



# Monthly Labour Law Update

June <sup>1</sup> 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

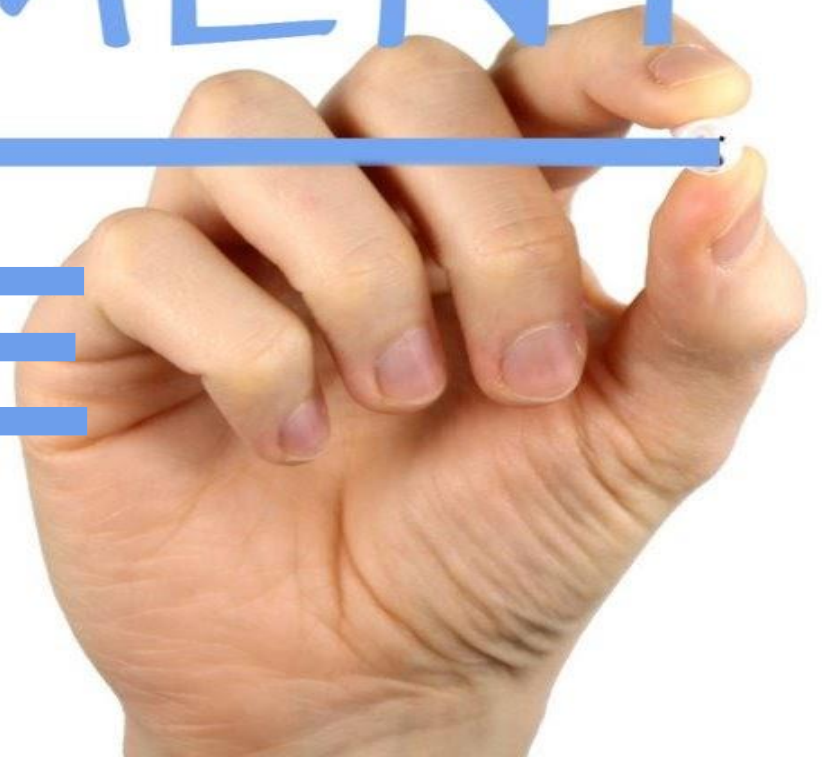
Compliance



AMENDMENT



ORDINANCE





# **The Code on Social Security Employee's Compensation Draft Rules, 2021**

**Dated: 03.06.2021**



# Code on Social Security (Employee's Compensation) (Central Rules, 2021)

## • HIGHLIGHTS:

- **Rule 3:** Rate of Interest to be paid by the employer: if Compensation is not paid within 30 days, employer is liable to pay it along with simple interest @ 12% or as notified by the Central Government.
- **Rule 4:** When money transmitted by one competent authority to another, it shall be made through remittance receipt or e-transfer or net banking or Demand draft.
- **Rule 5:** Application for the compensation shall be in Form-A along with certificate as per Form-B of rules.
- **Rule 6:** Transfer of compensation money.
- **Rule 7:** Place of proceedings shall be at the place where the accident took place or in case of death where the dependants ordinarily reside or at the employer's registered office.



# **Employee's State Insurance (Central) Amendment Rules, 2021**

**Dated: 14.06.2021**



# Employee's State Insurance (Central) Amendment Rules, 2021 – DRAFT RULES

- Ministry of Labour and Employment through notification on the Employees' State Insurance (Central) Amendment Rules, 1950. DRAFT
- The Following **Proviso** shall be added to the Rule 55 for the benefit of women.

“Provided further that in case an Insured woman who is in receipt of maternity benefit and due to reason of which, a shorter contribution period is available to her in the contribution period ending in which the Maternity Benefit falls, she shall be qualified to claim sickness benefit in the corresponding benefit period if the contribution in respect of her were payable for not less than half the number of days available for working in such contribution period”

- **They shall come into force on the date of their final publication in the Official Gazette.**





# Circular & Notification





# **Employees Provident Fund Organisation**

**Notification dated 31.05.2021**



# EPF – Medical Advance

- The EPF Organisation through Notification dated 31.05.2021 introduced the benefit of Medical advance without documentation in cases of emergency hospitalization on account of serious life threatening illnesses including COVID.



# EPF – Medical Advance-Procedure

Request letter to be submitted by employee or any family member of the patient **without estimate.**

Employee shall submit the bill within 45 days from date of discharge

Lump sum Medical advance upto Rs. 1 Lakh will be granted relaxing the formality of estimate from the hospital

Medical advance can be credited to the salary account or the hospital authority concerned.

The advance will be granted on the same day if it is working day, otherwise on succeeding working day

Any amount required in excess of Rs.1 lakh shall be sanctioned upto the limit by deducting Rs.1 Lakh already paid.



# **Employees' Provident Fund Organisation**

**Notification dated 15.06.2021**



# EPFO Mandated Aadhar Verification

- Employee's Provident Fund Organization mandated Aadhar Verification for filing of Provident Fund returns before 15.06.2021. However, on representation it has been postponed to 01.09.2021.
- All employees are required to seed the Aadhar number with the universal account number (UAN) for filing electronic challan-cum-returns before 1<sup>st</sup> September 2021.
- The EPFO instructed employers to have all EPF account holders UAN Aadhaar authenticated.



# **ESIC COVID – 19 RELIEF SCHEME**

**Notification dated 15.06.2021**



# ESIC COVID – 19 RELIEF SCHEME

- Employee State Insurance Corporation through Notification dated 15.06.2021 notified the ESIC COVID-19 Relief Scheme for the insured persons under the ESI Act.
- HIGHLIGHTS:
  - 90% of average wages will be distributed to the deceased worker. After submission of CRS-1 form.
  - The spouse of the deceased worker is also eligible for the medical care on nominal contribution of Rs. 120/- per year.
  - Scheme also covers the COVID-19 related deaths occurring within 30 days from recovery of COVID-19. Sickness benefit 70% of average daily wages.
  - The person must register before three months and the claim will be settled within 15 days after submission of form.





# **Employees' Provident Fund Organisation**

**Dated 17.06.2021**



# EPFO CIRCULAR EXTENDING BENEFITS FOR ORPHAN

- Employees' Provident Fund Organisation vide circular dated 17.06.2021 has extended the Employees' Pension Scheme 1995 to children of members who have been orphaned.
- Pension to orphans will be equal to 75% of the monthly widow pension with minimum pension of Rs. 750/- to each child.



# **Tamil Nadu Government extended Factories permissions**

**G.O. (Ms). No. 33 Dated 01.06.2021**



# TN Government extends permissions for Factories

- Tamil Nadu Government vide G.O. (Ms) No 33 dated 01.06.2021 extended permission for the factories which are falling due from May 2021 to September, 2021 under various authorities such as
  - TN Pollution Control Board,
  - Directorate of Boilers,
  - Directorate of Industrial Safety and Health,
  - Labour Department,
  - Fire and Rescue Services.
  - Food Safety and Drug administration and other Municipal, Urban and Village bodies.



# **Appellate Authority under POSH Act, 2013 in Maharashtra**

**Dated 31.05.2021**



# Appellate Authority under POSH Act, 2013 in Maharashtra

- The Government of Maharashtra, vide a notification dated 31.05.2021 has appointed Industrial Courts appointed under Section 10 of the Maharashtra Industrial Relations Act, 1947 as the Appellate Authority under the Sexual Harassment of Women (Prevention, Prohibition and Redressal), Act, 2013 (“POSH Act”).
- As per Rule 11 of the Sexual Harassment of Women at Workplace Rules, 2013, a woman can appeal to the Appellate Authority.



QUIZ!



# QUIZ!

- Under OSHC, 2020, the worker is entitled for annual leave with wages if he has worked for \_\_\_ days in the previous year?
  - a) 240 days in the calendar year
  - b) 360 days in the calendar year
  - c) 180 days in the calendar year
  - d) 120 days in the calendar year







# The Apprenticeship (Amendment) Rules, 2019

- The Union government is set to amend the Apprenticeship Act, 1961 to expand its scope, provide inbuilt flexibility, and allow companies to hire more apprentices.
- Small and micro companies operating in cluster can jointly hire apprentice on sharing basis based on individual requirements.
- Allow employers to take up to 15% staff strength as apprentices compared to the current threshold of less than 10%.
- The government may to allow Indian firms to deploy apprentices in their operations abroad if they so wish and use third-party aggregators such as staffing firms to help scale up apprenticeship training and hiring.



**KNOWLEDGE  
CORNER**



# Subsistence Allowance



# Subsistence Allowance



# Subsistence Allowance

- Subsistence allowances is payable by an employer to an employee, who is under the suspension.
- The term subsistence means – means supporting life, especially a minimum livelihood.
- Subsistence Allowance could be less than the salary, instead of the pay and allowances he would have entitled to if he had not been suspended.
- The subsistence allowance need to be paid till the employer and employee relationship subsist.



# Subsistence Allowance

- Industrial Employment (Standing Orders) Act, provides the manner and period of subsistence allowance in case of suspension.
- States have also enacted legislations in this regard:
  - The Tamil Nadu Payment Of Subsistence Allowance Act, 1981
  - Karnataka Payment Of Subsistence Allowance Act, 1988
  - Maharashtra Payment of Subsistence Act, 1981



# Subsistence Allowance

- **Payment of Subsistence allowance:** It is obligation of the employer to pay subsistence allowance after suspension, it should be paid on the normal wage payment date.

- **Quantum of Subsistence Allowance:**

Normally after suspension, for the first 90 days the employee can get 50% of the normal pay as Subsistence Allowance. Thereafter it should be 75% for next 90 days. After that, employer shall pay full wages, provided the delay of enquiry not due to employee.





# Subsistence Allowance under IR Code, 2020

- Section 38 of the IR Code, 2020 imposes the liability to pay subsistence allowance to a suspended worker.
- The Amount of subsistence allowance is as follows:
  - 50% of wages for first 90 days of suspension
  - 75% of wages for remaining period of suspension.
- This amount of subsistence allowance needs to be certified in the approved standing orders or based on the undertaking by the employer.



# Subsistence Allowance

- **Pending Permission Application before court:** If any approval petition under section 33(1) and 33(3) for dismissal of employee is pending before the Labour court, the employer should pay the subsistence allowance. **AIR 1986 1 LLJ 270**
- Labour court within the local limits have the jurisdiction to decide the dispute regarding subsistence allowance.



# Subsistence Allowance

- **Employee State Insurance Act:** The employer is liable to pay ESI Contribution during the suspension period of employee as it available to the normal working employees.

ESI Corporation v M/s. Popular Automobiles [1997 (7) SCC 665]

- **Provident Fund:** The provident fund shall not be deducted from the subsistence allowance, as it does not part of the wages.



# Subsistence Allowance

- **Minor Punishment of withholding wages:** If charges are proved against the employee during the domestic enquiry, then disciplinary authority cannot withhold wages during the suspension period.
- **Recovery of subsistence allowance from employee:** When subsistence allowances are paid to the employee, though the charges are proved, the employer cannot recover the subsistence allowance paid.



# Regularization of Suspension period



# Subsistence Allowance

- **Standing Orders of employers does not provide for withholding wages:** When, Employer's standing orders or rules does not provides provision for withholding back wages by disciplinary proceedings, employer cannot withhold even through settlement. Principal Secretary to Govt. vs. K. Muthkaruppan, MHC WP 21830 of 2015.



**KNOW YOUR CODES**



**KNOW YOUR  
CODES**

**Under the Occupational Safety Health and Working Conditions Code, 2020 the license granted to the occupier of the factory engaged in hazardous process is liable to be cancelled if he fails to disclose about the nature and process of such factory within 30 days before the commencement of such process to the Chief-Inspector-cum-Facilitator**

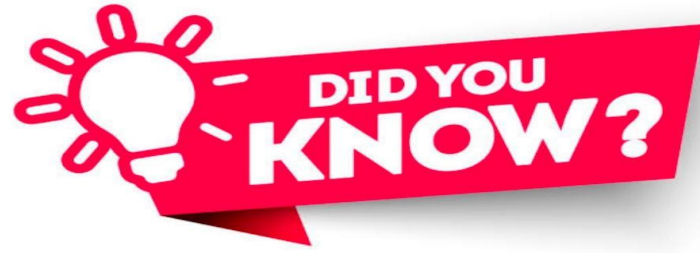




**KNOW YOUR  
CODES**

**Under the Occupational Safety Health and Working Conditions Code, 2020, where an accident has taken place on account of noncompliance of safety provisions, resulting in bodily injury/ death of the employee, a Court may impose a fine on the employer and can give 50% of the fine imposed as compensation to the victim or legal heirs of such victim as the case maybe.**





- A petition has been filed by All India Working Women Forum challenging the provisions relating to Maternity Benefits under the Social Security Code before the Madras High Court.
- The plea is that given the definition of wages under the Code on Social Security 2020, the maternity benefits under the Code would be less than the benefit provided under the Maternity Benefit Act





## A. Soundararsan and anr vs. The Chennai Metro Rail Limited

- Trade Union circulated allegations against the employer contenting that the metro is unsafe to travel.
- Employer filed injunction suit against the trade union and to restrain the union office bearers from indulging in such activity.
- The court held that as per Section 18 of the Trade Union Act, 1926, **no suit is maintainable in a Civil court as against a registered Trade Union** or officer Bearers or Members thereof with respect to any Act done in contemplation furtherance of a trade dispute and as per Section 2(g) Trade Dispute means a dispute between the employers and the workmen.

**2021 LLR 546 (Mad. HC)**





# Tamil Nadu Agro Engg and Service Co-operative Federation Ltd VS The Director (Recovery) Employees' Provident Fund Organization and ors.

Assistant provident fund commissioner has initiated recovery proceedings against the employer while they are under the winding up proceedings. Even though employer seeks waiver on the interest and damages, the commissioner ordered for quantifying amount. The court held that when the government after analyzing the financial situation of the employer ordered winding up, **there may not be any willful or deliberate intention on the part of the employer.** Therefore, damages for the delayed deposit of EPF dues can be waived for a sick establishment.

**2021 LLR 657 (Mad. HC)**

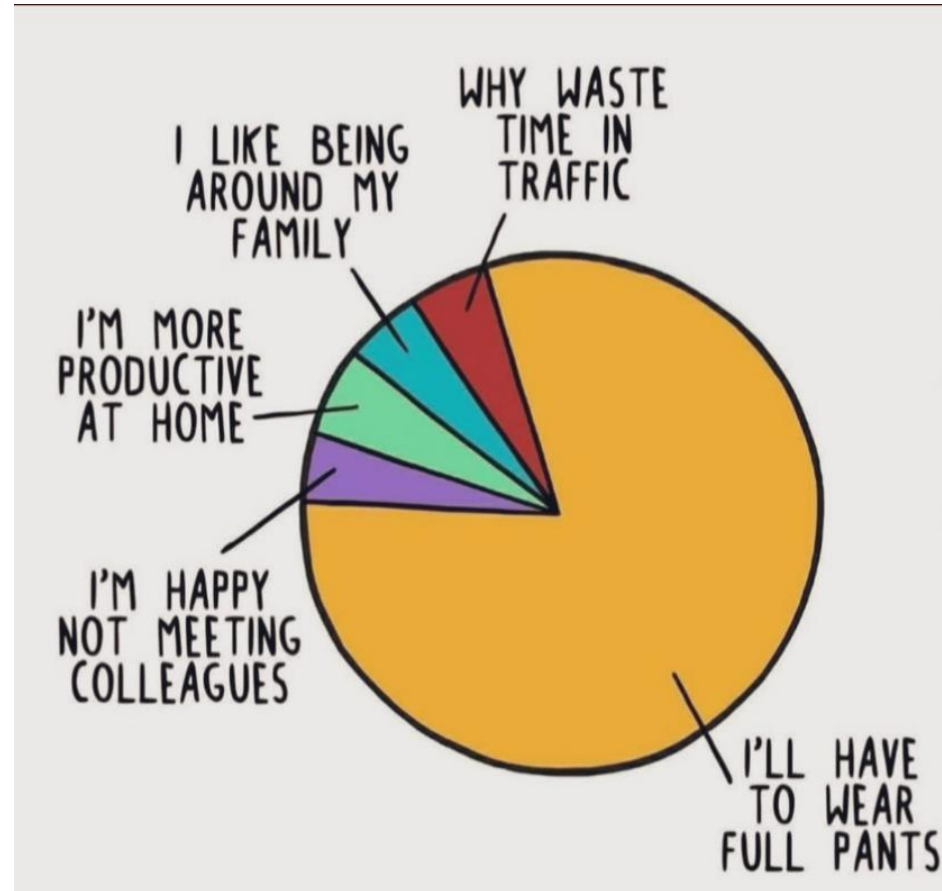


JUST FOR LAUGHS





## Why don't people want to go back to office?









REPORTING PERIOD - JULY-2021			
Act	State	Due Date	Activity
<b>Employees Provident Fund &amp; Miscellaneous Provisions Act</b>	Pan India	15-Jul	PF Remittance
<b>Employees Provident Fund &amp; Miscellaneous Provisions Act</b>	Pan India	15-Jul	IW Returns
<b>Employees Provident Fund &amp; Miscellaneous Provisions Act</b>	Pan India	25-Jul	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
<b>Employees State Insurance Corporation Act</b>	Pan India	15-Jul	ESIC Remittance
<b>Professional Tax Act</b>	Andhra Pradesh	10-Jul	Professional Tax Remittance cum Return
	Telangana	10-Jul	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Jul	Professional Tax Remittance
	Gujarat	15-Jul	Professional Tax Remittance
	Jharkhand	15-Jul	Professional Tax Remittance cum Return (15th of each Quarter (Apr, Jul, Oct, Jan))



Act	State	Due Date	Activity
<b>Karnataka</b>	20-Jul	Professional Tax Remittance cum Return	Karnataka
<b>West Bengal</b>	21-Jul	Professional Tax Remittance	West Bengal
<b>Maharashtra</b>	31-Jul	Professional Tax Remittance cum Return	Maharashtra
<b>Odisha</b>	31-Jul	Professional Tax Remittance cum Return	Odisha
<b>Assam</b>	31-Jul	Professional Tax Remittance cum Return	Assam
<b>Nagaland</b>	31-Jul	Professional Tax Remittance	Nagaland
<b>Meghalaya</b>	31-Jul	Professional Tax Remittance	Meghalaya
<b>Mizoram</b>	31-Jul	Professional Tax Remittance	Mizoram
		Professional Tax	



Act	State	Due Date	Activity
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	05-Jul	WWF Remittance
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	15-Jul	WWF Return
<b>Labour Welfare Fund</b>	Delhi	15-Jul	Remittance
<b>Labour Welfare Fund</b>	Maharashtra	15-Jul	Remittance
<b>Labour Welfare Fund</b>	Goa	15-Jul	Remittance
<b>Labour Welfare Fund</b>	Gujarat	31-Jul	Remittance
<b>Labour Welfare Fund</b>	Madhya Pradesh	31-Jul	Remittance
<b>Labour Welfare Fund</b>	Chattisgargh	31-Jul	Remittance
<b>Labour Welfare Fund</b>		31-Jul	Remittance



# QUIZ!

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**Let's Connect again at 4PM on 31 July, 2021**



*Thank  
you*

T.S.GOPALAN & CO

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