



# THE LABOURTORIALS

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Monthly updates on Industrial and Labour news

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## Other great reads:



- EXTENSION TO LIMITATION
- AMENDMENT IN APPLICABILITY OF STATUTES / CLAUSES
- EASE OF DOING BUSINESS
- SETTLEMENT OF DISPUTES
- REVISED MINIMUM WAGES

## Govt. launches ASEEM portal to help skilled people find sustainable livelihood opportunities

Union Ministry of Skill Development and Entrepreneurship on 10th July, 2020 launched Aatamanirbhar Skilled Employee-Employer Mapping (ASEEM) portal to help skilled people find sustainable livelihood opportunities. The portal will map details of workers based on regions and local industry demands and will bridge demand-supply gap of skilled workforce across sectors. ASEEM portal will provide employers a platform to assess the availability of skilled workforce and formulate their hiring plans.

**Settlement of death claims on priority basis in events of industrial accidents under EPF & MP Act, 1952.**

## ESIC proposed to increase confinement (maternity) expenses from Rs. 5,000 to 7,500.

The Employees' State Insurance Corporation (ESIC) has moved a proposal to increase the confinement (maternity) expenses paid to an insured woman or an insured person for his wife under its health insurance scheme to ₹7,500 from ₹5,000. According to draft notification Ministry of Labour and Employment has called for objections and suggestions which may be given by any person within 30 days from the date of Notification on expiration of which Government will consider the feedback so received, if any and the final call.

[Click here](#) to read more.

## Ministry of Labour and Employment invites Public Comments on Draft Code of Wages (Central) Rules, 2020

The Ministry of Labour & Employment, on 7th July 2020 has published the final draft on the Code on Wages (Central) Rules, 2020 by amalgamating all existing Labour Laws related to wages. Inputs / Comments / Suggestions are invited on the final Draft Rules which shall be addressed within 45 days from the date of

publication of this notification and the same may be addressed to Shri M. A. Khan, Deputy Director (ma.khan15@nic.in), and Smt. Rachana Bolimera, Assistant Director (r.bolimera@nic.in), Ministry of Labour and Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001. [Click here](#) to view draft rules.

Government of Andhra Pradesh, to ease compliance with Labour Laws, exempted all Shops & Establishments from renewal of registration under the Shops & Establishments Act, 1988.

[Click here](#) to view notification.

## Haryana Govt. promises JOBS ?

The Haryana Cabinet approved a proposal to bring an Ordinance to give 75% reservation in the private sector jobs having salary of less than Rs. 50,000 per month to the youth of the state. The draft of the Ordinance will be placed before the Council of Ministers in its next hearing. However, the employers will have the option to recruit local candidates from one district to only 10%.

Exemption clause shall also be provided if suitable local candidates are not available for a particular category of industry.

## UPDATES ON ONLINE COMPLIANCE

The **Government of Puducherry** on 1st July 2020 has published the Puducherry Building and other construction workers (regulation of employment and conditions of service) Amendment Rules, 2020 in which the application for registration shall be made in Form - I, through the online portal of the concerned labour department. The fees shall be paid by visiting the online portal Government of Puducherry under the relevant head of accounts and the combined annual return in form XXV shall be submitted through the ONLINE PORTAL.

[Click here](#) to read notification.

The **Government of West Bengal** published that from 1st July, 2020, contribution to West Bengal Labour Welfare Fund can only be made in ONLINE MODE. The Head Office at West Bengal and Siliguri Regional Office at West Bengal Labour Welfare Board will not entertain offline collection of contribution.

[Click here](#) to view notification.

## Karnataka introduced fixed-term workmen in the model standing order.

The State Government of Karnataka on 30th June 2020 has notified the Karnataka Industrial Employment (standing orders) amendment rules 2019.

The Amendment brings in changes to the Karnataka Industrial Employment (Standing order) rules 1961 by introducing the term "fixed-term employment" which allows flexibility to the industry to hire and fire easily and is considered to be more flexible than the contract system. Laborers hired under the system are eligible for all statutory relief and benefits as permanent workmen.

[Click here](#) to view notification.



## EXTENSION TO LIMITATION

### PAN- INDIA

#### ESIC further relaxes the time limit for filing Contribution for the period ending March 2020 till July 15, 2020

The Employee State Insurance Corporation vide its circular dated 1st July 2020 has further extended the timeline for filing Return of Contribution for the period from October 2019-March 2020 till July 15, 2020. The relaxation has been granted keeping in view the pandemic outbreak and subsequent lockdown in the country.

ESI Act covers those employees whose monthly wages are Rs 21,000 or below. The ESI benefits include medical, maternity, disability, and dependent benefits to the employees insured under the ESI Act. The scheme provides full medical care to the employees registered under the ESI Act, 1948 during the period of his incapacity, restoration of his health, and working capacity.

[Click here](#) to view notification.

#### Govt. extends its EPF contribution of 24% for another three months.

The Union Cabinet on 8th July 2020 has given its approval for extending the contribution of both 12% employees' share and 12% employers' share under Employees Provident Fund, totaling 24% for another three months from June to August, 2020, as part of the package announced by the Government under Pradhan Mantri Garib Kalyan Yojana (PMGKY)/ Aatmanirbhar Bharat in the light of COVID-19 Pandemic.

The said scheme provides that the payment will be made for the organizations having up to 100 employees and up to 90 percent of the employees are earning wages less than Rs 15,000 per month and the beneficiaries entitled for 12% employers' contribution for the months of June to August 2020 under Pradhan Mantri Rozgar

Protsahan Yojana (PMRPY) will be excluded to prevent overlapping benefit. Initially, this scheme was introduced for the month of March, April and May, 2020.

[Click here](#) to view notification.



### STATE- WISE

#### Maharashtra LWF contribution date extended till 15th Aug, 2020.

The Maharashtra Labour Welfare Board on 14th July 2020 in its pop up notification on its website has granted relaxation to all establishments by extending the last date for online Maharashtra Labour Welfare fund contribution payment till 15th August 2020 for the period June 2020, due to lockdown across the state during COVID-19 pandemic .

[Click here](#) to view notification.

#### Annual Report under POSH Act to be submitted online by 14th August, 2020.

Govt. of Maharashtra has mandated employers who have not submitted the annual report under The Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act, 2013 for the year 2019 may submit to the District Officer, Mumbai City on or before the evening of 14th August 2020. Therefore, the Annual Report shall be submitted online via [dwcdbombay@gmail.com](mailto:dwcdbombay@gmail.com)

in the format as provided.

[Click here](#) to view notification.



## WHAT OUR COURTS HAVE TO SAY ?

### Contractual employees entitled to Child care leaves: Uttrakhand HC

The High Court of Uttrakhand on 24th July, 2020 brought the contractual employees under the ambit for entitlement of Child care Leaves but with a rider (**Smt. Tanuja Tolia vs State Of Uttarakhand And Others**).

The division bench held that even a person employed on contractual basis is entitled for child care leave, but this is with a rider. A contractual employee whose employment is only for one year, cannot be granted child care leave for 730 days. Such an employee can be granted paid child care leave for 31 days, on the same terms and principles as "earned leave", as is given to other employees in G.O. dated 30.05.2011. (It may please be noted that the CCLs are applicable to government staffers only.)

[Click here](#) to read the judgment.

### Private Educational Institutions also covered under ESIC Act: Madras HC upholds

The Madras High Court on 29th July, 2020 puts an end to a decade long dispute. The Hon'ble bench upheld the extension of the Employees' State Insurance Act, 1948 (ESI Act) to all educational institutions, including private, unaided educational institutions (**All India Private Educational Institutions Association and Ors. v. State of Tamil Nadu and Ors.**).

A full bench comprising of Justices Pushpa Sathyanarayana, Anita Sumanth and PT Asha, constituted by Chief Justice AP Sahi earlier this year upheld the validity of a 2010 State Government notification which had brought private educational institutions under the purview of the ESI Act. A batch of writ pleas moves by the All India Private Educational Institutions Association and others were dismissed.

[Click here](#) to read the judgment.



## GOVT. NOTIFIES AMENDMENT IN WORKING HOURS

### GUJARAT

The Labour and Employment department of Gujarat on 20th July 2020 has extended its earlier order exempting all factories registered under the Factories Act, 1948 from various provisions relating to weekly hours, daily hours, intervals for rest of all adult workers from 20 July till 19th October 2020. The period 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 6 hours before he has had an interval of rest of at least half an hour.

Further, women workers are not allowed to work between 7.PM to 6.AM, and the wages shall be in proportion of the existing wages.

[Click here](#) to view notification.

### The Factories (Haryana Amendment) Act, 2018

The Amendment has extended the embargo on the number of hours of overtime work in any quarter to 115 hours from the erstwhile duration of 75 hours. Where a factory provides for the prescribed adequate safety and security measures or safeguards, the State Government can notify that such factory may allow women to work therein between 7 pm to 6 am.

[Click here](#) to view notification.

# AMENDMENT TO APPLICABILITY

## APPLICABILITY OF CONTRACT LABOUR ACT

In view of the pandemic situation, several States Governments have promulgated the Ordinances to amend the state wise application of the Contract Labour Act. By way of the said Amendment the applicability now stands as under –

- To every establishment in which **fifty** or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;
- To every contractor who employs or who employed on any day of the preceding twelve months **fifty** or more workmen.

The states passing the Ordinances **recently** are **Tripura, Bihar, Goa,** and **Gujarat.**

However, the States of Andhra Pradesh, Rajasthan, Maharashtra, Haryana and Uttar Pradesh have already made the said Amendments in the past.

Whereas, the State Government of **Himachal Pradesh** vide its gazette notification made applicable the Act to every establishment in which thirty or more workmen are employed or were employed on any day of the preceding twelve months as contract labourers.



## APPLICABILITY OF FACTORIES ACT



In view of the pandemic situation, several State Governments have promulgated the Ordinances to amend the state wise application of the Factories Act as well. As per the notification, the concerned State Government has increased threshold limit for applicability to the Factories Act, 1948 from ten or more workers to **twenty or more workers for factories operating with the aid of power** and from twenty or more workers to **forty or more workers for factories operating without the aid of power.**

The states promulgating the Ordinances recently are **Himachal Pradesh, Assam, Gujarat, Goa,** and **Haryana.**

However, the States of Bihar, Rajasthan, Andhra Pradesh, and Maharashtra have already made the said Amendments in the past.

## APPLICABILITY OF RETRENCHMENT CLAUSE

The States of **Gujarat** and **Bihar,** have promulgated the Industrial Dispute Ordinance, 2020 amending section 25 K of Industrial Disputes Act, 1947.

As per the ordinance, the applicability of Chapter V of the Act, which specifies provisions relating to layoffs, retrenchment, closure of certain establishments, an industrial establishment where the number of workmen employed are not less than **one hundred workmen has been increased to three hundred workmen.**

In addition to the above, in the **Gujarat Ordinance,** existing compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months, in addition, an amount equivalent to last three months average pay has been introduced.

Further, the State Government of **Himachal Pradesh vide its gazette notification** dated 9th July 2020 has published the Industrial Disputes (Himachal Pradesh Amendment) Ordinance, 2020. Under section 25f (b) no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to sixty days average pay instead of 15 days [for every completed year of continuous service] or any part thereof in excess of six months.

# INSPECTION EXEMPTION FOR EASE OF DOING BUSINESS

## Govt. of Chandigarh exempts certain establishments from inspection under all labour laws.

The Labour Department, of UT of Chandigarh on 10th July 2020 has notified a new comprehensive policy namely the Transparent Inspection Policy-2020, to achieve the objective of simplifying business regulations and to regulate the implementation of statutory provisions under various labour laws in a transparent and accountable manner through wide scale adoption of technology and innovation.

Following factories and establishments are exempted from physical inspection:

- All the factories and establishments employing less than 50 workers and who have opted for the "Self Certification Scheme" and have submitted a single return under various labour laws.
- All start-up establishments for a period of two years from the date of commencement of work/ business except the inspections covered under the Building & Other Constriction Workers Act, 1996 (BOCW Act).
- All the establishments having no employee i.e. employing family members only.
- Any other establishment specifically exempted by Chandigarh Administration from time to time.
- All shops and establishments employing up to 4 persons shall be exempted from inspection those employing 5 or more

persons shall be inspected once in every five years and shops and establishments employing 100 or more persons shall be inspected once in every two years.

- The Transparent Inspection Policy shall also not apply to inspection concerning Child Labour and Bonded Labour.

[Click here](#) to view notification.

## Govt. of Telangana to carry out computerized Risk Assessment based Inspections to facilitate Ease of Doing Business.

The Govt. of Telangana in its gazette notification dated 14th July 2020 has revised the comprehensive orders in the matter of Computerized Risk Assessment based Inspections with random allocation of Inspecting Officers to facilitate Ease of Doing Business in the State in accordance with Business Reforms Action Plan.

There shall be a single joint inspection, without any duplication, under all the Labour Laws and the units will be categorized as Low Risk / Medium Risk / High Risk depending upon the number of workers employed.

The frequency of inspections for Establishments under Low Risk is once in 5 years, for Establishments under Medium Risk is once in 3 years and for Establishments under High Risk is once in 2 years.

Following factories and establishments are exempted from physical inspections:

- Establishments under Telangana S& E Act 1988

employing up to 20 employees;

- Establishments under Motor Transport Workers Act, 1961 (Central Act 27 of 1961) employing up to 20 employees;
- Establishments under Contract Labour (R&A) Act, 1970 employing up to 20 employees;
- Establishments under Inter-State Migrant Workmen Act, 1979 employing up to 10 Employees.
- Establishments (including the Factories under Factories Act, 1948 but excluding ones under Beedi & Cigar Workers Act, 1966 and BOCW Act, 1996) to which any other labour laws apply, employing up to 20 Employees.
- Star Hotels, IT Units, Export oriented Units, Bio-Tech Units, Tourism Promotion Units (irrespective of no. of workers)
- Start-ups as defined by the DPIIT. etc.

The entire online system will function as part of the Centralized Inspection Agency encompassing Labour, Factories Boilers, and Telangana State Pollution Control Board Departments compliance inspection system. The Schedule of Inspections will be determined through an online inspection module. The establishments will be selected randomly as per the frequency of inspections indicated above. A computer-generated notice will be issued to the establishments so as to provide 15 days clear time before the inspection. The establishments will be able to view and download inspection reports of the past two years. [Click here](#) to view notification.

## GEAR UP SETTLEMENT OF DISPUTES

### Govt. of Kerala and Meghalaya directs industrial disputes arising during lockdown to be resolved by Alternate Dispute Resolution

The Labour Department of Kerala vide [press release](#) dated 29 June, 2020 has clarified that any industrial disputes related to non-payment of wages or salary by industries closed down by lockdown shall be resolved by alternate dispute resolution. The clarification is made following the order of state governments to pay salaries without fail by industries closed down by lockdown and the Judgement of the Supreme Court on the matter dated 12.06.2020.

Further, the Government of Meghalaya vide [public notice](#) dated 9th July, 2020 intimated the public as to interim measures that may be availed by private establishments, industries, factories and workers Trade Unions/ Employees Associations, etc.

They can enter into negotiations and settlements with workers/ employees as to the payment of wages for a period of 50 days or any such other

period applicable to any particular state during which their industrial establishment was closed due to the lockdown, may initiate a negotiation with their employees' organisation and shall enter into a settlement with them or if they are unable to reach a settlement, they may submit a request to the concerned labour authorities entrusted with the duty of conciliating the dispute between the concerned parties as per the relevant statutes.



## COMPOUNDING OF OFFENCES

### The Contract Labour (Regulation and Abolition) (Goa Amendment) Ordinance, 2020

The Govt. of Goa has issued an Ordinance, 2020 vide notification dated 26 June, 2020. As per the amendment, any offence punishable under sub-sections (1) and (2) of s. 22 and s. 24 (i.e. obstructions in inspections and such other offences) may, either before or after the institution of the prosecution, on an application by the alleged offender, be compounded by such officer or authority as the State Government may specify.

[Click here](#) to view notification.

### The Factories (Himachal Pradesh Amendment) Ordinance, 2020

The Governor of Himachal Pradesh vide ordinance published on 9 July, 2020, has amended the Factories Act for compounding of offences under the act by first time offenders. The compounding shields the offenders from any further prosecutions

[Click here](#) to view notification.

### The Factories (Haryana Amendment) Ordinance, 2020

This ordinance introduces a provision for compounding first time offences specified in the Fourth Schedule (which also introduced by this Amendment) by officers and for amounts specified by the State Govt., provided that the fine shall be as prescribed under Sec. 92 of the Factories Act.

It also clarifies that where an offence is so compounded, there shall be no further proceedings against the occupier in respect of that offence. The Fourth Schedule lists a series of compoundable offences ranging from non-maintenance of cleanliness to demand of charges from workers for the provision of any facility.

[Click here](#) to view notification

### The Industrial Disputes (Goa Amendment) Ordinance, 2020

The Govt. of Goa has issued an Ordinance, 2020 on 26 June, 2020. The amendment provides a limitation period of one year for making a claim of unlawful discharge, dismissal, retrenchment or termination as an industrial dispute.

The amendment also provides the provision for compounding of the offences under sections 25Q, 25R, 25U, 26, 27, 28, 29, 30A and subsections (1) and (2) of s. 31 of the I. D. Act, 1947 that is strikes, lockouts, layoffs, retrenchments, closures, etc.

[Click here](#) to view notification.



## REVISED RATES OF MINIMUM WAGES

Several State Governments have revised Variable Dearness Allowance (VDA) resulting in overall increase in the rates of Minimum wages given to different categories of employees. The chart hereunder shows the states issuing notices to amend VDA and the dates from which these rates are retrospectively coming in effect.

SERIAL NUMBER	STATE	WITH EFFECT FROM	CLICK HERE TO VIEW NOTIFICATION
1.	UT of Puducherry	01.01.2020	Government Notification
2.	Orissa	01.04.2020	Government Notification
3.	Kerala	May, 2020	Government Notification
4.	Karnataka	01.04.2020	Government Notification
5.	Tripura	01.04.2020	Government Notification
6.	Himachal Pradesh	01.04.2020	Government Notification



## REVISED RATES OF LABOUR WELFARE FUND CONTRIBUTIONS

The Kerala Government vide the Kerala Labour Welfare Fund (Amendment) Ordinance, 2020 (Ordinance No. 25 of 2020) has revised the rates of contributions. The Employee shall contribute forty-five rupees instead of four rupees every half year and Employer shall contribute forty-five rupees instead of eight rupees every half year. The Ordinance does not apply to establishments under Kerala Shop Act.

[Click here](#) to view notification.

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"No work is insignificant. All labor that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence."

Martin Luther King, Jr.



**P.K. Agarwal & Associates specially deals in :**

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- Employee State Insurance Act
- Factories Act
- Industrial Disputes Act,
- Industrial Employment (Standing Orders) Act
- Maternity Benefit Act
- Minimum Wages Act
- Payment of Bonus Act
- Payment of Gratuity Act
- Payment of Wages Act
- Sexual Harassment of Woman at Workplace (Prevention, Prohibition & Redressal) Act
- Trade Union Act, and
- all other labour related statutes.

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**MR. DEEPAK SINGHAL & MR. SANDEEP GUPTA  
Partners at Shiva Creations**

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Currently, partners at Shiva Creations, a manufacturing and export of home furnishing items. Also the Directors of Deoro Footwear LLP, manufacturing of foot wears.

Mr. Sandeep Gupta is also a Partner at Tulip International, dealing in manufacturing of face masks, gloves and other similar items.

