



Monthly Labour Law Update

March 2021



Disclaimer

- This Presentation is meant for informational purpose only and do not purport to be advice or opinion, legal or otherwise, whatsoever.
- This is not intended to advertise services or solicit work through this monthly update.



Let's take a tour

Amendments
& Ordinance

Circulars &
Notifications

News

Know Your
Codes

Did you Know

Case Law

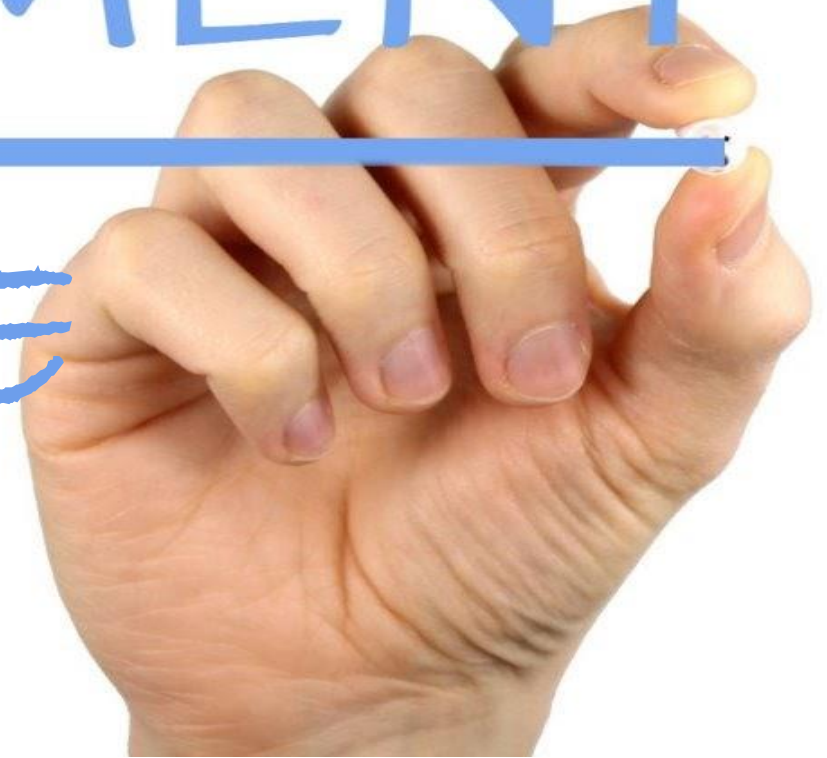
Compliance-
March 2021



AMENDMENT



ORDINANCE





The Code on Wages (Central Advisory Board) Rules, 2021.

Notification dated 1.03.2021



The Code on Wages (Central Advisory Board) Rules, 2021

- The Ministry of Labour and Employment (MOLE) issued The Code on Wages (Central Advisory Board) Rules, 2021 on 1st March, 2021.
- Key features of the Rules are mentioned below:
 - **Constitution of the Board:** The Board shall consist of the persons to be nominated by the Central Government representing employers and employees and the independent persons and representatives of the State Governments.
 - **Quorum:** At least one-third of the members and at least one representative member each of both the employers and an employee should be present



The Code on Wages (Central Advisory Board) Rules, 2021

- **Additional Functions of the Board:** The Board on reference by the Central Government advise that Government on the issue relating to the fixation of minimum wages in respect of
 - working journalists in the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955; and
 - sales promotion employees as defined in the Sales Promotion Employees (Conditions of Service) Act, 1976.
- **Disposal of business of the Board:** All business shall be decided by a majority of the votes of members present and voting and in the event of an equality of votes, the Chairperson shall have a casting vote.



Tamil Nadu Shops and Establishments Rules

G.O Ms.No dated 11th January 2021



Tamil Nadu Shops and Establishments Rules, 1948

- The following draft of amendments to the Tamil Nadu Shops and Establishments Rules, 1948 are proposed to be made in exercise of the powers conferred by sub-section (1) of Section 49 of the Tamil Nadu Shops and Establishments Act, 1947.
- Under rule 16, for sub-rule (1), the following sub-rule shall be substituted, namely:
 - a) Every employer shall maintain.-
 - b) a Register of persons employed in Form –U
 - c) a Register of Employment in Form –V
 - d) a Register of Wages in Form-W; and
 - e) a Register of Leave and Social Security Benefits in Form -X.



Tamil Nadu Shops and Establishments Rules, 1948

- f) The registers referred to in clause (a) shall be maintained either electronically or manually.
- g) Where the registers referred to in clause (a) are maintained in electronic form, the layout and presentation of the registers may be adjusted without changing the integrity, serial number and contents of the columns of the registers
- h) Forms 'P', 'Q' and 'C' shall be omitted;
 - i) After Form - T,
 - ii) Form U- Employee register,
 - iii) Form V- Register of employment,
 - iv) FORM W- Register of wages
 - v) and FORM X- Leave and wages shall be added.



The Tamil Nadu Beedi and Cigar Workers (Conditions of Employment) Rules, 1968

G.O Ms.No 8 dated 11th January, 2021



The Tamil Nadu Beedi and Cigar Workers (Conditions of Employment) Rules, 1968

- The Following draft amendments are proposed:

(1) in rule 26, sub-rule (2) shall be omitted;

(2) rule 28 shall be omitted;

(3) in rule 36,

(i) for sub-rule(1), the following sub-rule shall be substituted, namely:-

(a) Every employer shall maintain

i. an Employee Register in Form No. XIX;

ii. a Register of Employment in Form No. XX;

iii. a Register of Wages in Form No. XXI and

iv. a Register of Leave and Social Security Benefits in Form No. XXII.

v. The registers referred in clause (a) shall be maintained either electronically or manually.

vi. Where the registers referred in clause (a) are maintained in electronic form, the layout and presentation of the register may be adjusted without changing the integrity, serial number and contents of the columns of the register.”



The Tamil Nadu Beedi and Cigar Workers (Conditions of Employment) Rules, 1968

In sub-rule 2A,-

- for clause (iii) the following clause shall be substituted, namely:-

iii) If an employee loses his Service Book the employer shall provide him with another copy thereof on payment of ten rupees, within three days from the date of receipt of an application. The cost of photograph of the employee to be affixed to the Service Book shall be met by the employer.”;

- (c) sub-rules (3) and (5) shall be omitted.
- (4) Form Numbers “V”, “VI”, “VII”, “XIII”, “XIV-B”, “XV” and “XVI” shall be omitted.
- (5) After Form No.XVIII, the following Forms shall be added, namely:-
 - Form XIX- Employee register
 - Form XX-Register of employment
 - Form XXI-Register of wages
 - FORM No.– XXII-REGISTER OF LEAVE AND SOCIAL SECURITY BENEFITS



Circular & Notification





State of Karnataka

Notification dated 08.03.2021



Government of Karnataka- Mandating the use of Central Inspection system

A Central Inspection System (CIS) has been developed by Karnataka Udyog Mitra, Department of Industries and Commerce.

1. Department of Factories, Boilers, Industrial Safety and Health
2. Labour Department
3. Karnataka State Pollution Control Board and
4. Legal Metrology Department

The above departments are instructed to issue a separate GO/Notification, mandating that all inspection procedure through Central Inspection System only.



Draft Code on Wages Karnataka Rules, 2021

- The Government of Karnataka has published the draft of the Code on Wages Karnataka Rules, 2021 in exercise of the powers conferred by section 67 of the Code on Wages, 2019 (Central Act No. 29 of 2019)
- The Draft was published on 02.03.2021 and any objections or suggestions should be expressed within **30 days.**





2021-2022 Budget- Provident Fund Contribution

- Threshold limit of tax-free interest on PF contribution has been modified as Rs. 5 lakhs in the 2021-22 Budget.
- Employees in private sector cannot contribute more than the limit of Rs 2.5 lakh in a year, to enjoy tax exemption on interest.



KNOW YOUR CODES



**KNOW YOUR
CODES**

- **Under the Occupational Safety, Health and Working Conditions Code, 2020 any person can work in an establishment for a maximum of 8 hours in a day, after which overtime provision will be applicable.**



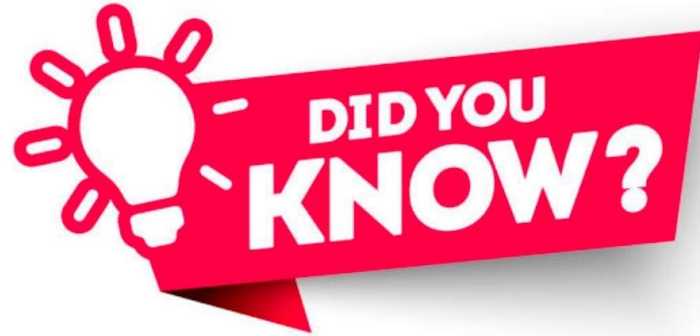
**KNOW YOUR
CODES**

- **Under the Code on Social Security, 2020 ,
in case of nonpayment of compensation
the authority shall direct the employer to
pay the amount of arrears plus interest at
the rate prescribed by the Central
government due within a month**

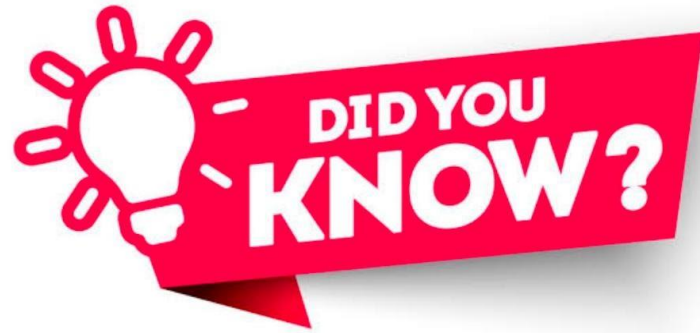




- The Union labour ministry has informed Parliament that at least 6,500 employees have died on duty at factories, ports, mines and construction sites in five years.
- EPFO adds 13.6 lakh net subscribers during January, 2021



- Following a Supreme Court ruling, Uber said it will classify all drivers in the United Kingdom as workers — a category between self-employed and employed that entitles those designated to a minimum wage and holiday pay.
- The Company will calculate working time starting when drivers accept a trip, excluding the time after they have signed into the app and are waiting for a ride. A statement by the App Drivers and Couriers Union described the company's new approach as "a day late and a dollar short, literally."



- A Pharma major has extended its Group Mediclaim Policy to cover employees of the LGBTQ community and live-in partners.
- The move is part of their initiative that aims to build a diverse and equitable workplace for a multi-generational workforce. This initiative has been undertaken keeping in mind the changing needs of an evolving workplace and to promote a diverse work culture in the true sense of the word.





Madras Cricket Club vs. Presiding Officer and Another

(2020) LLR 277



Madras Cricket Club vs. Presiding Officer and Another,

- The employee had misbehaved with the superior and assaulted him. Charge memo was issued to the employee and he was suspended. The employee was dismissed with immediate effect.
- The Employee raised an Industrial dispute before the 1st Respondent. The Labour Court considering the pleadings, oral and documentary evidence, held that the petitioner has proved the charges leveled against the employee and not conducting enquiry will not vitiate the order of dismissal, but directed the petitioner to reinstate the employee into service with continuity of service, attendant benefits, but without back wages.

(2020) LLR 277



Madras Cricket Club vs. Presiding Officer and Another,

- The Hon'ble High Court of Madras held that it is well settled that the Labour Court or the Tribunal can interfere with the punishment imposed by the Management only when such a punishment is shockingly disproportionate to the charges leveled against the employee and proved in the Domestic Enquiry. The discretion under Section 11 A has to be exercised judicially. Assaulting, threatening and using filthy language for senior official will justify workman's dismissal.

(2020) LLR 277



**Employees Provident Fund Organization
Vs.
Parrison Estates and Industries Pvt. Ltd.**

2020 SCC OnLine Ker 13347



Employees Provident Fund Organization Vs. Parrison Estates and Industries Pvt. Ltd.

- The Respondent management had purchased four tea estates.
- The Business operations of the tea estates commenced from 07.02.2005.
- The erstwhile owner of those tea estates had not paid the PF contribution and other contributions including administrative charges payable under the Act in time.
- The Assistant Provident Fund Commissioner had initiated proceedings for recovery of damages under Section 14B of the Act so also for recovery of interest under Section 7Q.

2020 SCC OnLine Ker 13347



- The Assistant Provident Fund Commissioner directed the 1st respondent to pay the damages for totaling to Rs. 58,464/-.
- Aggrieved by the order of APFC, the 1st Respondent preferred an appeal under the Act.
- The findings recorded by the Assistant Provident Fund Commissioner and undoubtedly, the element of mens rea was not considered by the Assistant Provident Fund Commissioner while imposing damages on the 1st respondent for delayed remittance of PF dues.
- Relying on the matter of *Management of RSL Textiles India Pvt. Ltd* the Court held that "Mens rea is imperative on imposing damages for delayed payment of PF dues" and it has held that when damages under Section 14B of the Act were inclusive of interest chargeable under Section 7Q of the Act, the Provident Fund organization has no right to charge interest under Section 7Q of the Act additionally.

2020 SCC OnLine Ker 13347



**M/s Central Travancore Specialists Hospital
VS
The Regional Provident Fund Commissioner
and Another**

2020 LLR 1054 (Ker. HC)



M/s Central Travancore Specialists Hospital VS The Regional Provident Fund Commissioner and Another

- M/s. Central Travancore Specialists Hospital Ltd., is a 160 bedded hospital at chengannur.
- Being covered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, proceedings were initiated under Section 7Q of the Act to realize interest for the default in making contributions.
- The Court held that Any delay in payment of contributions causes loss to the beneficiaries hence no leniency in its recovery.

2020 LLR 1054 (Ker. HC)



**REPORTING PERIOD - APRIL-2021**

Act	State	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-May	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-May	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-May	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-May	ESIC Remittance
Employees State Insurance Corporation Act	Pan India	11-May	ESIC Half Yearly Returns
Professional Tax Act	Andhra Pradesh	10-May	Professional Tax Remittance cum Return
	Telangana	10-May	Professional Tax Remittance cum Return
	Madhya Pradesh	10-May	Professional Tax Remittance



	Gujarat	15-May	Professional Tax Remittance
	Karnataka	20-May	Professional Tax Remittance cum Return
	West Bengal	21-May	Professional Tax Remittance
	Maharashtra	31-May	Professional Tax Remittance cum Return
	Odisha	31-May	Professional Tax Remittance cum Return
	Assam	31-May	Professional Tax Remittance cum Return
	Nagaland	31-May	Professional Tax Remittance
	Meghalaya	31-May	Professional Tax Remittance
	Mizoram	31-May	Professional Tax Remittance
	Sikkim	31-May	Professional Tax Remittance
	Manipur	31-May	Professional Tax Remittance
	Tripura	31-May	Professional Tax Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	05-May	WWF Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	15-May	WWF Return



**Restructure the
salary structure or
wait ?**





T.S.GOPALAN & CO

ADVOCATES & NOTARIES



Let's Connect again at 4PM on 24.04.2021



*Thank
you*

T.S.GOPALAN & CO

ADVOCATES & NOTARIES



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