



## The Code on Wages, 2017

<sup>1</sup>The Union Cabinet has approved the introduction of a bill that will codify relevant provisions of four existing laws and intends to increase the legislative protection of minimum wage to the entire workforce.

As per sources, The Codes on Wages Bill, 2019 will be introduced in the ongoing Budget Session of parliament and would benefit about 50 crore workers.

The Code of Wages Bill is the first in the series of four labour codes. It seeks to subsume relevant provisions of The Minimum Wages Act, 1948, Payment of Wages Act 1936, Payment of Bonus Act, 1965 and Equal Remuneration Act 1976.

Many states have multiple minimum wages and the code simplifies it by doing away with the type of employment as one of the criteria. There are 2000 rates of minimum wages and the code reduces the number substantially. The fixation of the minimum wage will primarily be based on geography and skills.

At present, the provisions of the Minimum Wages Act and Payment of Wages Act apply on workers below a particular wage ceiling working in scheduled employments only.

The code is supposed to ensure the right of sustenance of every worker and intends to increase the legislative protection of minimum wage from existing 40 per cent to 100 per cent of the workforce.

The said bill would ensure that every worker gets minimum wage. A statutory floor wage would be introduced, which will be computed based on minimum living conditions.

The states would notify the payment of wages to workers through digital mode.

<sup>1</sup> Business Standard staff and is auto generated from a syndicated feed. First Published: Wed, July 03 2019. 20:32 IST

The definition of wages, now are different under different labour laws, it has been simplified to reduce litigation and will entail a lesser cost of compliance for an employer and the rules to be framed would prescribe one template.

The changes will bring transparency and accountability and the bill was a step for ensuring statutory protection of minimum wage.

The Code of Wages Bill was earlier introduced in the Lok Sabha on August 10, 2017, and referred to the Standing Committee which gave its report in December 2018. The bill lapsed due to the dissolution of 16th Lok Sabha.

Some of the industry sources said a new bill has been drafted considering the recommendations of the Standing Committee and suggestions of stakeholders.

### Key Highlights of the Bill

- The Code replaces four existing laws: (i) the Payment of Wages Act, 1936, (ii) the Minimum Wages Act, 1948, (iii) the Payment of Bonus Act, 1965, and (iv) the Equal Remuneration Act, 1976.
- The central government will set minimum wages for certain employments including railways, and mines. State governments will set minimum wages for all other employments.
- The Code provides for a national minimum wage to be set by the central government. States cannot set minimum wages lower than the national minimum wage. Further, the central government may set separate national minimum wages for different states or regions of the country.
- Minimum wages must be revised by the central or state governments at an interval of five years.

- The overtime rate will be at least twice the normal rate of wages of the employee.

the national minimum wage is lowered. This could potentially be a threat to the work force where Minimum Wages are reduced

### Key Issues and Analysis

- Central government may set a national minimum wage. Further, it may set separate national minimum wages for different states or regions. In this context, two questions arise: (i) the rationale for a national minimum wage, and (ii) whether the central government should set one or multiple national minimum wages.
- States have to ensure that minimum wages set by them are not lower than the national minimum wage. If existing minimum wages set by states are higher than the national minimum wage, they cannot reduce the minimum wages. This may affect the ability of states to reduce their minimum wages if
- The time period for revising minimum wages will be set at five years. Currently, state governments have flexibility in revising minimum wages, as long as it is not more than five years. It is unclear why this flexibility has been removed, and five years has been set for revision.
- The Equal Remuneration Act, 1976, prohibits employers from discriminating in wage payments as well as recruitment of employees based on gender. While the Code prohibits gender discrimination on wage-related matters, it does not include provisions regarding discrimination during recruitment.

<sup>2</sup>The table below compares provisions of the Code with the current wage laws.

**Table 1: Comparison of current wage laws with the proposed Code**

Provision	Current laws	Code on Wages, 2017
Coverage	<p><b>Minimum Wages Act:</b> Minimum wages are fixed for scheduled employments with more than 1,000 employees.</p> <p><b>Payment of Wages Act:</b> Applies to employees whose wages do not exceed Rs 24,000 per month.</p> <p><b>Payment of Bonus Act:</b> Applies to employments with 20 or more persons and for employees whose wages do not exceed Rs 21,000 per month.</p>	<p>Minimum wages will be paid to all employees. Provisions regarding payment of wages will apply to all employees. Bonus will apply to employees whose wages do not exceed a monthly amount notified by central or state governments.</p>
Revision of minimum wages	<p><b>Minimum Wages Act:</b> Minimum wages must be revised by the central or state governments at least once every five years.</p>	<p>Mandates that minimum wages be revised in five-year intervals.</p>
National minimum wage	<p>No provision.</p>	<p>The central government may set a national minimum wage and may set different national minimum wages for different states and</p>

<sup>2</sup> Sources: The Minimum Wages Act, 1948; The Payment of Wages Act, 1936; The Payment of Bonus Act, 1965; The Equal Remuneration Act, 1976; PRS.

		regions.
<b>Overtime wage</b>	<b>Minimum Wages Act:</b> Allows the relevant central or state governments to set overtime wage.	Sets overtime wage at two times the normal wages.
<b>Gender discrimination</b>	<b>Equal Remuneration Act:</b> Prohibits gender discrimination in wage payment.  Prohibits gender discrimination in recruitment, transfers, and promotions.	Prohibits gender discrimination in wage payment.  No provision.
<b>Inspections</b>	<b>Minimum Wages Act, Payment of Wages Act, Payment of Bonus Act, and Equal Remuneration Act:</b> Inspectors are appointed to carry out (i) surprise checks, and (ii) examine persons and require them to give information, among other powers.	Appointment of a Facilitator to carry out inspections and provide information to employers and employees for better compliance. Inspection will be done on the basis of an inspection scheme, which will include a web-based inspection schedule. The inspection scheme will be decided by the central or state governments.
<b>Penalties</b>	<b>Minimum Wages Act:</b> Offences include (i) paying employees less than minimum wages, and (ii) not providing for a day of rest in the week. Penalties include fine up to Rs 500 and imprisonment up to six months. <b>Payment of Wages Act:</b> Offences include (i) non-payment of wages at specified time period, (ii) unauthorised deductions from wages. Penalties include fine up to Rs 7,500. <b>Payment of Bonus Act:</b> In case a person or company does not comply with the Act, they can be punished with imprisonment up to six months or fine up to Rs 1,000. <b>Equal Remuneration Act:</b> Offences include: (i) non-maintenance of documents in relation to employees, and (ii) discrimination against women in recruitment. Penalties include fine up to Rs 20,000 or imprisonment up to one year.	Employers who pay less than what is due under the Code will pay a fine of up to Rs 50,000. If an employer is guilty of repeat offence within five years, penalties include imprisonment up to three months or a fine of up to Rs 1 lakh or both. Employers who do not comply with any other provision of the Code will pay a fine of up to Rs 20,000. If an employer is guilty of the same offence again within five years, penalties include imprisonment up to one month or a fine of up to Rs 40,000 or both.

The BJP Government under the Hon'ble Prime Minister Mr. Narendra Modi has always been an

advocate for ease of doing business, the new labour codes provide for the ease of business, by

strengthening the role of the employers. However, in the name of simplification and efficiency, they erode all the gains the working class who have fought for their rights in the past, a close analysis of these codes explains that they are more pro-employer than the employee and rather than decreasing, they will end up increasing exploitation.

The draft Labour Code in its new avatar in the next phase on Social Security and Welfare seeks to replace 15 laws on social security, including the Employee Provident Fund Act, Employee State Insurance Act, Maternity Benefit Act, Payment of Gratuity Act, Employees Compensation Act, Building and Other Construction Workers Act (**BOCW**) and various other Welfare Cess/Fund Acts. This code is proposed to be applied to both organised and unorganised workers.

The existing Building and Other Construction Workers (BOCW) Act will be repealed under the Social Security Bill, and many benefits currently available under it for construction workers would not exist under the social security code.

Repealing BOCW will have a disastrous impact on construction workers as registrations of workers under the Act will lapse. It will also lead to the closure of state boards. All the construction workers will have to newly register themselves with the proposed state welfare boards. These state boards will also include other unorganised sector workers and all of them will be registered at the same place.

The National Campaign Committee for Construction Labourers has written letters to Prime Minister Narendra Modi, the labour minister and all other members of parliaments to make them understand the benefits of the BOCW Act and how there is a dire need to reconsider the proposed labour code bills.

India needs comprehensive legislation which includes regulation of work, social security and grievance redress for workers in the unorganised sector. The government must re think pros & cons instead of introducing another bill in a hurry like the GST

