

Code on Wages, 2019



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Amalgamation of 4 Existing Acts

The Code on Wages seeks to – regulate wages & bonus payments in all employments – where any industry, trade, business, or manufacturing is carried out.

Code has 9 Chapters, 67 Sections & 26 definitions of constantly used terms

Intend to **promote equity & labour welfare** and **sustainability of enterprises**, thereby catalyzing economic growth and creation of employment opportunities

4 WAGES ACTS SUBSUMED INTO

The Equal Remuneration Act, 1976

The Minimum Wages Act, 1948

The Payment of Bonus Act, 1965

The Payment of Wages Act, 1936

CODE

Code on Wages: Key Reform Measures

Universalizes provision of minimum wages

Removes multiplicity of definitions and authorities

Ensures timely wages payment to all employees

**Main features
of the Code of
Wages Bill**



Changes the role of 'Inspector' to 'Facilitator' to guide and advise employers and workers

Ease of compliance will incentivize setting up of more enterprises thus more opportunities

Code on Wages: Some Important Definitions



Establishments

Any place where any industry, trade, business, manufacture or occupation is carried on and include Government establishment



Workers

Any person (except an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward

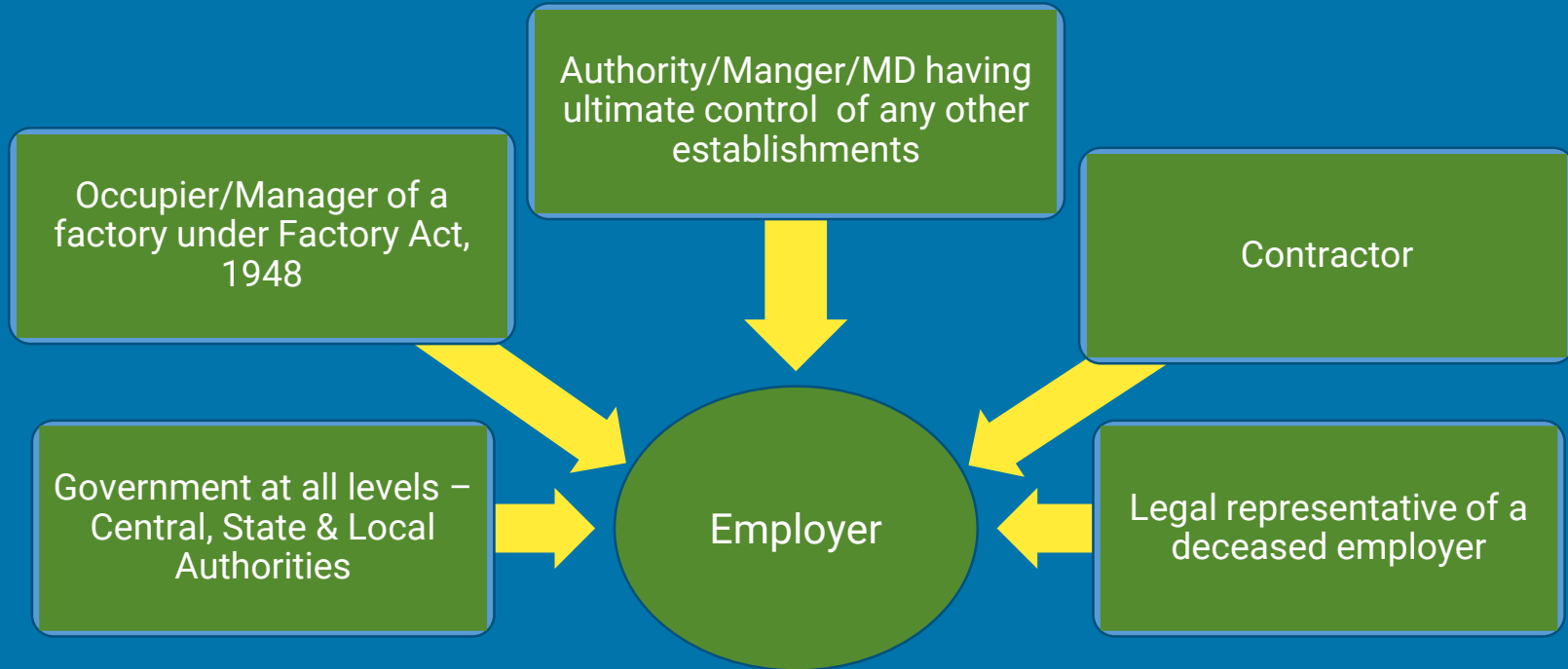


Employee

Any person employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, **managerial, administrative,** technical or clerical work for hire or reward

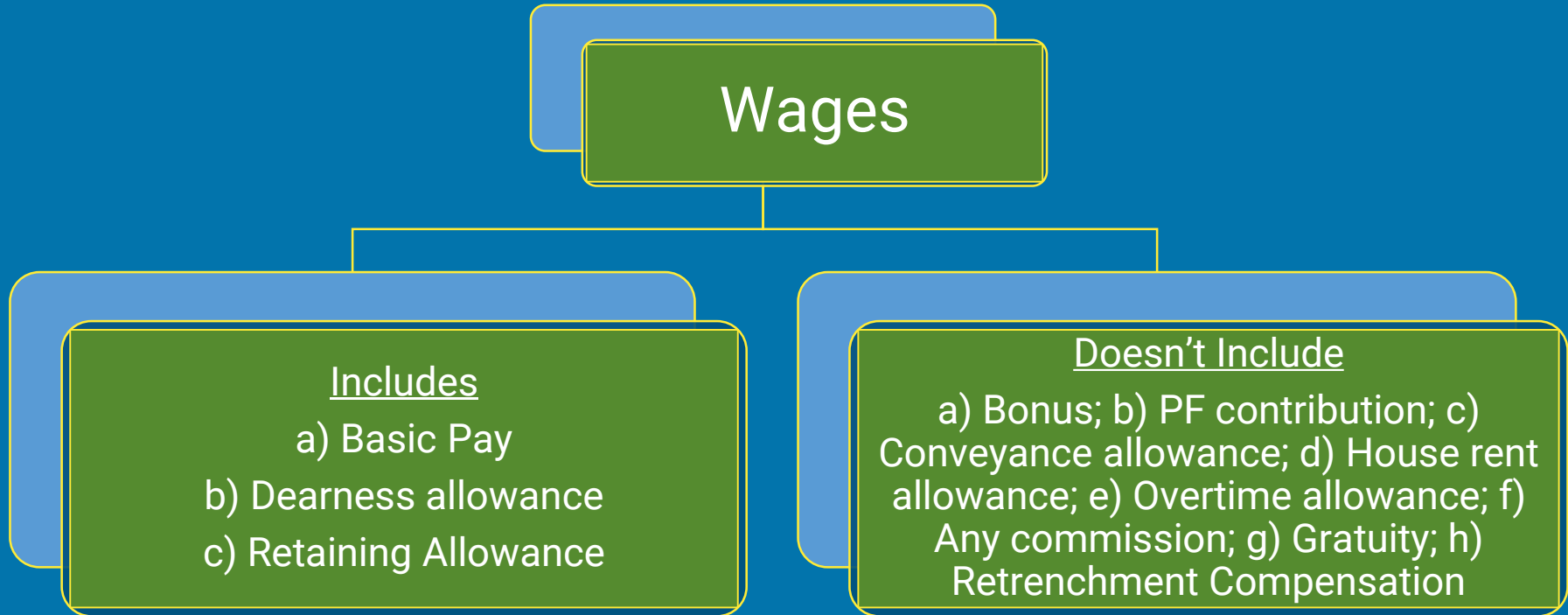
Code on Wages: Some Important Definitions

Employer - means a person who employs, whether directly or through any person, or on his behalf or on behalf of any person, one or more employees in his establishment

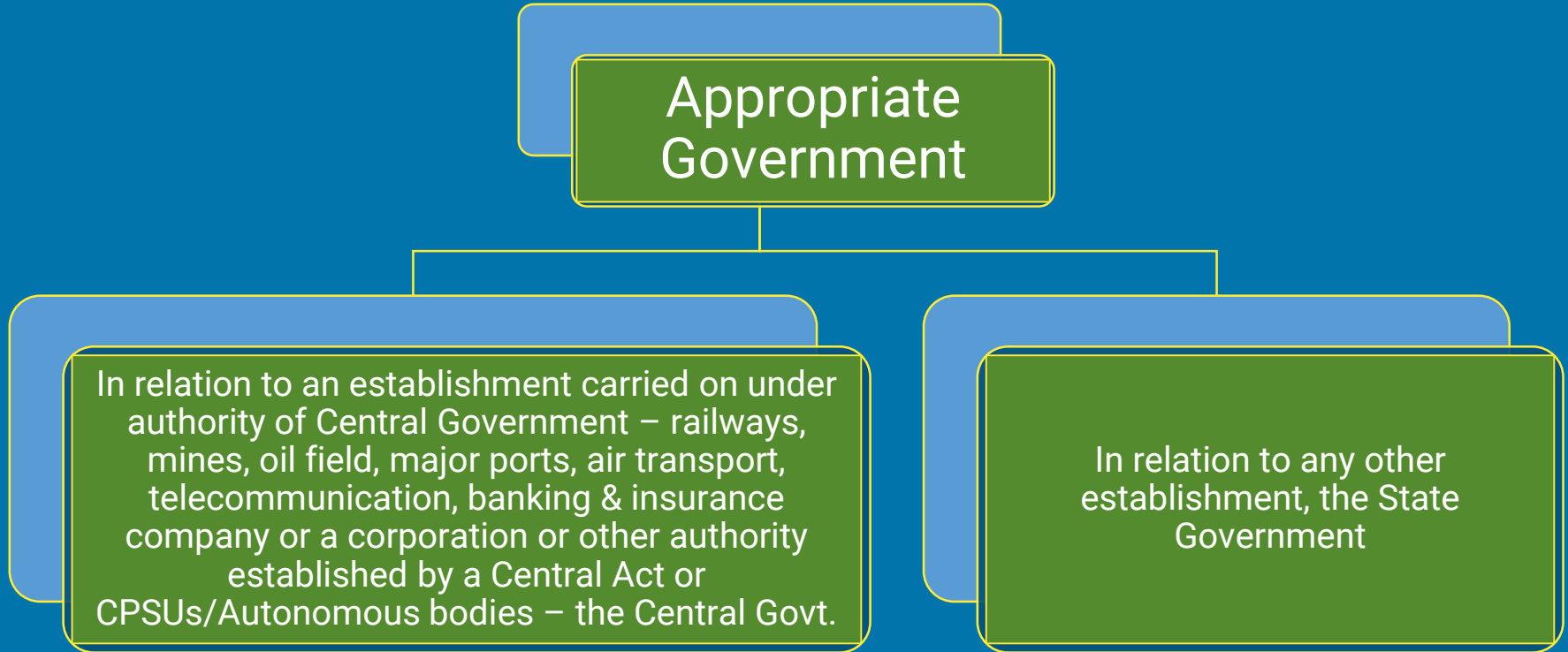


Code on Wages: Some Important Definitions

Wages – means all remuneration whether by way of salaries, allowances or otherwise, if the terms of employment, were fulfilled, be payable to a person employed in respect of his employment



Code on Wages: Some Important Definitions



Wage code 2019: Key Reform Measures

- **Extended legal coverage of both floor wage and minimum rates of wages to all employees** numbering about 224.7 million (or 48 per cent of the total 468.8 million workforce) as per PLFS 2018-19
 - Will benefit additionally 76.4 million wage earners
 - New beneficiaries will be primarily vulnerable groups within the labour market – rural, women, illiterate & below middle level of education, casual workers, ST & OBCs, agricultural and construction labourers, and workers in tiny and micro enterprises

Wage code 2019: Key Reform Measures

- Introduced the concept of statutory ‘wage floor’ to be fixed on the basis of minimum living standard of a worker by central government in consultation with state governments & CAB on wages ;
- Floor wage can be a single floor for the entire country or different floor wages for different geographical areas &
- Minimum rate of wages to be fixed by central and state governments shall be either equal to or above the ‘wage floor’ & can’t be reduced to the level of floor, if such wages are already higher.

WAGE LEVELS IN STATES

HIGHEST PAY

| States/UTs | in ₹ |
|-------------|------|
| Delhi | 538 |
| A&N Islands | 451 |
| Karnataka | 411 |
| Lakshadweep | 401 |
| Chandigarh | 376 |



LOWEST PAY

| States | in ₹ |
|------------------|------|
| Nagaland | 115 |
| Tamil Nadu | 132 |
| West Bengal | 166 |
| Tripura | 170 |
| Himachal Pradesh | 171 |

₹176 National floor-level minimum wage

Wage code 2019: Key Reform Measures

- Once the initial ‘floor wage’ is set and subsequently minimum wages are set above the floor— **average wage levels are expected to go up ensuring that economic growth translates into less poverty and inequality** – under assumption of full implementation (Belser & Rani, 2011);
 - Will **bring down level of wage inequality by 10% points** – from 0.499 to 0.398 (Gini co-efficient)
 - **Gender wage gap will be compressed** by – 6% points among regular & 18% points among casual workers
 - **Will reduce the probability of low paid worker being poor** by 8% to 9 % with low fiscal cost

Wage code 2019

Key Reform Measures

- **Outlines an uniform statutory criteria for initial setting and subsequent revision of minimum wage rates** ordinarily in every five years – ensure wage fixation on time as per fixed norms devoid of any arbitrariness as witnessed presently;
- **Provides for timely adjustment of minimum wages with respect to inflation** in every six months – 1st April and 1st October – to protect real wages of the employees;
- **Simplified and rationalized the existing complex minimum wage structure –**
 - Reduce the number of minimum wage rates in India from the existing 1,915 rates across states) to a minimum of 3 to a maximum of 12 rates per state ;
 - through increased awareness of fewer minimum wage rates - expected to improve enforcement, compliance and effective application of minimum wage system in the country.

Wage code 2019: Key Reform Measures

- **Extends the definition of employer by classifying contractor as employer;**
- Provides clear and uniform definition of ‘wages’ and ‘remuneration’
- Restricts in-kind payments to a maximum of fifteen percent of total wages
- Overtime compensation twice the normal wage extended to all employees (not just for workers) – written consent must be obtained before subjecting employees to overtime.

Wage code 2019: Key Reform Measures

- **Universalised timely payment of wages to all employees & in all establishments irrespective of wage ceiling** – significant development in terms of **wage protection of all employees** and enable them to receive their wages on time;
- **Promotes digitization in wage payments** – through bank account & electronic mode
- Every employer shall issue **wage slips to the employees**
- In case of removal or dismissal; or retrenchment or resignation, or became unemployed due to closure, **wages shall be paid within two working days** ;
- **Puts responsibility of payment of all dues & burden of proof on the employer** in case of claims relating to non-payment of dues
- **Limitation period** for filing claim before authority increased to 3 years as against 6 month to 2 years
- **Fast track claim adjudication process**

All employees shall be paid wages by the employer as per time limit fixed for each wage period



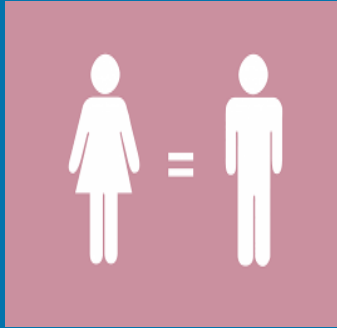
| Wage Period | Time Limit for payment of wages |
|-------------------|---|
| Daily basis | at the end of the shift |
| Weekly basis | on the last working day of the week |
| Fortnightly basis | before the end of the second day after the end of the fortnight |
| Monthly basis | before the expiry of the seventh day of the succeeding month |

Payment of Wages

- There shall be **no deductions from the wages of the employee**, except those as are authorised under this Code
- **Permissible deductions under the Code** – an employee's wages may be deducted on certain grounds including: (i) fines, (ii) absence from duty, (iii) accommodation given by the employer, (iv) recovery of advances/loans given to the employee, (v) income tax or other statutory levy among others.
- **Total amount of deductions shall not exceed 50% of employee's total wage** in any wage period.
- If the **deductions exceeds 50%, the excess amount may be recovered**

Wage code 2019

Key Reform Measures: Promotes Gender Equality



Prohibition of Gender based discrimination among employees in establishments

In matters *related to wages, recruitment of employees and conditions of work* by the same employer in respect of same work or work of similar nature done by any employees.

Work of similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same when performed under similar working conditions

Dispute as to whether a work is of same or similar nature shall be decided by such authority as may be notified by appropriate Government.

Wage code 2019: Key Reform Measures

- Incentivizes businesses by reducing compliance burden and transaction costs –
 - **Amalgamation and rationalisation exercise** – reduced number of sections to 69 from existing 111 sections in four wage related regulations.
 - **Uniform & common definition** of frequently used terms – ‘wages’, ‘workers’, ‘employees’, ‘employers’, ‘establishments’, ‘appropriate government’.
 - **Reduced the number of authorities, tripartite boards, and will be implemented only through 1 rule** instead of 8 different rules that exist at present.
 - **Hassle free compliance** – options for filing and maintenance of registers, returns and forms electronically and prescribes one template for these registers, returns and forms instead of multiple ones at present

Wage code 2019: Key Reform Measures

- **Brings cultural changes in the inspection system** to reduce corruption & arbitrariness and infuse transparency –
 - Inspector-cum-facilitator will not only inspect & impose fines **but also will provide information and advice to employers**;
 - Introduced **web-based inspection scheme**, calling information under code electronically for inspection and conferment of jurisdiction to inspector cum facilitator based on randomized selection of inspection.
 - Mandates inspector cum facilitator **to provide prior opportunity to employer to rectify and comply** with provisions of code by way of written directions before initiating prosecution. If the employer complies, code prohibits initiation of prosecution proceedings against employer. This provision is meant to help employers who are committing any offence under code for first time and not applicable for repeat offence.

Determination of Bonus

- **All employees whose wages do not exceed a specific monthly amount, notified by the central or state government and who has put in at least 30 days of work in an accounting year** will be entitled to an annual bonus.
- Annual minimum Bonus will be at least: (i) 8.33% of his wages, or (ii) Rs 100, whichever is higher irrespective of allocable surplus.
- In addition, employer will distribute a part of the gross profits amongst the employees. This will be distributed in proportion to the annual wages of an employee.
- An employee can receive a maximum bonus of 20% of his annual wages in an accounting year.

Responsibility for payment of dues & burden of proof

- **Every employer shall be responsible to pay all dues** under the code to every employee;
 - Where employer fails to make such payment – company, firm, proprietor, owner of the establishment shall be responsible to pay.
- Where a claim has been filed on account of non-payment or less payment of wages or bonus or for making deductions not authorized from the wages of an employee:
 - **Burden to prove that the said dues have been paid shall be on the employer.**

Record, Return & Notices

- Every employer of an establishment shall maintain a register – persons employed, muster roll, wages and other details as prescribed;
- Every employer shall display a notice on the notice board – at a prominent place containing abstract of Code, category-wise wage rates, wage period, day or date and time of payment of wages, & name & address of Inspector-cum-Facilitator; and
- Every employer shall issue wage slips to the employees; and
 - Above provisions shall not apply in respect of employer to the extent he employs not more than five persons for agriculture or domestic purpose - but if demanded must provide reasonable proof of the payment of wages.

The Inspector Cum Facilitator

- Appropriate Government to appoint Inspector-cum- Facilitators who shall be deemed as a public servant for the purpose of –
 - advice to employers and workers relating to compliance with provisions of this Code;
 - inspect the establishments assigned.
- Appropriate Government may lay down an inspection scheme –
 - which may also provide for generation of a web-based inspection &
 - calling of information relating to inspection under this Code electronically.
- Appropriate Government may by notification confer such jurisdiction of randomised selection of inspection for purposes of this Code to Inspector-cum-Facilitator

Offences & Penalties: Cognizance of Offences

- **No court shall take cognizance of any offence punishable under this Code** except on a complaint made by –
 - Authority/official of appropriate Government or
 - by an employee or
 - a registered Trade Union or
 - an Inspector-cum-Facilitator.
- No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this Code

Offences & Penalties: Power of Officers to Impose Penalty

- For imposing penalty appropriate Government to appoint officer not below the rank of Under Secretary –
 - for **holding enquiry and to summon & enforce attendance of any person** acquainted with the case to give evidence or to produce any document, and
 - if, on such enquiry, he is satisfied **that the person has committed any offence,** **he may impose such penalty** as he thinks fit.

Wage code 2019: Key Reform Measures

- Standardized penalty provisions, introduced the concept of ‘graded penalty’ and has enhanced penalty provisions especially fine amount manifold – act as strong deterrent & expected to improve compliance and effective application

| S No. | Type of Offence | Amount of Penalty on employer |
|-------|--|---|
| 1. | First offence: Pays to any employee less than the amount due under the this Code | Punishable with fine which may extend to fifty thousand rupees |
| 2 | Repeat offence: similar to 1 above within five years from the date of the commission of the first or subsequent offence | Punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, or both; |
| 3 | First offence: Contravenes any other provision of this Code or any rule made or order made or issued thereunder | Punishable with fine which may extend to twenty thousand rupees; |
| 4. | Repeat offence: similar to 3 above within five years from the date of the commission of the first or subsequent offence | Punishable with imprisonment for a term which may extend to one month or with fine which may extend to forty thousand rupees, or both. |
| 5 | Offences of non-maintenance or improper maintenance of records in the establishment | Punishable with fine which may extend to ten thousand rupees |

Integrated approach to strengthen wage policy

Simplification and Rationalisation



Criteria for setting up MW to be skill or region



100% Coverage under Minimum Wages



Use of Technology



Effective Grievance Redressal Mechanism



Regular Adjustment of Min Wages



An effective minimum wage policy that targets the vulnerable bottom rung of wage earners can help in driving up aggregate demand and building and strengthening the middle class.

Thank You !