



# Monthly Labour Law Update

May 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

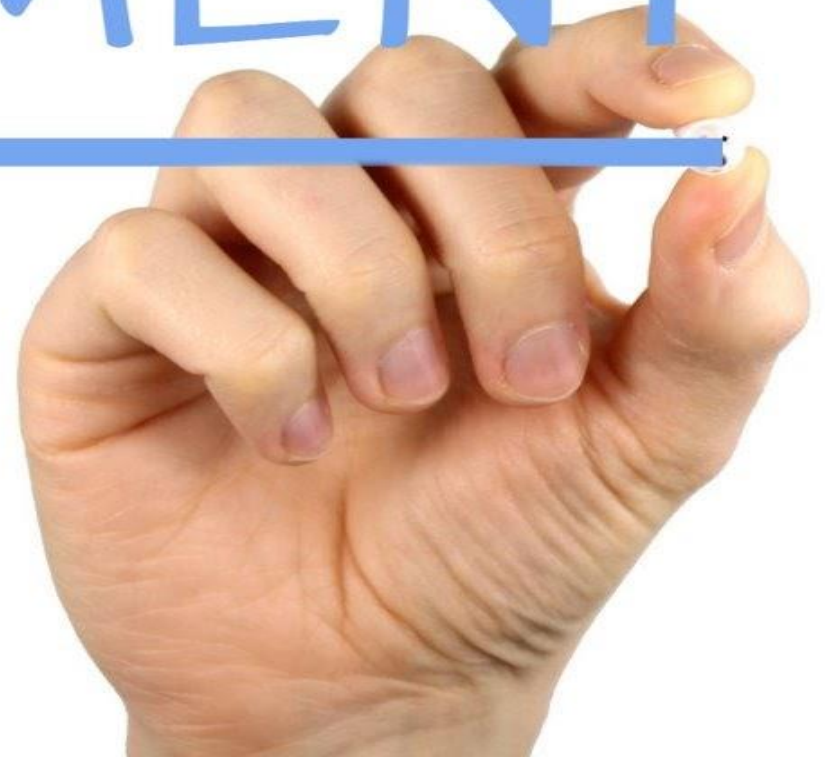
Compliance



# AMENDMENT

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# ORDINANCE





# **The Code on Social Security, 2020**

**Notification dated 30.04.2021**

**Effective date: 3.05.2021**



# The Code on Social Security, 2020

- Section 142 of the CSS, 2020 states as follows:

1) An employee or unorganised worker or any other person, as the case may be, for—

(a) registration as member or beneficiary; or

(b) seeking benefit whether in kind, cash or medical sickness benefit or pension, gratuity or maternity benefit or any other benefit or for withdrawal of fund; or

(c) availing services of career centre; or

(d) receiving any payment or medical attendance as Insured Person himself or for his dependants,

under this Code or rules, regulations or schemes made or framed thereunder, shall establish his identity or, as the case may be, the identity of his family members or dependants through Aadhaar number and for such purpose the expression "Aadhaar" shall have the meaning as defined in clause (a) of section 2 of the Aadhaar (The Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016:

Provided that any foreigner employee shall obtain and submit Aadhaar number for establishing his identity, as soon as possible, on becoming resident within the meaning of clause (v) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

(2) For the purposes of sub-section (1), the Aadhaar number issued to an individual shall be in accordance with the provisions of section 3 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.



# Unorganised Sector

- 2(86) "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act, 1947 or Chapters III to VII of this Code.



# **Industrial Relations (Central) Recognition of Negotiating Union or Negotiating Council and Adjudication of Disputes of Trade Union Draft Rules, 2021.**

**Notification dated 04.05.2021**





# IR (Central) Recognition of Negotiating Union or Negotiating Council and Adjudication of Disputes of Trade Union Draft Rules, 2021.

- The Ministry of Labour and Employment (MOLE) issued the Industrial Relations (Central) Recognition of Negotiating Union or Negotiating Council and Adjudication of Disputes of Trade Union **Draft** Rules, 2021.
- Key provisions of the Rules:
- **Criteria for recognizing a single Trade Union:** Trade Union having members of 30% or more employees shall be recognized as a Sole Negotiating union of workers by employer.
- **Verification Officer:** Employer of Industrial Establishment shall appoint a Verification officer and Additional Verification officer on their own cost to verify the Trade Unions upon application.



# **The Industrial Relations (Karnataka) Rules, 2021**

**Dated 03.05.2021**



# The Industrial Relations (Karnataka) Rules, 2021

- In respect of powers conferred under Section 99 of the Industrial Relations Code, 2020, the Government of Karnataka has published draft Rules under IR Code, 2020.
- Any objections should be raised within 30 days from the date of publication.



# **Employees' Deposit-Linked Insurance (Amendment) Scheme, 2021.**

**Notification dated 28.04.2021**



# Employees' Deposit-Linked Insurance (Amendment) Scheme, 2021.

- The Ministry of Labour and Employment (MOLE) issued Employees' Deposit-Linked Insurance (Amendment) Scheme, 2021 on 28th April, 2021.
- Key provisions of the Amended Scheme :
  - **Employment in different establishment:** The benefit under Paragraph 22 (3) of EDLI scheme was extended to deceased employee, irrespective of whether he worked continuously 12 months in the same establishment preceding the month in which he died.



# Employees' Deposit-Linked Insurance (Amendment) Scheme, 2021.

Earlier, it was necessary that the employee should have worked minimum of 12 months in the same establishment before he expires. The amendments shall be valid only for the term of 3 years.

**Maximum Assurance Benefit:** As per paragraph 22(3) of the scheme, the maximum benefit of the scheme was Rs. 6 lakhs, now it has been extended to Rs. 7 Lakhs.

**Minimum Assurance Benefit:** The minimum assurance benefit payable under paragraph 22 (3) of the scheme has been fixed as Rs. 2.50 Lakh w.e.f. 15.02.2020.



# Employees' Deposit-Linked Insurance (Amendment) Scheme, 2021.

**Power to grant exemption:** To grant exemption from the operation of provision in the scheme, Central Provident Fund Commissioner alone had the power, now its has been delegated to Additional Central Provident Commissioner (Head Quarters) or Additional Central Provident Fund Commissioner.

**Fine amount increased:** In the event of failure to submit returns, the fine amount has been enhanced to Rs. 25,000/- from Rs. 4,000/-.



# Circular & Notification







# **Employees' State Insurance**

**Notification dated 12.05.2021**



# ESI Contribution

- The ESI Contribution for the April 2021 can now be filed upto to 15<sup>th</sup> June, 2021 instead of 15<sup>th</sup> May, 2021.
- The Employees' State Insurance Corporation, has relaxed the time period in terms of Regulation 31 of the Employees' State Insurance (General) Regulations, 1950.



# **Employees' State Insurance**

**Notification dated 25.05.2021**



# ESI – State of Tripura

- The ESI Corporation, has declared that medical benefit under Tripura ESI Medical Benefits Rules, 2008 shall be extended to the families of insured persons in the area of **Khowai, South Tripura and Unakoti** districts in the state of Tripura from 01.04.2021.



# Telangana-Extension for filing dues

**Notification dated 07.05.2021**



# Dues Dates extended by Telangana

- Labour, Employment, Training and Factories Department of Telangana vide its notification has extended the date of furnishing of the Integrated Returns of various Labour laws for 2020-21 by **2 months**.
- Returns should be furnished on or before **30.06.2021**.



# **Himachal Pradesh – Exemption to Factories**

**Notification dated 06.05.2021**



# Himachal Pradesh exemption of factories working hours

- Labour and Employment Department of Himachal Pradesh, vide its Notification dated 06.05.2021 has exempted factories registered under the Factories Act, 1948 from the following Provisions:
  - Section 51 – Weekly Hours,
  - Section 54 (Daily Hours),
  - Section 55 (Intervals of Rest) and
  - Section 56 (Spread over) for the period of **three months**. Subject to the conditions that total working works shall not exceed 12 hours in any day and 72 hours in week and shall comply Minimum Wages Act, 1948 in respect of increased working hours.





# Himachal Pradesh exemption of factories working hours

- No adult worker shall be required or allowed to work in a factory for more than twelve hours in any day and Seventy Two hours in any week.
- The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he has had an interval for rest of at least half an hour.
- Wages in respect of increased working hours as a result of this exemption shall be in proportion to existing minimum wages fixed by Government of Himachal Pradesh under Minimum Wages Act, 1948.
- Provisions of section 59 regarding overtime wages shall continue to be applicable without any change.



QUIZ!



# QUIZ!

- Under the CSS, 2020, the employer shall within \_\_\_\_\_ or such period as may be notified by the Central Government of the completion of building and construction work, pay self -assessment cess on the cost of construction.
  - a) 30 days
  - b) 45 days
  - c) 60 days
  - d) 90 days





# Labour Court orders two-wheeler manufacture to pay compensation to Temporary Employees

- A total of 194 temporary workers had worked as welder, fitter, tuners, mechanics and grinders from 1990. According to them, the management gave them work only for a period of seven months in a year and accused the company's management of having committed an unfair labour practice, by ensuring they did not work for 240 days in a year and thereby depriving them of their right to permanent employment.
- While disposing the complaint, the labour court directed the company to calculate the duration of their services, the final salary received by them and pay the compensation of Rs.39 Lakh to 31 persons.



# SPICE+ Portal

- **SPICE+** is an integrated Web form offering 11 services by 3 Central Govt Ministries & Departments, issuance of PAN, TAN, ESIC No, Bank Account, Professional Tax, Registration, GSTIN etc., for Ease of Doing Business (EODB).
- As a second phase of integrating with state governments, by order dated 28.05.2021 by Labour Commissioner of Delhi, has extended **SPICE+** service for registration under Delhi Shop & Establishment Act, 1954.



**KNOWLEDGE  
CORNER**



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







**Is Virtual world  
safe for the  
women working  
under your  
organization??**



# Sexual Harassment

- The State of Goa has filed an appeal to contest an order of the District Court acquitting a Journalist on May 21, 2021 who was arrested in 2013 on charges of sexual assault of a woman who was his junior colleague at a magazine.
- Following this, an organization espousing the cause of women in India has stated that as we navigate a new normal, organizations must ask themselves:
  - **How are we addressing the issue of sexual harassment at the workplace when employees are working from home due to the Covid-19 pandemic?**
  - **Is the digital environment safer because there is no physical interaction between leaders and subordinates?**
  - **Are there any forms of sexual harassment that are unique to the online space, which employees and companies may not have prioritized before?**
  - **What can be done to eliminate abuse of power, and empower employees to speak out against abusive behaviours?**



# POSH DURING COVID TIMES

Has work from home reduced the number of complaints of sexual harassment at workplace?

Sanctity of timelines prescribed for enquiry under the POSH Act.

Is the term 'workplace' still relevant?

Whether the definition of 'sexual harassment' has undergone any change?



**BEHAVIOUR THAT  
CONSTITUTES  
SEXUAL  
HARASSMENT  
DURING VIDEO  
CONFERENCE/CALL**

Displaying  
screens  
/backgrounds  
with sexual  
connotations

Taking  
screenshots  
during video  
calls and using  
the same  
inappropriately

Displaying  
objectionable  
material on the  
screen during  
video calls;

Unnecessarily  
insisting on  
turning on video  
during video  
conference

Inappropriate  
sexual gesture



# BEHAVIOUR THAT CONSTITUTES SEXUAL HARASSMENT DURING VIDEO CONFERENCE/CALL

- Wearing clothes that are unprofessional or with lewd remarks with intent to induce women;
- Bullying with an intention to sexually assault and harass;
- Call even after work hours without any justification;
- Abuse of authority or power to threaten a person's job or undermine her performance against sexual favour;



# BEHAVIOUR THAT CONSTITUTES SEXUAL HARASSMENT DURING VIDEO CONFERENCE/CALL

- Passing comments on physical traits;
- Making sexually suggestive remarks or innuendos;
- Misbehaviour in certain platforms by turning video off and having anonymous username;
- Displaying sexual posters in the background while taking official calls;
- Cyber flashing



## SOME SAFEGUARD MECHANISMS

- Avoid video call/conference call beyond the office hours, unless it is absolutely necessary. If so, then make sure, a prior intimation of video call has been served via mail/ other means.
- Amendment of Sexual Harassment Policy to include virtual meetings for meeting of committee, sensitisation of employees and conduct of enquiry.
- Frame SOPs for virtual meetings



**KNOW YOUR CODES**

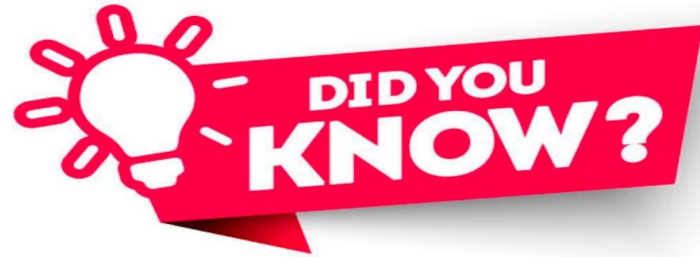




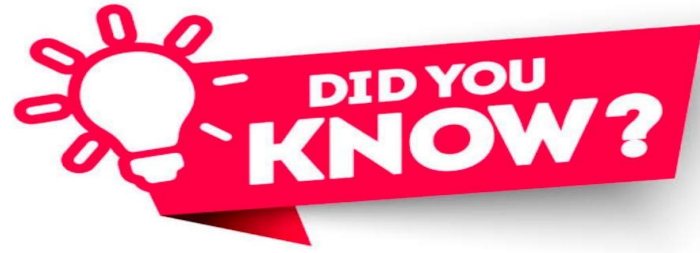
**KNOW YOUR  
CODES**

**The Code on Social Security, 2020 allows an establishment to avail a common creche facility maintained by any Government or private entities or NGO's. A group of establishments can pool their resources for setting up a common creche.**

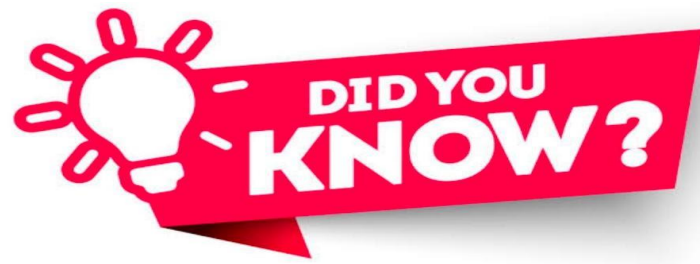




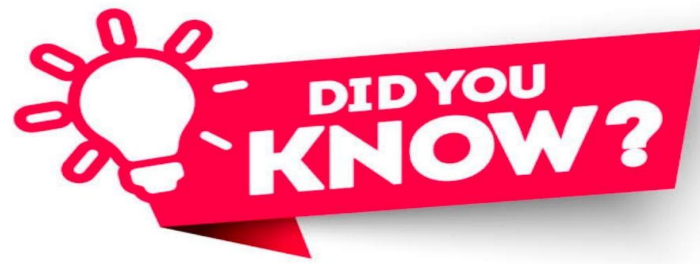
- Around 1.2 million new members joined the ESIC-run social security scheme in March, as against 1.1 million in the previous month giving a perspective on formal sector employment in the country.
- The gross enrolments with ESIC during 2020-21 dipped nearly 24 per cent to 1.15 crore amid the pandemic, compared to 1.51 crore in 2019-20, according to the latest data.
- Gross new enrolments with the Employees' State Insurance Corporation (ESIC) were 0.8 million in June 2020, 0.4 million in May and 0.2 million in April, showing the increase in enrolments after easing of the lockdown, as per the data.



- One of the Major leading Group of Auto components has provided insurance cover of average ₹70 lakh in case of demise of any of its employees in India due to COVID-19, while it steps up efforts to aid the pandemic relief measures.
- The group, which had pledged ₹50 crore last year through its companies in India towards implementing various community welfare initiatives to combat COVID-19, also said it is continuing to extend medical insurance coverage for dependents of deceased employees for a period of three years from the date of demise.



- India's largest e-commerce marketplace, continues to strengthen its supply chain, helping to provide products across the country in the safest way, while creating more jobs in the supply chain. In the past three months, from March to May 5, 2021, the company has hired 23,000 employees across the country in various skills, including delivery supervisors. The company has assured that all new hires will be covered with our healthcare and wellness initiatives to ensure their safety during these testing times.



- Aegon Life, the Indian digital life insurance company, introduced a "Work From Anywhere (WFA)" policy effective April 1, 2021. All Aegon Life employees are free to work from anywhere in India.
- Sunita Rath, Chief People officer at Aegon Life, says the move was in favor of employees who are our asset key. The digital-only life insurance company is likely one of the first in India to officially adopt a 100% WFA labor policy. The Company will maintain its office space to enable employees to meet, brainstorm, socialize and collaborate.





**Uttar Pradesh Power Transmission  
Corporation Ltd. and Another  
Vs.  
CG Power and Industrial Solutions  
Limited and Another**

**2021 SCC OnLine SC 383**





- Should cess under the BOCW Act be paid by a person supplying equipment for erection of Sub Station and would be a contractor within the Sec 2(g) of Act was the issue before the Supreme Court. The Supreme Court after analysing scope of BOCW Act has ruled that the statutory scheme of Act excludes a supply contract and the company could not be termed as contractor. The litigation arose in respect of five separate contacts between Appellant and Respondent. Such contracts which were purely supply of materials were exempted from Cess as it did not attract the provisions of Act.

**2021 SCC OnLine SC 383**



# **Suo Motu WP of Supreme Court In Re: Problems and Miseries of Migrant Labourers**



- Supreme court in its Suo Motu Writ Petition: In Respect of Problems and Miseries of Migrant Labourers, directed Central and State Governments to complete the registration process of unorganized workers so that they can avail the welfare benefits given under various government schemes.
- The Supreme Court also directed for Common National Database for all organized workers situated in different states in the entire country by coordinating with the states.
- Further, Court ordered the Central Government to created suitable mechanism to monitor and supervise the distribution of welfare schemes, containing officers from grassroots to higher authorities.



**JUST FOR LAUGHS**





# Employee spends one day per week in wash room

- . A company claimed that one of its employee who is very good at his job, spends on average 120 minutes per day in wash room during working hours. which makes them to lose 1 working day wages.





**COMPLIANCE**



**REPORTING PERIOD - JUNE-2021**

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



	<b>Nagaland</b>	<b>31-Jul</b>	<b>Professional Tax Remittance</b>
	Meghalaya	31-Jul	Professional Tax Remittance
	Mizoram	31-Jul	Professional Tax Remittance
	Pondicherry	15-Jul	Professional Tax Remittance (Employer & Employee)
	Sikkim	31-Jul	Professional Tax Remittance
	Manipur	31-Jul	Professional Tax Remittance
	Tripura	31-Jul	Professional Tax Remittance
<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>	Chattisgarh	31-Jul	Remittance
<b>Labour Welfare Fund</b>	Odisha	31-Jul	Remittance
<b>Labour Welfare Fund</b>	West Bengal	15-Jul	Remittance





# QUIZ!

- Under the CSS, 2020, the employer shall within \_\_\_\_\_ or such period as may be notified by the Central Government of the completion of building and construction work, pay self -assessment cess on the cost of construction.
  - a) 30 days
  - b) 45 days
  - c) **60 days**
  - d) 90 days



T.S.GOPALAN & CO

ADVOCATES & NOTARIES

**Let's Connect again at 4PM on 26<sup>th</sup> June, 2021**



*Thank  
you*

T.S.GOPALAN & CO

ADVOCATES & NOTARIES

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