and receipts
- leave, leave wages, overtime, attendance
- record of dangerous occurrences
- details of adolescent employment

Display of Notices: Employers are required to display notices at the workplace in the prescribed form and manner, ensuring accessibility to workers.

Wage Slips: Employers must issue wage slips to workers in electronic form or otherwise as per prescribed format.

Filing of Returns: Employers are required to file periodic returns with the Inspector-cum-Facilitator in prescribed manner within prescribed timelines electronically or otherwise.

G. Special Provisions for Women

- Women are allowed to work in all establishments and in all types of work.
- Where women are employed before 6:00 a.m. or after 7:00 p.m., employers must obtain their consent and ensure compliance with prescribed safety measures, holidays, working hours, and other conditions as prescribed by the appropriate Government.
- The employer must provide adequate safety safeguards prior to employment of women in certain establishments which are dangerous for the health and safety of women or in any operations that may be considered hazardous or dangerous as prescribed by the appropriate Government.
- The employment of pregnant women in manufacturing processes or operations involving serious risk of bodily injury, poisoning, or disease may be prohibited or restricted, as prescribed.

H. Contract Labour

Applicability: The provisions relating to contract labour apply to establishments and contractors engaging a significant workforce. Specifically, this Part applies to:

- establishments employing 50 or more contract labour on any day in the preceding 12 months; and
- manpower supply contractors employing 50 or more contract labour.

However, these provisions do not apply where the work performed is intermittent or casual in nature. Work will not be considered intermittent if:

- it is performed for more than 120 days in the preceding 12 months; or
- in case of seasonal work, it exceeds 60 days in a year.

Any dispute regarding the nature of work is decided by the appropriate Government, whose decision is final.

Designated Authority and Licensing Framework: The Government appoints designated authorities (typically Gazetted Officers) to oversee licensing and compliance. No contractor can:

- supply or engage contract labour; or
- execute work through contract labour without obtaining a valid licence.

Such licence:

- is granted subject to prescribed qualifications and conditions;
- specifies the number of workers and required security deposit; and
- may include conditions on wages, working hours and amenities.

Where eligibility criteria are not fully met, a work-specific licence may be granted for a particular project. For operations across multiple States, contractors may obtain a centralised licence, subject to consultation with State authorities.

Procedure for Licence and Validity: Applications for licences must be made electronically with prescribed particulars, including details of contract labour and nature of work. A licence:

- is generally valid for 5 years;
- can be amended to increase the number of contract workers upon application and additional security deposit; and
- includes prescribed responsibilities of the contractor.

Prohibition on Charging Fees: Contractors are strictly prohibited from charging, directly or indirectly, any fee or commission from contract labour.

Intimation of Work Orders: Upon receiving a work order, the contractor must intimate the designated authority within the prescribed time and manner. Failure to do so may result in suspension or cancellation of licence after due process.

Revocation, Suspension and Amendment of Licence: A licence may be revoked or suspended if:

- it was obtained through misrepresentation or suppression of facts; or
- the contractor violates licence conditions or provisions of the Code.

Such action can only be taken after providing an opportunity of being heard. Licences may also be amended as per prescribed rules.

Appeal Mechanism: Any person aggrieved by orders relating to licensing may file an appeal within 30 days, extendable on sufficient cause. The appellate authority is required to dispose of the appeal within 30 days.

Welfare and Liability of Principal Employer: The principal employer is responsible for ensuring that contract labour receive welfare facilities such as health, safety and working conditions as prescribed under the Code. Further, engagement of contract labour through an unlicensed contractor is deemed to be a contravention of the Code.

Payment of Wages: The contractor is primarily responsible for payment of wages to contract labour within the prescribed time and through bank transfer or electronic mode. In case of default or short payment:

- the principal employer becomes liable to make full payment; and
- may recover the amount from the contractor.

Additionally, the Government may direct payment from the contractor's security deposit.

Experience Certificate: Contractors are required to issue an experience certificate to contract labour upon request, detailing the nature of work performed.

Prohibition on Core Activities: The Code generally prohibits engagement of contract labour in core activities of an establishment. However, exceptions are permitted where:

- the activity is ordinarily outsourced;
- the work is intermittent or does not require full-time workers; or
- there is a sudden increase in workload requiring temporary engagement.

I. Inter-state Migrant Workers

Applicability: This Part applies to every establishment employing 10 or more inter-State migrant workers on any day in the preceding twelve months. The threshold is relatively low, indicating a broader regulatory intent to cover even smaller establishments engaging migrant labour.

Inter-State Migrant Worker: A person employed in an establishment located in a State different from their home State.

- Includes workers recruited by an employer, either directly or through a contractor, in one State for employment in another State.
- Also includes individuals who migrate on their own to another State and obtain employment there.
- Covers workers who may change establishments within the destination State.
- Employment must be based on an agreement or arrangement.
- Applicable to workers earning wages up to Rs.18,000 per month, or such higher amount as notified by the Central Government.

Duties of Employer / Contractor: The employer or contractor engaging inter-State migrant workers is under a specific obligation to account for their vulnerable position of working outside their home State. Key responsibilities include:

- ensuring suitable working conditions, keeping in mind that the worker is employed away from his native State;
- reporting any fatal accident or serious injury to: authorities in both the home State and the destination State; and relatives/friends of the worker;
- extending all statutory benefits on par with other workers, including: social security benefits (ESI, PF, etc.); and medical check-ups and related facilities.

Journey Allowance: The employer is required to pay a lump sum journey allowance to every inter-State migrant worker for travel to and from their native place. This is:

- payable once in a year; and
- subject to conditions such as minimum service, frequency, and class of travel as may be prescribed.

Public Distribution System and Welfare Benefits: The appropriate Government is empowered to frame schemes to ensure portability of welfare benefits. This includes:

- allowing workers to access the public distribution system (PDS) either in their native State or the State of employment; and
- ensuring portability of welfare benefits, particularly for construction workers, through cess-based funds in the destination State.

Helpline and Welfare Measures: The Government may establish a toll-free helpline for inter-State migrant workers to address grievances and provide assistance. Additionally, it may undertake studies and data collection to better understand and regulate migrant labour conditions.

Extinguishment of Past Liabilities: A notable provision is that any unsettled debt or liability of an inter-State migrant worker towards the contractor or principal employer is deemed to be extinguished upon completion of employment. This provision:

- prevents post-employment exploitation; and
- ensures that workers are not burdened with continuing financial obligations after leaving employment.

Penalties Under the OSH Code, 2020

| Sr · N o. | Offence | Penalty |
|--------------------|--|---|
| 1 | For general non-compliance with the provisions of the OSH Code or rules or regulations or bye-laws or of any standards made thereunder | Rs.2,00,000 which may extend to Rs.3,00,000. In case of a continuing contravention, an additional penalty of Rs.2,000 for each day till the contravention continues |
| 2 | For non-maintenance of registers, records and non-filing of returns, etc., as required under the OSH Code | Rs.50,000 which may extend to Rs.1,00,000 |
| 3 | For prohibiting, restricting or regulating the employment of workers, including women, audio-visual workers and contract labour and employees below 18 years of age in case of mines | Rs.50,000 which may extend to Rs.1,00,000 |
| 4 | For contravention of the provisions of duties relating to hazardous processes | Imprisonment up to 2 years and fine up to Rs.5,000. In case of continuing contravention, additional fine up to Rs.25,000 per day |

| Sr No. | Offence | Penalty |
|-----------|--|---|
| 5 | For contravention of any provision of the OSH Code or any rules or orders made thereunder, which imposes any duty or liability on employee | Up to Rs.10,000 |
| 6 | Any contravention under the OSH Code resulting in an accident or dangerous occurrences causing death | Rs.5,00,000 or imprisonment up to 2 years or both |
| 7 | Any contravention under the OSH Code resulting in an accident or dangerous occurrences resulting in serious bodily injury to any person within the establishment | Rs.2,00,000 which may extend to Rs.4,00,000 or imprisonment up to 1 year or both. Court may grant at least 50% of fine as compensation to victim or legal heirs |

Key Highlights

- a. **Compliance-Focused Approach:** The OSH Code prioritises compliance over penal action by introducing an Inspector-cum-Facilitator with advisory functions, enabling transparent, technology-driven inspections, and providing a 30-day opportunity to rectify non-compliances. Compounding of first-time offences is permitted, but not for repeat violations within three years.
- b. **Electronic Compliance Framework:** The Code allows maintenance of registers, filing of returns, and issuance of wage slips in electronic form, thereby simplifying compliance and improving transparency.
- c. **Social Security Fund:** Provision is made for a Social Security Fund for unorganised workers, funded through penalties, compounding amounts, and other prescribed sources, to be utilised for worker welfare.
- d. **Power to Exempt:** The appropriate Government may exempt establishments or classes thereof, including new factories, to promote economic activity, subject to conditions. However, exemptions from working hours and holidays require specific approval.
- e. **Emergency Powers:** The Government may grant temporary exemptions during public emergencies, disasters, or pandemics for up to one year at a time.

f. **Bar on Civil Court Jurisdiction:** Civil courts are barred from adjudicating matters under the Code, and no injunctions can be granted against actions taken under it.

g. **Overriding Effect:** The Code overrides inconsistent laws or agreements, except where employees receive more favourable benefits, which will continue.

h. **Continuity of Existing Actions:** Actions taken under repealed laws will continue under the Code, provided they are not inconsistent, until modified or repealed.

What Lies Ahead

The Code has been brought into force; however, the Rules notified by both the Central Government and the State of Karnataka are presently in the draft stage. Full clarity and operational visibility will emerge only once the final Rules are formally notified and implemented.

Regulatory Position and Practical Approach

The Occupational Safety, Health and Working Conditions Code, 2020 and State Shops and Establishments laws currently overlap in several areas such as working hours, leave entitlements, and employee welfare, leading to interpretational and compliance challenges.

The OSH Code is a central legislation and is expected to override state laws to the extent of inconsistency, such override will become operational only upon:

- notification of rules, and
- clarity on implementation mechanisms.

Accordingly, until the OSH Code framework is fully operational, organisations may continue to comply with the applicable State Shops and Establishments law, while actively monitoring regulatory developments for transition. In situations of overlap or inconsistency, the principle of beneficial interpretation applies the provision that is more favourable to the employee shall prevail, unless specifically overridden by law.

Several substantive provisions remain non-operational which includes but not limited to:

- Finalisation of standards relating to health, safety and working conditions, including sector-specific requirements for factories, mines, and other establishments.

- Specification of welfare facilities such as canteens, creches, first-aid, and other employee amenities.
- Operationalisation of the common licensing framework, including procedures, forms, fees, and digital processes for registration and licensing.
- Notification of conditions governing contract labour, including wage timelines, amenities, and contractor responsibilities.
- Finalisation of rules relating to inter-State migrant workers, including journey allowance, helpline mechanisms, and portability of benefits.

Pacta will continue to track and update developments as notifications are issued.

Annexure-I

Format of Appointment Letter under Section 6(1)(f) of the OSH Code

Every employee shall be issued an appointment letter containing the following particulars:

1. Name of Employee:
2. Date of Birth:
3. Father's / Mother's Name:
4. Aadhaar Number:
5. Labour Identification Number (LIN) of the Establishment:
6. Universal Account Number (UAN) / ESIC Insurance Number (if available):
7. Designation:
8. Category of Skill (Unskilled / Semi-skilled / Skilled / Highly Skilled):
9. Date of Joining:
10. Wages (Basic Pay + Dearness Allowance):
11. Other Allowances (including accommodation, if applicable):
12. Avenue for Career Progression / Higher Wages or Position:
13. Applicability of Social Security Benefits (EPFO / ESIC):
14. Broad Nature of Duties to be Performed:

15. Any Other Relevant Information:

Signature:

(Occupier / Employer / Owner / Agent / Manager)

Note: Employees who have not been issued an appointment letter containing the above particulars shall be provided the same within three months from the date of enforcement of the applicable Rules.

Annexure-II

Registers, Records and Returns under OSH Code -- Prescribed Forms

| Sr. No. | Form No. | Particulars / Register | Purpose / Details | Maintenance / Filing Requirement |
|----------------|-----------------|--|--|---|
| 1 | FORM VII | Notice of Periods of Work | Displays working hours and shifts of employees | To be displayed at a conspicuous place / electronic board and shared with Inspector-cum-Facilitator |
| 2 | FORM VIII | Register of Employees | Contains details of all employees engaged in the establishment | To be maintained electronically or manually |
| 3 | FORM VIII A | Register of Attendance-cum-Muster Roll | Records daily attendance of employees | To be maintained electronically or manually |
| 4 | FORM VIII B | Register of Wages, Overtime and Deductions | Captures wage details, overtime payments, and deductions | To be maintained electronically or manually |
| 5 | FORM VIII C | Wage Slip | Issued to employees with wage details | To be issued (electronic/manual) at least one day before wage payment |
| 6 | FORM IX | Unified Annual Return | Annual compliance return covering employment, wages, welfare, etc. | To be filed online by 28th/29th February every year |

| Sr. No. | Form No. | Particulars / Register | Purpose / Details | Maintenance / Filing Requirement |
|----------------|-----------------|---|--|--|
| 7 | FORM IX A | Additional Unified Return | Additional return (e.g., on closure, sale, discontinuance) | To be filed within prescribed timelines upon such events |
| 8 | FORM X | Register of Accidents and Dangerous Occurrences | Records details of workplace accidents and hazardous incidents | To be maintained and produced on demand |
| 9 | FORM XI | Register of Leave with Wages | Tracks leave entitlement, availed leave, and balance | To be maintained for each employee |

- Registers may be maintained electronically or manually.
- Records must be preserved for 5 years from the last entry.
- Entries must be in English, Hindi, or local language understood by workers.
- Registers must be produced on demand before Inspector-cum-Facilitator.
- Where registers are already maintained under Wage Code / Social Security Code, duplication is not required.

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