



# Monthly Labour Law Update

January 2021



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# Let's take a tour

Amendments  
& Ordinance

Circulars &  
Notifications

News

Know Your  
Codes

Did you Know

Case Law

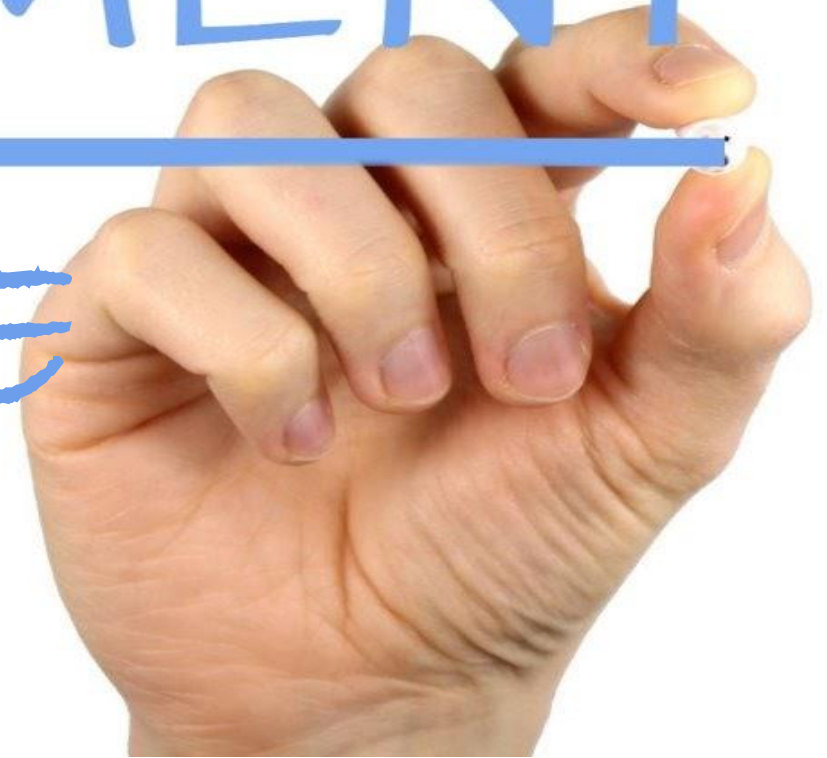
Compliance-  
February 2021



AMENDMENT



ORDINANCE





# **Madhya Pradesh Child Labour (Prohibition and regulation) Rules, 1993**



# Madhya Pradesh Child Labour (Prohibition and regulation) Rules, 1993

- Under the rules the following have been inserted:
- Rule 2A -provision for awareness on prohibition of employment of children and adolescents
- Rule 2B and Rule 2C -exceptions to prohibitions on employment in cases where the child has to help his family (without affecting education) and where the child works as an artist.
- Rule 4A- Hours of work- no adolescent shall be required or permitted to work in an establishment in excess of such number of hours of work as is permissible under the law.
- Rule 5-Payment of amount to child or adolescent from and out of Child and Adolescent Labour Rehabilitation Fund.



# **Contract Labour (Regulation and Abolition) (Gujarat)(Amendment) Rules, 2020**



# Contract Labour (Regulation and Abolition)(Gujarat)(Amendment) Rules, 2020

## Highlights:

- Rule 26- Fees to be paid for grant of certificate of registration under Section 7 and fees to be paid for grant of license under Section 12 has been revised.
- Rule 25- Every license granted under rule 25 shall remain in force for the period mentioned in Form-V.





# Draft Model Standing Orders for Manufacturing, Mining and Service Sectors

- The Central Government has published the draft model standing orders pursuant to S.29 of Industrial Relations Code, 2020.
- All three standing orders encourage use of electronic mode.
- Definition of habitual Offender with respect to indiscipline.
- Applicability of model standing orders to all units of industrial establishment if adopted in one.
- The Concept of Work from home is formalized in Model Standing Orders for Service Sector, while leaving it for the employers in the IT Sectors to mutually decide the work hours for its employees.



# Circular & Notification





# **Employees State Insurance Corporation**

**Circular dated 06.01.2021**



# Payment of claims in cases of “0” contribution

- The employee is eligible for payment after due verification if the employer has shown “0” Contribution in respect of an employee for some time before exiting him from the system of claim of relief under ABVKY.
- It is to be noted that only those beneficiaries who have been exited from the rolls of the employer, even at later date, are considered for payments under ABVKY subject to fulfillment of other eligibility conditions.



# **Employees State Insurance Corporation**

**Notification Dated: 30.12.2020**



# Enhancing Coverage under ESI

- All establishments as defined in Section 2(29) of the Code shall be covered under the provisions of ESI Act, 1948.
- Threshold for factories not using power, shall be 20 employees
- Employers of Plantations can also opt for coverage under ESI.
- Threshold for coverage of establishments under ESI which carries hazardous activities- 1 Employee
- Contributions shall be payable only from the date from which benefits are made available to the employees of establishments.



# **Employees Provident Fund Organisation**

**Notification Dated:01.10.2020**



# Quasi-Judicial Cases-Virtual Hearing

- The System of conduct of virtual hearing in quasi-judicial cases under EPF Act was launched by the Hon'ble Minister of State (I/C), MoL & E, Govt.of India and Chairman, CBT, EPF on 09.09.2020.
- Objective:
  - Enabling officer to discharge quasi-judicial duty
  - Enable parties to make submissions, file documents from remote locations.
  - Integration of e-court process.





# **Employees Provident Fund Organisation**

**Notification Dated:19.01.2021**



# Quasi Judicial Proceedings under EPF & MP Act, 1952

- The Hon'ble Delhi High Court while deciding the case of Civicon Engineering Contracting Vs Central Board of Trustees FWP 9530/20201, noticed several inconsistencies in conduct of proceedings u/s 14B, and has issued directions to all officers discharging adjudicatory functions under the Act.
  - All quasi-judicial proceedings under the EPF Act must be conducted in the "e proceedings portal". If such conduct is not possible due to technical/functional reasons, the same should be informed to Concerned zonal officers.
  - Fishing and roving inquiries are impermissible in law. Adjudicating officer should record prima facie case before any proceeding.
  - Documents that are basis for initiation of inquiry, need to be accompanied with the Notice.
  - All notice must be issued via speed post
  - Next hearing date should be informed to the party at that stage itself. Order copy and daily sheet should be uploaded in e-proceeding portal.



# Quasi Judicial Proceedings under EPF & MP Act, 1952

- Adjudicating officer should ensure parties are given sufficient opportunities to represent.
- Adjudicating authority must fix a date of pronouncement of orders and inform the parties. The orders should be pronounced preferably within 15 days from the date on which order are reserved.
- Incase of exparte in any proceedings, the officer should examine the aspect of service and record his satisfaction before proceeding.
- All final orders should contain authenticated signation of adjudicating officer with date and official stamp. The State Emblem of India (Regulation of Use) Rules, 2007 should be complied.
- The Final orders should be dispatched to the parties. It should also be uploaded in e-proceedings portal within 3 days of pronouncement.



# **Karnataka Shops and Commercial Establishment Act, 1961 (Amendment)**

**Notification dated 02.01.2021**



# Karnataka Shops and Commercial Establishment Act, 1961

- The act permits all Shops and Establishments in the State employing ten or more persons to be open on 24x7 basis on all days of the year for a period of 3 years from the date of publication of this notification in the official gazette subject to specific conditions such as :
  - Appointment of additional staff to facilitate one day leave to an employee on rotational basis,
  - Overtime wages to be paid if applicable.
  - Wages to be deposited in bank account.
  - working hours upto 10 hours or maximum of 50 hours for 3 months
- Women can be engaged beyond 8.00 PM with her consent in written form.
- Other safety conditions such as transport facility, washroom, safety locker and other amenities for women employees.
- The Employer should constitute Internal Compliance Committee as prescribed under POSH Act, 2013.
- The provision further provides for penal action in case of violation by the Manager/employer.





# Online RTI Information System

RTI applications/first appeals by Indian Citizens for all Ministries/Departments and other Public Authorities of Central Government is available through online mode.



# Women's Commission Awards Compensation to Loyola College Staff

- The Senior Faculty member alleged that she was harassed by the Jesuit Father and was verbally terminated from service.
- She has approached the Hon'ble High Court of Madras where the case is still pending. Meanwhile she had approached the commission claiming wages for 81 months. The Commission noted that as per rules, the college has to inform the Directorate of Collegiate Education whenever a staff member is terminated. The commission also found the track records of the faculty member to be very good.
- Tamil Nadu State Commission for Women has ordered Loyola College to immediately pay Rs.64.3 Lakh for back wages, damages for mental agony, unkind words of sexual harassment and compensation for false complaint with interest to a women faculty who was verbally terminated from service without any misconduct.





# Facility to view compliance by contractors

- The facility has been introduced in the login of all employers to give the details of their contractors and the period of contract.
- The Principal employer shall login and monitor all the compliance of their contractors.
- This enables the Principal employer to view the amount of wages for which the EPF dues haven been remitted by the contractor, to view benefits claimed from the Central Government in respect of the contract employees.



**KNOW YOUR CODES**



# Model Standing Orders, 2020

## Classification of Worker:

Permanent

Temporary

Apprentices

Probationers

Badlis

Fixed Term  
Employment

**Apprentice means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship under the Apprenticeship Act, 1961 (52 of 1961)**





# Employee dues to be recovered from Gratuity amount

- A bench headed by Justice Sanjay K Kaul in the case of Steel Authority of India Ltd. Vs Raghbendra Singh & Ors Appeal (C) No(s). 11025/2020 held that gratuity money of an employee can be withheld for recovery of dues such as overstaying in official accommodation.
- The Hon'ble Supreme Court further held that penal rent can be adjusted against the dues payable if employee occupies a quarter beyond the specified period.



# Web Based Inspection

- Under the Code on Wages, 2019 the Inspector-cum-facilitator can make inspections only web based through automated centralized system and they will not have any unlimited or arbitrary powers to harass the employers.





# **In Re Amneal Pharmaceuticals Pvt Ltd (GST AAR Gujarat)**

**Dated: 30.07.2020**





# In Re Amneal Pharmaceuticals Pvt Ltd

- **The applicant in the above case is a 100% Export Oriented Unit engaged in manufacturing of pharmaceuticals.**
- **The applicants submitted that at the time of appointing any employee they will enter into a contract by issuing appointment letter. There's a clause which mentions that parties shall mandatorily serve three months notice period to terminate the contract. In case, the three months notice period criteria is not fulfilled then as per the contract, the company is entitled to recover the notice pay from the salary as agreed by the parties.**
- **The contentions of the applicants was that notice pay is a sum mutually agreed by the parties for contract and it can be regarded as a consideration from an employment contract under section 74 of Indian Contract Act, 1872 and not by virtue of any other independent contract. Therefore, the said amount which acts a compensation for breach of contract does not amount to supply and will not be chargeable under Goods and Services Tax.**



# In Re Amneal Pharmaceuticals Pvt Ltd

- **The Gujarat Advance Ruling held that since the employee is aware that he can leave the service prior to the required notice period on payment of notice pay and has also accepted it, it would have the effect of “agreeing to the obligation of tolerating an act (quitting without advance notice) thus coming the purview of Clause 5(e) to Schedule II to CGST Act 2017 and would be treated as supply of service.**
- **The Court further held that “An employee exiting a company without completing their notice period would be liable to pay 18% GST on the pay recovery of pay”.**
- **Furthermore, it was added that the amount will not be covered under employee exceptions under the GST Act.**

**(ADVANCE RULING NO. GUJ/GAAR/R/51/2020)**



# **Kerala Minerals and Metals Ltd. Vs. Regional Provident Fund Commissioner**

**Dated: 4.2.2020**



# Kerala Minerals and Metals Ltd. Vs. Regional Provident Fund Commissioner

- The petitioner was a Government Company, covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Writ petitions are filed challenging the order of the respondent wherein the Petitioner was ordered to pay interest under Section 7Q of the EPF Act on belated remittances of dues.
- The petitioner contended that amount became due only when the Government issued order revising the wages and as such, the petitioner cannot be saddled with interest for belated remittances.
- The Kerala High Court dismissed the writ petition holding that delay in remittance of contribution by the petitioner on account of revision of wages would still be covered under the provisions of Section 7Q of the EPF Act  
(Case Reported in 2020 LLR 1045 (Ker HC)).



**COMPLIANCE**





REPORTING PERIOD - JANUARY-2020			
Act	Location/s	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Feb	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Feb	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Feb	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Feb	ESIC Remittance
Payment of Bonus Act	Pan India	01-Feb	Form D
Professional Tax Act	Andhra Pradesh	10-Feb	Professional Tax Remittance cum Return
	Telangana	10-Feb	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Feb	Professional Tax Remittance cum Return
	Gujarat	15-Feb	Professional Tax Remittance (Employer & Employee)
	Karnataka	20-Feb	Professional Tax Remittance cum Return



	<b>West Bengal</b>	<b>21-Feb</b>	<b>Professional Tax Remittance cum Return</b>
	Maharashtra	29-Feb	Professional Tax Remittance cum Return
	Orissa	29-Feb	Professional Tax Remittance cum Return
	Assam	29-Feb	Professional Tax Remittance cum Return
	Nagaland	29-Feb	Professional Tax Remittance
	Meghalaya	29-Feb	Professional Tax Remittance
	Mizoram	29-Feb	Professional Tax Remittance
	Sikkim	29-Feb	Professional Tax Remittance
	Manipur	29-Feb	Professional Tax Remittance
	Tripura	29-Feb	Professional Tax Remittance
	Kerala	29-Feb	Professional Tax Remittance (Employer & Employee)
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	05-Feb	WWF Remittance
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	15-Feb	WWF Return



**Let's Connect again at 4PM on 27<sup>th</sup> February 2021**



*Thank  
you*

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