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# Occupational safety, health and working conditions, 2020-Part I

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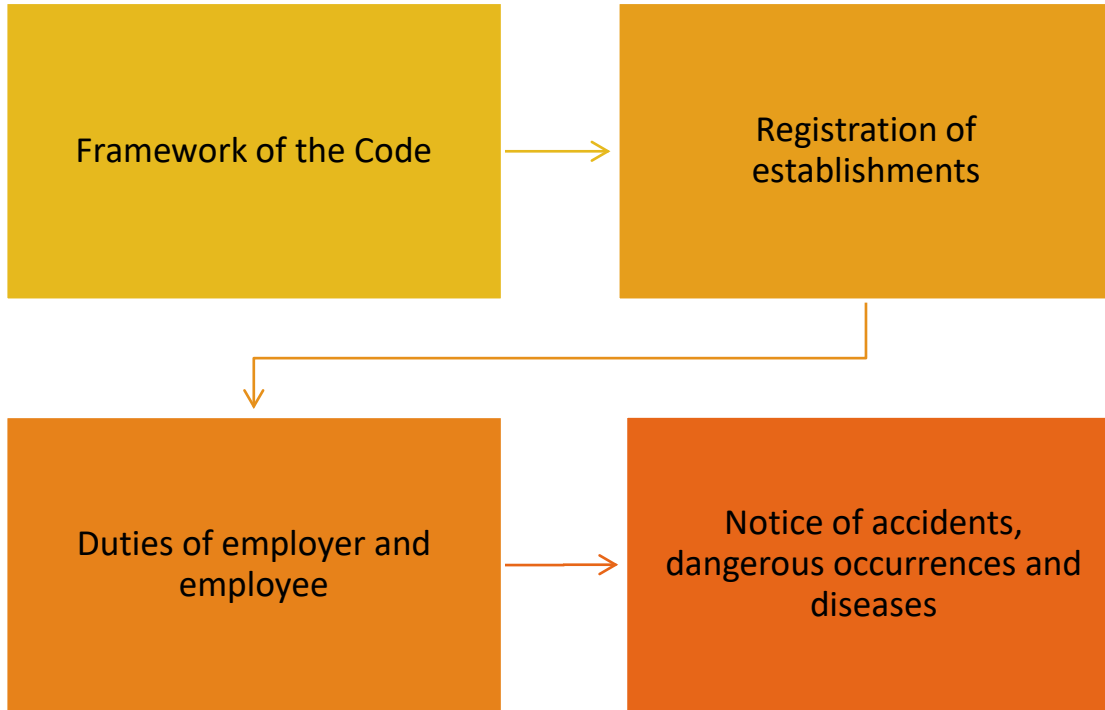
## Credits and Acknowledgments

Iswariya BS

## Legends used in the Presentation

CG	Central Government
Code	Occupational Safety, health and working conditions Cde
Govt.	Government
RO	Registering Officer
Sec.	Section
SG	State Government

# Presentation Schema



# Framework of the Code

Lok Sabha passed  
the bill on 22<sup>nd</sup>  
September, 2020

Rajya Sabha passed  
the bill on 23<sup>rd</sup>  
September, 2020

Received  
President's assent  
on 28<sup>th</sup> September,  
2020

Occupational safety, health and working conditions Code, 2020 is An Act to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and for matters connected therewith or incidental thereto

**Non-applicability of the code** – To the offices of CG / SG and any ship of war of any nationality

**Exception:** If the contract labour are employed through contract in the offices of CG / SG, where the CG / SG is the principal employer then the Code shall apply

# Statutes repealed

The Factories Act, 1948

The Plantations Labour Act, 1951

The Mines Act, 1952

The Working Journalists and other  
Newspaper Employees (Conditions of Service  
and Miscellaneous Provisions) Act, 1955

The Working Journalists (Fixation of rates of  
wages) Act, 1958

The Motor Transport Workers Act, 1961

The Beedi and Cigar Workers (Conditions of  
Employment) Act, 1966

The Contract Labour (Regulation and  
Abolition) Act, 1970

The Sales promotion employees (Conditions  
of Service) Act, 1976

The Inter-state Migrant workmen (Regulation  
of Employment and Condition of Service)  
Act, 1979

The Cine Workers and Cinema Theatre  
Workers Act, 1981

The Dock Workers (Safety, health and  
welfare) Act, 1986

The Building and other Construction Workers  
(Regulation of Employment and Conditions  
of Service) Act, 1996

# Chapters of the Act

I- Preliminary

II-Registration

III-Duties of Employer and Employee, etc.

IV-Occupational Safety and health

V-Health, Safety and working conditions

VI-Welfare provisions

VII-Hours of work and annual leave with wages

VIII-Maintenance of registers, records and returns

IX-Inspector cum facilitators and other authority

X-Special provision relating to employment of women

XI-Special provisions for contract labour and inter-state migrant worker, etc.

XII- offences & penalties

XIII-Social Security Fund

XIV- Miscellaneous



# Definitions

- **Agent** when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such mine or of any part thereof
- **Contract labour** means a worker who shall be deemed to be employed in / in connection with the work of an establishment when he is hired in / in connection with such work by / through a contractor,
  - with / without the knowledge of the principal employer and includes inter-State migrant worker
  - but **does not include** a worker (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment

# Contd.

- **Contractor** - in relation to an establishment, means a person, who—
- undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or
- supplies contract labour for any work of the establishment as mere human resource,
- and includes a sub-contractor

- **Dock work** means any work in / within the vicinity of any port in connection with / required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—
- work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port
- all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship / in the docks; and
- chipping, painting / cleaning of any hold, tank, structure / lifting machinery or any other storage area on board the ship or in the docks

- **Hazardous** means involving danger / potential danger

- **Inter-State migrant worker** means a person who is employed in an establishment and who—
- has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State or
- has come on his own from one State and obtained employment in an establishment of another State / has subsequently changed the establishment within the destination State, under an agreement / other arrangement for such employment and draws wages not exceeding the amount of Rs.18,000 p.m. / such higher amount as may be notified by the CG

- **Owner**, in relation to a mine, means any person who is the immediate proprietor / lessee / occupier of the mine / of any part thereof
- and in case of a mine the business whereof is being carried on by a liquidator / receiver, such liquidator / receiver
- but does not include a person who merely receives a royalty, rent / fine from the mine / is merely the proprietor of the mine, subject to any lease grant / licence for the working thereof / is merely the owner of the soil and not interested in the minerals of the mine
- but any contractor / sub-lessee for the working of a mine or any part thereof shall be subject to this Code in like manner as if he were an owner but not so as to exempt the former from any liability

# Chapter II- Registration

# Registration & Cancellation of Registration process

Application to the Registering Officer has to be made by the Employer

Application has to be made along with information relating to the employment of inter-state migrant workers

RO shall register the establishment and issue a certificate of registration electronically

Any change in the ownership / management after registration shall be intimated to the RO within 30 days and the RO shall make respective amendment in the certificate of registration

# Contd.

- In case of closure of establishment, the Employer has to inform the same to the RO within 30 days and certify payment of all dues to the workers employed in such establishment
- RO on receiving the information & certificate remove such establishment from the register & cancel the certificate of registration
- If an employer of an establishment has obtained the registration of his establishment by **misrepresentation / suppression of any material fact**,
- then it shall be deemed to be the **contravention of the provisions of this Code** for prosecution of the employer under sec. 94 without affecting the registration and running of the establishment
- If an employer has obtained the registration of his establishment so **fraudulently / otherwise** that the registration has become useless / ineffective to run the establishment,
- the RO may, after giving an opportunity of being heard to the employer, revoke the registration by an order

- No employer of an establishment shall employ any employee
- If he has not registered the establishment under the Code or
- Has not preferred any appeal for cancellation of registration / revocation of registration of establishment / the appeal preferred is dismissed

- **Existing establishments:**
- Establishments that are already registered any Central labour law / any other law notified by CG
- Shall be deemed to be registered under the Code
- On providing the details of registration to the RO within the prescribed time



# Appeal

- Any person aggrieved by the order of RO, may make an appeal to an Appellate Officer (notified by appropriate Govt.)
- On receipt of the same, the Appellate officer, shall dispose of the appeal after giving an opportunity of being heard to the Appellant

## Notice of commencement & cessation

- Employer of an establishment being factory / mine / relating to contract labour / building / other construction work
- **shall not use** such establishment to commence the operation of any industry, trade, business, manufacturing / occupation thereon
- **without sending notice** of such purpose and
- **shall also intimate the cessation** thereof to the said authority in such manner as may be prescribed by the appropriate Government

All intimations and certificates has to be made electronically

# Chapter III- Duties of Employer & Employee

# General duties of Employer

- Ensure the workplace is free from hazards and disposal of hazardous and toxic waste
- Comply with Occupational safety and health standards specified in the Code
- Free annual health examination / tests
- Safe working environment
- Issuing a letter of appointment to the Employee on appointment
- Responsible for safety and health of employees, workers and other persons on the work premises

# Factory / Mine / Dock / Building / Construction work / Plantation

Maintenance of plant and systems and the use, handling, storage and transport of articles and substances safely and without risk to health

Provision of information, instruction, training and supervision that are necessary to ensure the health and safety of all employees at work

Maintenance of all places of work in the workplace in a condition that is safe and without risk to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risk

Provision, maintenance / monitoring of working environment in the workplace

# Owner, Agent & Manager in relation to Mine

Owner and agent of every mine **shall jointly and severally be responsible** for making financial and other provisions and for taking such other steps as required under the Code

In case of any contravention, the officials, manager, owner, agent and person appointed to carry out the welfare activities shall be guilty of such contravention, unless he proves that he had used due diligence to comply with the provisions

**Appointment made as per the provisions of the Code shall not be a defence –**

In any proceedings brought against the owner / agent of a mine that the manager and other officials have been appointed in accordance with the provisions of this Code

# Designers, Manufacturers, Importers / Suppliers

Ensure that the article designed and constructed in the establishment is safe and without risk to the health of the workers when properly used

Carry out / arrange for carrying out such tests and examination in the establishment for the effective implementation of the provisions of the above clause\*

Take necessary steps to ensure that adequate information is available in connection with the use, standard etc.

Additional compliance with the National Occupational Safety and Health Advisory Board\*

\*If the testing is already carried out, then he is not required to repeat the same if, he relies on the results thereof for the purposes of the above duties

- Article and substance is regarded as **not properly used**,
- if they are used without regard to any information / advice relating to their use
- which has been made available by the person who has designed, manufactured, imported / supplied the article and substance

Definition for the purposes of the aforesaid provisions

- **Article**- includes plant and machinery
- **Substance** means any natural / artificial substance whether in a solid /liquid form or in the form of a gas / vapour
- **Substance for use in any factory** means such substance, whether / not intended for use by persons working in a factory

# Architect, Project engineer / Designer

Responsible for any building / other construction work / the design of any project and to ensure that, at the planning stage, due consideration is given to the safety and health aspects of the building workers and employees who are employed

Not to include anything in the design which would involve the use of dangerous structures / other processes / materials, hazardous to health / safety of building workers and employees during the course of erection, operation and execution

To take into account the safety aspects associated with the maintenance and upkeep of the structures and buildings, where it involves such hazards as may be notified by the appropriate Govt.



# Rights & Duties of Employee

## Duties

- Take reasonable care and safety measures for himself and others
- Comply with safety and health requirements
- Co-operate with the Employer in meeting the statutory obligations
- Report to the Employer / respective persons, the unsafe / unhealthy situations
- not wilfully interfere with / misuse / neglect any appliance, convenience / other thing provided at workplace
- not do, wilfully and without reasonable cause, anything, likely to endanger himself / others
- Perform such other duties as prescribed by appropriate Govt.

## Rights

- Right to obtain from the employer information relating to employee's health and safety at work
- Represent inadequate provision for protection of his safety / health in connection with the work activity
- Bringing to the notice of the Employer, about any likelihood of imminent serious personal injury / death / imminent danger to health

# **Notice of accidents, dangerous occurrences and diseases**

- Where at any place in an establishment, an accident occurs which causes **death / any bodily injury**
- And by reason of which the person injured is prevented from working for a **period of 48 hours / more immediately following the accident** / which is of such nature as prescribed by the appropriate Govt., then the respective persons prescribed in the Code, shall send notice of the same to such authorities
  - **Mine** - employer / owner / agent / manager
  - **Factory / dock work** - employer / manager
  - **Plantation / Building or other construction work** - Employer

- On receipt of the notice, the respective authority shall make an inquiry into the occurrence within 2 months /
- if there is no such authority, the Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry within the said period

# Dangerous occurrences

- If there is any dangerous occurrence (whether causing any bodily injury / disability / not)
- the employer shall send notice thereof to such authorities

# Diseases

- If any worker in an establishment contracts any disease specified in the Third Schedule\*, the employer shall send notice thereof to such authorities
- If any qualified medical practitioner attends on a person, who is / has been employed in an establishment, and believes that he is suffering from any disease specified in the Third Schedule, then, he shall without delay send a report in writing to the office of the Chief Inspector-cum-Facilitator
- **Penal provision:** Medical practitioner who fails to comply with the above provision, shall be punishable with penalty which may extend to **Rs. 10,000**

\*List of 29 diseases as specified in the Code, like Lead poisoning, Anthrax, Silicosis, Toxic anaemia, Occupational Cancer, etc.



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