



# LABOUR LAW UPDATES DECEMBER 2020



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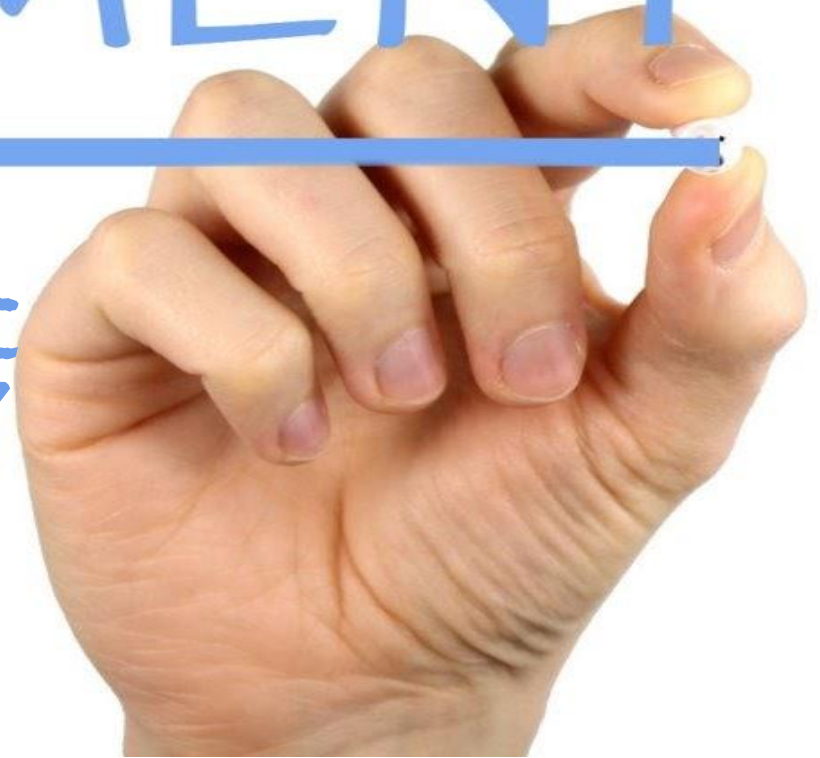
- **Amendments & Ordinance**
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AMENDMENT



ORDINANCE





# **Karnataka Shops and Commercial Establishment (2nd Amendment) Act, 2020**



# Karnataka Shops and Commercial Establishment (2nd Amendment) Act, 2020

- The First Proviso of Section 15(7) of Karnataka Shops and Commercial Establishments Act, 1961 has been amended thereby enabling an employee to **carry forward 45 days of leave** instead of 30 days to the succeeding year.



# **Punjab Factory (Amendment)**

## **Rules, 2020**

**Notification dated 27.11.2020**



# Punjab Factory (Amendment) Rules, 2020

- The Rules will be effective from 4<sup>th</sup> December 2020.
- Under the rules the following have been inserted.
  - Rule 2A - certain leading institutions providing Civil or Structural Engineering courses are identified as competent authority for the purposes of Section 6(1)(a) of the Act.
  - Rule 10A - Automatic Renewal of License for one year if no change.
  - Rule 114 - maintenance of register in electronic or digital format with time stamp , geo position and digital signature.





# Circular & Notification





# **Haryana Labour Welfare Board**

**Notification dated 23.11.2020**



# Haryana Labour Welfare Board

- The Contribution under Section 9 (A) (1) of the Punjab Labour Welfare Fund Act, 1965 shall be deposited by the Employer through online portal on the website of Labour Department.



# **Andhra Pradesh Labour Welfare Fund Act, 1987**

**Notification G.O.Ms.No.9 dated 07.12.2020**



# Andhra Pradesh Labour Welfare Fund Act, 1987

- The Government of Andhra Pradesh has introduced an online facility for payment of contributions under Andhra Pradesh Labour Welfare Fund Act, 1987 by employer and employee.
- All contributions from employee and employer under the Andhra Pradesh Labour Welfare Fund Act, 1987 shall be **mandatorily** remitted through online mode only.



# **Department of Labour, Andhra Pradesh**

**Notification G.O.Ms.No.10 dated 08.12.2020**



# Online registers under all Labour Acts in Andhra Pradesh

- The AP State Government has decided to introduce a scheme for maintenance of digital registers/ electronic format instead of manual registers.



# **Labour Department, West Bengal**

**Notification dated 04.12.2020**





# Digital Maintenance Of Records

- The Labour Department of West Bengal has informed that all statutory registers and records required under various labour laws are now allowed to be maintained online and/or in a Single Digital Platform.
- The registers and records so maintained shall be subject to scrutiny and inspection by authorities as and when required under the relevant Acts and Rules.



# **The Factories Act, 1948 (Andhra Pradesh)**

**Notification G.O.Ms.No.8 dated 04.12.2020**



# The Factories Act, 1948 (Andhra Pradesh)

- The Government of Andhra Pradesh vide this notification has issued an order to introduce the Self Compliance Certification/Third Party Compliance Certification 2020 instead of departmental inspections to facilitate the Ease of Doing Business in the State of Andhra Pradesh.
- The frequency of inspection of factories shall be based on the risk potential of the factory.



# **Labour Department, West Bengal**

**Notification dated 01.12.2020**



# Auto-Renewal of Licenses

- The Labour Department of West Bengal has introduced the non-discretionary auto-renewal of
  - (i) Licenses granted under the Factories Act, 1948
  - (ii) Licenses for contractors under the Contract Labour (Regulation and Abolition) Act, 1970
  - (iii) Licenses granted to the contractors under the Inter-State Migrant Workman Act, 1979.
- This shall be done through the online portal and be processed immediately.



# Karnataka Labour Welfare Fund Act, 1965

- As per Section 7A of the Karnataka Labour Welfare Fund Act, 1965, Employers will have to deduct the Welfare Fund contribution at the rate of Rs. 6/- per employee whose names stands in the register of an establishment on December 31, out of the salary/wages payable for the month of December.
- Employers are also required to add their contribution of Rs.12/- per employee and remit the total contribution along with the statement to the Labour Welfare Commissioner.
- All the Contributions and arrears for the year 2020 shall be remitted on or before 15.1.2021.





# Employees Provident Fund Organization

- The Central Board of Trustees-EPFO is likely to approve wage ceiling for coverage under its social security schemes to Rs 25,000 per month from Rs 15,000.
- If the proposal is approved, around 50 lakh employees would be covered under the new ceiling limit.





# EPFO to credit interest on PF

- Retirement fund body EPFO is likely to credit 8.5% rate of interest for 2019-20 in the EPF accounts of around six crore subscribers in one go by December-end.
- The Labour Ministry has supposedly sent a proposal to the Finance Ministry to give concurrence to credit 8.5 per cent rate of interest on EPF for 2019-20.
- It had said that the 8.5% interest would comprise of 8.15% from debt income and balance 0.35% (capital gain) from the sale of ETFs (exchange traded funds) subject to their redemption by 31st December 2020.



# Atmanirbhar Bharat RojgarYojana (ABRY)

- The Union Cabinet has given its approval for Atmanirbhar Bharat RojgarYojana (ABRY) to enhance the employment in formal sector and creation of new employment opportunities during the COVID-19 recovery phase under Atmanirbhar Bharat Package 3.0.
- Cabinet has approved Rs.22,810 crore for the entire scheme period i.e, 2020-2023 and an expenditure of Rs. 1,584 crore for the current financial year.



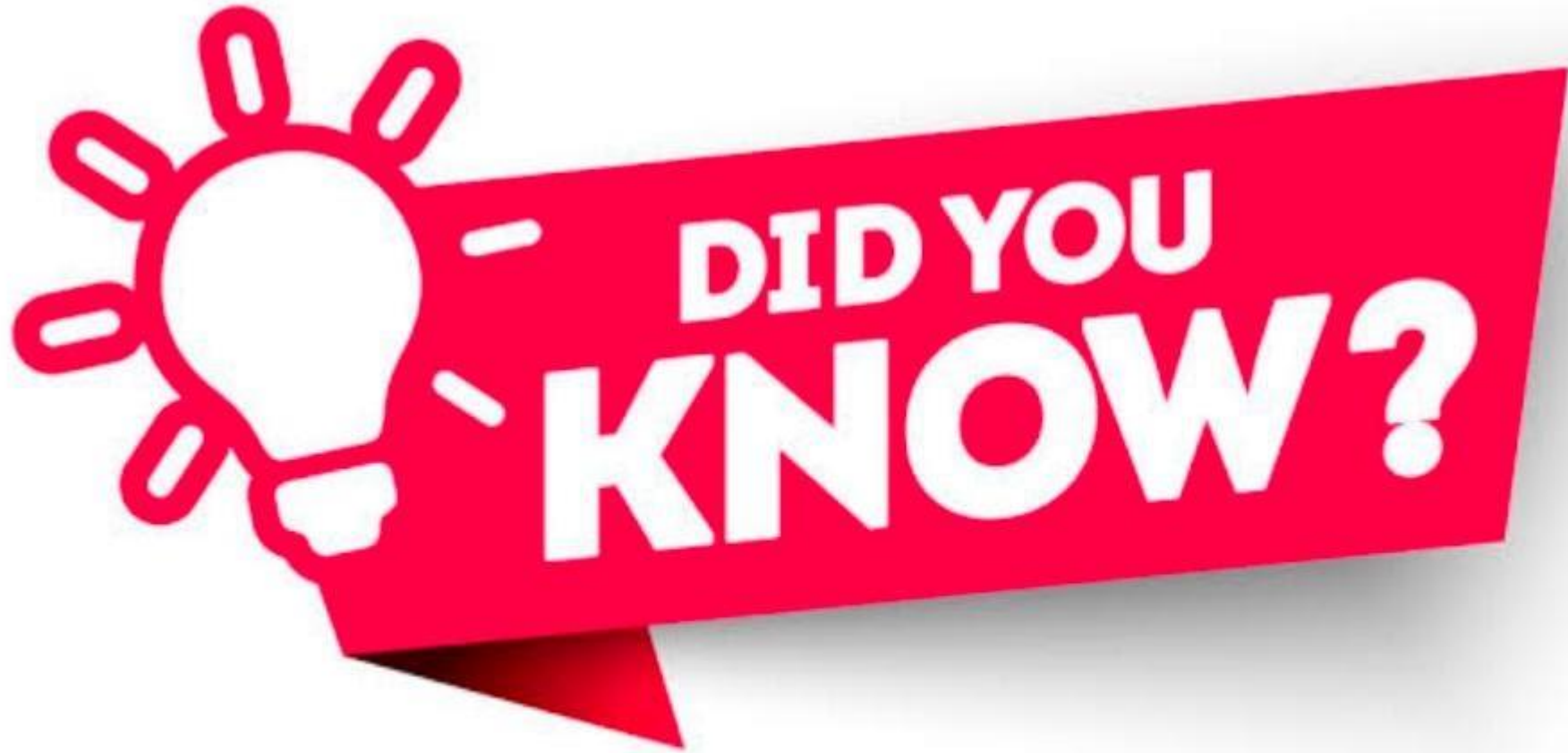
# Salient Features of ABRY

- Government of India (GOI) subsidy for two years in respect of new employees engaged on or after **1<sup>st</sup> October 2020 and upto 30th June 2021**
- GOI will pay both 12% employees' contribution and 12% employers' contribution towards EPF in respect of new employees in establishments **employing upto 1000 employees** for two years.
- GOI will pay only employees' share of EPF contribution i.e. 12% of wages in respect of new employees in establishments **employing more than 1000** employee for two years.
- An employee drawing monthly wage of less than Rs. 15000/- who was not working in any establishment registered with the Employees' Provident Fund Organisation (EPFO) before 1st October 2020 and did not have a Universal Account Number or EPF Member account number prior to 1<sup>st</sup>October 2020 will be eligible for the benefit.



# Salient Features of ABRY

- Any EPF member possessing (UAN) drawing monthly wage of less than Rs. 15000/- who was made exit from employment during COVID pandemic from 01.03.2020 to 30.09.2020 and did not join employment in any EPF covered establishment up to 30.09.2020 will also be eligible to avail benefit,
- EPFO will credit the contribution in Aadhaar seeded account of members in electronic manner,
- EPFO shall develop a software for the scheme and also develop a procedure which is transparent and accountable at their end.
- EPFO shall work out modality to ensure that there is no overlapping of benefits provided under ABRY with any other scheme implemented by EPFO.





# Occupational Safety, Health and Working Conditions, Rules 2020

- The Labour Ministry, has notified draft rules allowing 12 working hours a day including one hour of rest.
- The employment draft rules, notified for the Code on Occupational Safety, Health and Working Conditions (OSH & WC), states daily working hours can extend up to 12 hours.
- The OSH & WC rules will supersede 13 existing central labour law rules.



# The Occupational Health, Safety and Working Conditions (Central) Rules, 2020

- The Ministry of Labour and Employment has issued draft Rules under the OHSW Code, 2020 on 19.11.2020.
- The Rules supersedes the following:
  1. The Dock Workers (Safety, Health and Welfare) Rules, 1990;
  2. The Building and Other Construction Workers (Regulation of Employment and Condition of Services) Rules, 1998;
  3. The Model Factories Rules;
  4. The Mines Rules, 1955;
  5. The Mines Rescue Rules, 1985;
  6. The Mines Vocational Training Rules, 1966;
  7. The Pithead Bath Rules, 1959;
  8. The Mines Crèche Rules, 1966;



# Contd..

9. The Contract Labour (Regulation and Abolition) Central Rules, 1971;
10. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1979.
11. The Working Journalists (Conditions of Service) and Miscellaneous Provisions Rules, 1957;
12. The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984;
13. The Sales Promotion Employees (Conditions of Service) Rules, 1976.





# The Industrial Relations (Central) Rules, 2020

- The Ministry of Labour and Employment has issued draft Rules under the Industrial Relations Code, 2020 on 29.10.2020.
- The Rules supersedes the following:
  1. The Industrial Tribunal (Procedure) Rules, 1949;
  2. The Industrial Tribunal (Central Procedure) Rules, 1954;
  3. The Industrial Disputes (Central) Rules, 1957;
  4. The Industrial Employment (Standing Orders) Central Rules, 1946



# The Code on Social Security (Central) Rules, 2020

- The Ministry of Labour and Employment has issued draft Rules under the Social Security Code, 2020 on 13.11.2020
- The Rules supersedes the following:
  1. Employees' State Insurance (Central) Rules, 1950;
  2. Tribunal (Procedure) Rules, 1997;
  3. Employees' Provident Funds Appellate Tribunal(Conditions of Service) Rules, 1997;
  4. Employment Exchanges (Compulsory Notification of Vacancies) Rules, 1960;
  5. Maternity Benefit (Mines and Circus) Rules, 1963;
  6. Payment of Gratuity (Central) Rules, 1972;
  7. Cine-Workers Welfare Fund Rules, 1984;
  8. Building and Other Constructions Workers' Welfare Cess Rules, 1998; and
  9. Unorganised Workers' Social Security Rules, 2009;



# Employees State Insurance Corporation (ESIC)

- ESIC allows its beneficiaries to avail health services directly in any nearby private hospital in case of emergency.
- As per the existing practice, the insured persons and beneficiaries (family members) are required to go to an ESIC dispensary or hospital to obtain referral for hospitalization in empaneled as well as non- empanelled private hospitals.
- The pre-condition of getting referral for hospitalization from the ESIC dispensary or hospital has been done away.



# **Karnataka Repealing of Certain Enactments and Regional Laws Act, 2020**



# Karnataka Repealing of Certain Enactments and Regional Laws Act, 2020

The following enactments have been repealed:

- The Karnataka Legislature Salaries, Pensions and Allowances (Second Amendment) Act, 2015.
- The Karnataka Appropriation Act, 2016.
- The Karnataka Appropriation (Vote on Account) Act, 2016.
- The Karnataka Taxation Laws (Amendment) Act, 2016.
- The Karnataka Value Added Tax (Amendment) Act, 2016.
- Karnataka Stamp (Second Amendment) Act, 2016.
- The Karnataka Motor Vehicles Taxation (Amendment) Act, 2016.
- The Karnataka Stamp (Amendment) Act, 2016.
- The Karnataka Stamp (Third Amendment) Act, 2016.
- The Karnataka Pawn Brokers (Amendment) Act, 2016.
- The Karnataka Public Service Commission (Conduct of Business and Additional Functions) (Amendment) Act, 2016.
- The Karnataka State Minorities Commission (Amendment) Act, 2016.



# Contd....

- Sri Malai Mahadeshwaraswamy Kshetra Development Authority (Amendment) Act, 2016.
- The Karnataka Appropriation (No.2) Act, 2016.
- The Karnataka Appropriation (No.3) Act, 2016.
- The Karnataka Co-operative Societies (Amendment) Act, 2016.
- The Karnataka Agricultural Produce Marketing (Regulation and Development) and Certain other law (Amendment) Act, 2016.
- The Karnataka Stamp (Fourth Amendment) Act, 2016.
- The Karnataka Police (Amendment) Act, 2016.
- The Karnataka Forest (Amendment) Act, 2016.
- The Karnataka Housing Board (Amendment) Act, 2016.
- The Bangalore Water Supply and Sewerage (Amendment) Act, 2016.
- The Karnataka Souharda Sahakari (Amendment) Act, 2016.





CASE LAW



**Panther Security Service Private Limited  
Vs.  
Employees' Provident Fund Organisation and  
Another**

**December 2, 2020**





# **Panther Security Service Private Limited**

## **Vs.**

### ***EPFO***

- The Appellant provided security services to various organizations. It is also registered under the Private Security Agencies (Regulation) Act, 2005.
- Appellants submitted that they were not covered by G.S.R. No. 805 dated 17.05.1971 issued under Section 1(3)(B) of the EPF Act since they were not engaged in rendering any expert services.
- The contention of the appellants was that, since the salary of the security guards was paid by their clients who have ultimate control over the security guards deployed with them, the Appellant company was not the employer of these security guards and neither were they their employees.



# **Panther Security Service Private Limited**

## **Vs.**

### ***EPFO***

- The Hon'ble Supreme Court dismissed the appeal filed by the Appellant holding that Merely because the client pays money under a contract to the Appellant and in turn the Appellant pays the wages of such security guards from such contractual amount received by it, it does not make the client the employer of the security guard nor do the security guards constitute employees of the client.
- The Court has observed that the provisions of EPF Act is applicable to a private security agency.

**(Case Reported in 2020 SCC OnLine SC 981)**



**Management, Tamil Nadu State Transport  
Corporation (Villupuram) Ltd.**

**Vs.**

**Presiding Officer, Additional Labour Court,  
Vellore and Anr.**

**January 1, 2020**



# TNSTC Vs. Presiding Officer

- The workman was a conductor in the Petitioner Corporation.
- The charges of remitting the cash collection belatedly and of unauthorized absence on 9 occasions was held to be proved.
- The employee was dismissed from service after holding domestic enquiry. Challenging the dismissal, ID was raised before the Labour Court.
- The Labour Court was pleased to hold the enquiry to be fair and proper and held the charges proved. However it held that the punishment was disproportionate. The Court directed reinstatement with continuity of service without back wages.



# TNSTC Vs. Presiding Officer

- The High Court of Madras held that punishment of dismissal from service for a habitual absentee coupled with misconduct is justified to maintain discipline at the workplace.
- The High Court held that though powers under section 11A is wide, but still it has to be used as a discretionary power.
- The Order of punishment imposed by the Management is restored.

(Case reported in 2020 LLR 931)





## REPORTING PERIOD - DECEMBER-2020

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ADVOCATES & NOTARIES



Act	Location/s	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Jan	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Jan	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Jan	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Jan	ESIC Remittance
Professional Tax Act	Andhra Pradesh	10-Jan	Professional Tax Remittance cum Return
	Telangana	10-Jan	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Jan	Professional Tax Remittance (15 <sup>th</sup> due date for Return)
	Gujarat	15-Jan	Professional Tax Remittance
	Jharkhand	15-Jan	Professional Tax Remittance cum Return (15th of each Quarter (Apr, Jul, Oct, Jan))
	Pondicherry	15-Jan	Professional Tax Remittance (Employer & Employee)
	Karnataka	15-Jan	Professional Tax Remittance cum Return(15th Jan & 15th July)
	West Bengal	21-Jan	Professional Tax Remittance cum Return

**REPORTING PERIOD - DECEMBER-2020**

	Odisha	31-Jan	Professional Tax Remittance cum Return
	Assam	31-Jan	Professional Tax Remittance cum Return
	Maharashtra	31-Jan	Professional Tax Remittance cum Return
	Nagaland	31-Jan	Professional Tax Remittance
	Meghalaya	31-Jan	Professional Tax Remittance
	Mizoram	31-Jan	Professional Tax Remittance
	Sikkim	31-Jan	Professional Tax Remittance
	Manipur	31-Jan	Professional Tax Remittance
	Tripura	31-Jan	Professional Tax Remittance
Labour Welfare Fund Act	Tamil Nadu	31-Jan	LWF Remittance cum Return
	New Delhi	15-Jan	LWF Remittance cum Return
	Haryana	31-Jan	LWF Remittance cum Return (Extended to 31-03-2020)
	Maharashtra	15-Jan	LWF Remittance cum Return (Extended to 29-02-2020)



**REPORTING PERIOD - DECEMBER-2020**

	Goa	15-Jan	LWF Remittance cum Return
	Gujarat	31-Jan	LWF Remittance cum Return
	Madhya Pradesh	31-Jan	LWF Remittance cum Return
	Chhattisgarh	31-Jan	LWF Remittance cum Return
	West Bengal	15-Jan	LWF Remittance cum Return
	Andhra Pradesh	31-Jan	LWF Remittance cum Return
	Telangana	31-Jan	LWF Remittance cum Return
	Karnataka	15-Jan	LWF Remittance cum Return
	Odisha	31-Jan	LWF Remittance cum Return
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act (WWF)	Kerala	05-Jan	Remittance (Return due date 15 <sup>th</sup> )



# **The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013**

- The Internal committee is to keep all the records that are necessary for annual filing under POSH Act.
- Despite of absence of timeframe to file annual report it is a safer approach to file the annual return with the Employer and District Officer within 30 days from closure of the Calendar year.



**KNOW YOUR CODES**



# Has the Labour Codes been notified?

**Yes**

**No**



Not yet. The Labour Courts are expected to be notified with effect from 01.04.2021.



**Under Payment of Wages Act, 1936,  
there was wage ceiling of Rs. 24000. Is  
there similar ceiling on Code on Wages  
2019?**

**Yes**

**No**



**There is no ceiling on Code on Wages  
2019.**



# Can an employer engage contract labour perennially and continuously for security and canteen under Occupational Health, Safety and Working Conditions code, 2020?

**Yes**

**No**



- In terms of OSH Code 2020, canteen and security are considered to be non core activities. Hence contract labour can e engaged continuously to provide security and canteen services



# What is the limitation period under the Industrial Relations Code 2020

2 years ✓

5 years

3 years

No Limitation

Two years limitation has been prescribed.



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ADVOCATES & NOTARIES



**Let's Connect again at 4PM on 23<sup>rd</sup> January 2021**



*Thank  
you*

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ADVOCATES & NOTARIES



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