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# The Occupational Safety, Health and Working Conditions Code, 2020 - Part III

CS Meenakshi Jayaraman

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## Credits and Acknowledgments

Sundar Rajan S

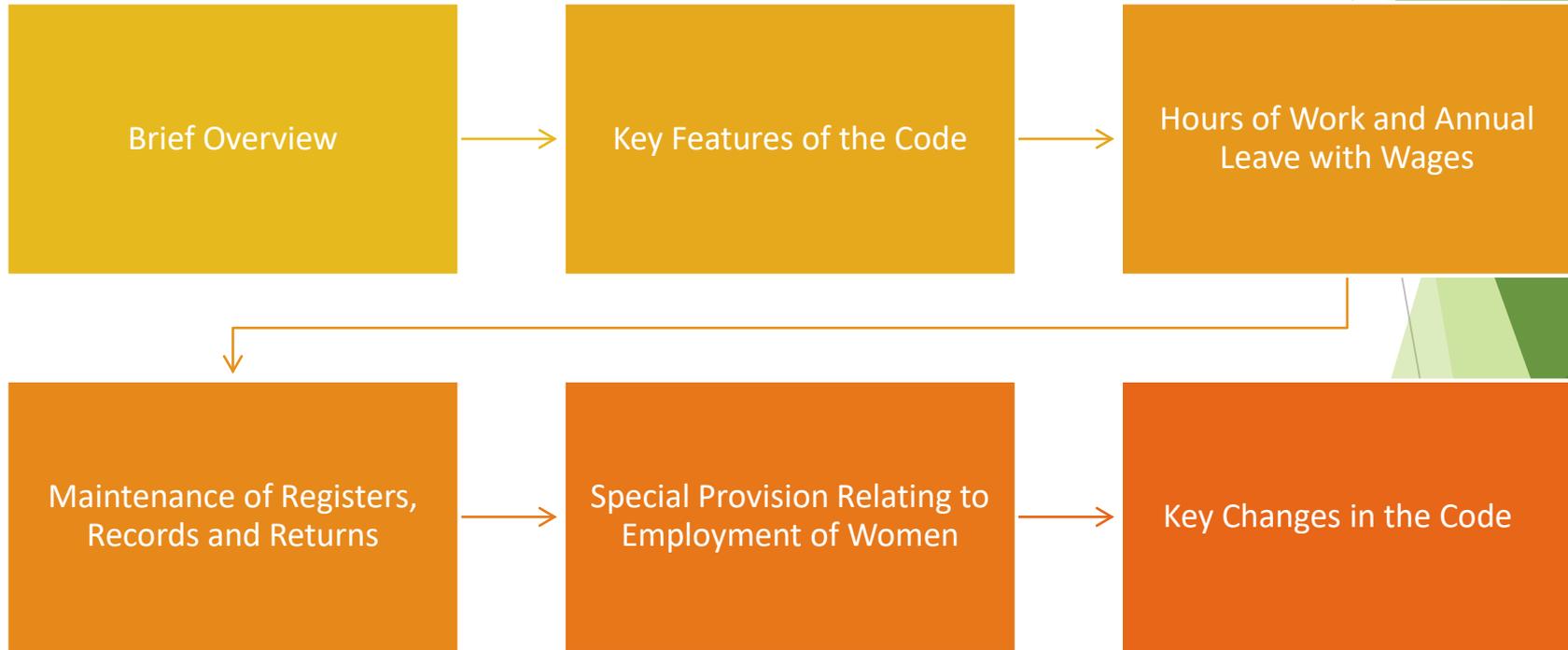
## Legends used in the Presentation

Code	Occupational Safety, health and working conditions Code
Draft Rules*	Occupational Safety, Health and Working Conditions (Central) Rules, 2020

\* Draft Rules are framed on November 19<sup>th</sup>, 2020 and released for public comments till January 3<sup>rd</sup>, 2021

^ ^ In this presentation, this symbol indicates the provisions of the Draft Rules

# Presentation Schema



# Brief Overview

There are over 100 state and 40 central laws regulating various aspects of labour such as resolution of industrial disputes, working conditions, social security and wages

Since these vast number of legislations make the compliance procedures too complex, Ministry of Labour and Employment, in order to improve ease of compliance and ensure uniformity in labour laws, implemented consolidated legislations replacing 29 Central laws

They are, a) Code on Wages, 2019; b) Industrial Relations Code, 2020; c) Code on Social Security 2020; d) Occupational Safety, Health and Working Conditions Code, 2020

However, these Codes are yet to come into force

In this webinar, we shall continue with the provisions of Occupational Safety, Health and Working Conditions Code, 2020

# Key Features of the Code

The Code aims at lessening the burden of the employers as it would replace multiple registrations under various enactments to one common registration

The workplace should be kept free from hazards that cause or likely to cause injury or occupational disease to the employees

Issuance of appointment letter to every employee on their appointment in the establishment

Employers are required to ensure the disposal of hazardous and toxic waste including e-waste

Employers are required to conduct free annual health check-up for their employees

The Code makes mandatory provisions for the employers to provide a safe working environment and trying to cover the risk of unfortunate incidents arising in the course of employment

# Hours of Work and Annual Leave with Wages

# General Provisions

No worker shall be required or allowed to work, in any establishment or class of establishment for more than 8 hours in a day

^No worker shall be required or allowed to work, in any establishment or class of establishment for more than 48 hours in any week

^Period of work of a worker shall be so arranged that inclusive of his intervals for rest, shall not be spread over for more than 12 hours in a day

^No worker shall work for more than 5 hours before he has had an interval for rest of at least half an hour

# In Case of Mine Workers

Persons employed below ground in a mine shall not be allowed to work for more than such hours as may be notified by the Central Government in any day

No work shall be carried on below ground in any mine except by a system of shifts so arranged

No person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained by the employer under the Code

# In Case of Motor Transport Worker

Hours of work in case of motor transport worker shall include,

time spent in work done during the running time\* of the transport vehicle

time spent in subsidiary work (subsidiary work refers to the work done outside the running time of the transport vehicle such as taking over and garaging of the transport vehicles, work in connection with accounts, paying of cash, signing of registers, etc.)

period of mere attendance at terminals of less than 15 minutes (period of mere attendance means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule)

\* Running time in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, including ^interruption time of maximum 15 minutes^

# In Case of Working Journalist

- Hours of work for working journalist shall not exceed,
  - 144 hours during any period of four consecutive weeks; and
  - Have 24 consecutive hours of rest during any period of 7 consecutive days (i.e. 1 day in a week)

- No working journalist shall ordinarily be required or allowed to work for longer than the number of hours constituting a normal working day (i.e. 6 hours per day in the case of a day shift and 5.5 hours per day in the case of a night shift excluding time for meals)^

- No working journalist shall work for more than 4 hours in the case of a day shift and 3 hours in the case of a night shift before he had an interval of rest of 1 hour (for day shift) and half an hour (night shift)^

## Working Journalist means a person

- whose principal occupation is that of a journalist and
- who is employed whole-time or part-time, in, or in relation to, one or more newspaper establishment, or other establishment relating to any electronic media or digital media such as newspaper, radio, etc. and
- includes an editor, a leader-writer, news editor, sub-editor, feature-writer, reporter, correspondent, cartoonist, news-photographer and proof-reader,
- but does not include any such person who is employed mainly in a managerial, supervisory or administrative capacity

# Weekly and Compensatory Holidays

No worker shall be allowed to work in an establishment for more than 6 days in any one week

In case of any motor transport undertaking, an employer may, in order to prevent any dislocation of a motor transport service,

- require a worker to work on any day of weekly holiday which is not a holiday so arranged that the worker does not work for more than 10 days consecutively without a holiday for a whole day intervening

^There shall be posted up in a conspicuous place outside the office of every establishment a notice showing the weekly day of rest

Where the weekly day of rest is not the same day for all persons employed in the establishment, the notice shall show the day of rest allowed to each relay, or set of persons or individual^

# Overtime Wages

Where in an establishment, a worker works for more than 8 hours in any day or for more than 48 hours in any week<sup>^</sup>, as the case may be

- he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages and shall be paid at the end of each wage period

<sup>^</sup>In calculating overtime on any day, a fraction of an hour between 15 to 30 minutes shall be counted as 30 minutes and in case of more than 30 minutes it shall be rounded and shall be counted as an hour on actual basis

No worker shall be allowed to work overtime exceeding 125 hours in any quarter of a year<sup>^</sup>

# Annual Leave with Wages

Every worker employed in an establishment shall be entitled for leave in a calendar year with wages subject to the following conditions:

Worker has worked 180 days or more in such calendar year

He shall be entitled for 1 day leave for every 20 days of his work, in the case of adolescent worker for 15 days of his work, and in case of worker employed below ground mine, at the rate of 1 day for every 15 days of his work, in such calendar year

Any period of layoff, maternity leave or annual leave availed by such worker in such calendar year shall be counted for calculating the period of 180 days or more, but he shall not earn leave for the period so counted

Any holidays falling between the leave availed by such worker shall be excluded from the period of leave so availed

In case such worker is discharged/dismissed from service/ quits employment/ superannuated/ dies while in service, during the course of the calendar year, such worker or his heir or nominee, shall be entitled to wages in lieu of the quantum of leave to which such worker was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death

## Contd.

If such worker does not in any one calendar year take the whole of the leave allowed to him, then, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year

Total number of days of leave that may be carried forward to a succeeding year shall not exceed 30 days

Such worker, who has applied for leave with wages but has not been given such leave, shall be entitled to carry forward the leave refused without any limit

Such worker shall be entitled on his demand for encashment of leave at the end of calendar year

Such worker shall be entitled, where his total number of leave carried forward to a succeeding year exceeds 30 days, to encash such exceeded leave

# Maintenance of Registers, Records and Returns

# Maintenance of Registers and Filing Returns

^Every employer shall maintain register of workers, wages, overtime, fine, deduction for damage or loss in Form-VIII electronically and shall be kept available at an office or the nearest convenient building within the precincts of the establishment

In case of manual registers and other records, be legibly entered in ink in English and Hindi or the language understood by a majority of the persons employed

Such register shall be preserved in original for a period of one calendar year after the date of the last report or entry

The registers of accident and dangerous occurrences shall be maintained in a Form-X

The owner, agent or manager of every establishment shall maintain in respect of every employee thereof a record of leave with wages electronically or manually in Form-XI^

^Every employer of an establishment shall send annually a return relating to such establishment in duplicate in Form-IX to the Inspector-cum-facilitator having jurisdiction so as to reach him not later than 1<sup>st</sup> February following the end of each calendar year with a copy to Director General, Labour Bureau electronically

# Display of Notice Board

^Every employer shall cause to display at the conspicuous place of the workplace of the establishment under his control

- notice showing the name and address of the establishment,
- hours of work, wage period, date of payment of such wages,
- details of accident and dangerous occurrence in the establishment for the last five years,
- name and address of the Inspector-cum-facilitator having jurisdiction to such establishment and
- date of payment of unpaid wages to such workers

in English, Hindi and in the Local Language understood by the majority of the workers^

# Special Provision Relating to Employment of Women

# Employment of Women

Women shall be entitled to be employed in all establishments for all types of work under the Code



They may also be employed, with their consent before 6 a.m. and beyond 7 p.m. subject to such conditions relating to safety, holidays and working hours

^The following conditions shall be met for employment of women during night or before 6.00 a.m. and beyond 7.00 p.m. in any day

Consent of women employ shall be taken

No women shall be employed against the maternity benefit provisions laid down under the Social Security Code, 2020

Adequate transportation facilities shall be provided to women employee to pick-up and drop such employee at her residence

Workplace including passage towards conveniences or facilities concerning toilet, washrooms, drinking water, entry and exit of women employee should be well-lit

## Contd.

Toilet, washroom and drinking facilities should be near the workplace where such women employee are employed

Provide safe, secure and healthy working condition such that no women employee is disadvantaged in connection with her employment

In case of below ground mine not less than 3 women employees shall be on duty at any place

The provisions of the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013 shall be complied with^

# Adequate Safety of Employment of Women in Dangerous Operation

Where the appropriate Government considers that the employment of women is dangerous for their health and safety, in an establishment or class of establishments or



in any particular hazardous or dangerous processes in such establishment or class of establishments, due to the operation carried out therein,



such Government may in the prescribed manner, require the employer to provide adequate safeguards prior to the employment of women for such operation

^The Central Government may declare by notification the class of establishments and the scheme, and standards for safeguarding of women in hazardous and dangerous processes^

# Key Changes in the Code

No worker shall be allowed to work in an establishment for more than 6 days in any one week. Exception for motor transport workers

Under Factories Act, 1948, separate provisions for hourly work and annual leave with wages were laid down for adult workers and other than adult workers. Whereas, no such separate provisions in the Code

Employment of women in all establishments for all types of work. Female workers, with their consent, may work beyond 7 pm till 6 am. Adequate safety of women employed in dangerous operation

Leave eligibility reduced from 240 days to 180 days. Worker shall be entitled on his demand for encashment of leave at the end of the calendar year.



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