

**DNH LABOUR DEPARTMENT**  
In collaboration with  
**FEDERATION OF INDUSTRIES ASSOCIATIONS, SILVASSA**



**Welcomes**

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**Seminar on Labour Law Reforms on 29<sup>th</sup> September, 2018  
at New Circuit House, Silvassa**

# WELCOME

Dr. Onkar Sharma

# **The Labour Law Reforms**

**Initiatives by  
Government of India**



# Why Labour Law Reforms

- At present, there are 44 Central Labour Acts.
- Multiplicity of laws leads to difficulty in compliance.
- Multiplicity of Authorities - leading to complexity & difficulty on enforcement.
- Majority of the Labour Laws were enacted in pre-independence period.
- Recommendation of Second National Commission on Labour
- Requests on various forums by employers/workers representatives/organisations

# OBJECTIVES

- To align these laws with the present economic scenario
- Reduce multiplicity of authorities.
- Ensure safety, health and social security and wage security of **every worker**.
- Improve the grievance redressal mechanism.
- Catalyze creation of employment opportunities.

# OBJECTIVES

- Ease of doing business
- Facilitate compliance.
- Use of technology in administration of labour laws.
- Transparency & accountability in enforcement.

# LABOUR REFORMS



## LEGISLATIVE REFORMS

## GOVERNANCE REFORMS

### 4 Labour Codes:

1. Wages
2. IR
3. Social Security
4. OSH & working conditions

Dr Onkar Sharma

### Amendments in Individual Acts

1. Child Labour Act,
2. Payment of Bonus Act
3. EPF & MP Act
4. ESI Act
5. Factories Act
6. Contract Labour Act
7. MB Act
8. Employees Compensation Act

- Shram Suvidha Portal
- Common Registration
- Common Return
- Universal Account Number (UAN)
- Project-Panchdeep
- Pehchan card
- Digitisation of health records
- U-WIN Card

# LEGISLATIVE REFORMS

Consolidation of forty four labour laws into four codes:-

- **Code on Wages**
- **Code on Industrial Relations**
- **Code on Social Security & Welfare**
- **Code on OSH & Working Conditions**

Amendments in individual Acts



# Common Approach to the Codes

- Ensure wage security, social security and health & safety to all workers
- Uniform definition as far as feasible
- Change in the prosecution and penal provisions
  - ❖ Compliance notice before prosecution (except grave offences)
  - ❖ Graded Penalty based on gravity of offence
  - ❖ No imprisonment – only fine in first offence (except serious offence)
  - ❖ Compounding of offence

# Common Approach to the Codes

- **Facilitator' in place of 'Inspector**
  - ❖ **Responsibility to guide the employers and workers**
  - ❖ **Inspection through web based schedule except few cases**
- **Reduction in multiplicity of Authorities**
- **Deployment of technology - electronic registers and returns**

# Labour Code on Wages

Labour Code on Wages amalgamates & rationalize and simplify the provisions of following Central Labour Acts:

- i. **The Minimum Wages Act, 1948**
- ii. **The Payment of Wages Act, 1936**
- iii. **The Payment of Bonus Act, 1965**
- iv. **The Equal Remuneration Act, 1976**

# Major changes - Fixing of Minimum Wage

Existing Provisions	Proposed Provisions
Minimum Wages Act applies to scheduled employment only	Provision of minimum wage will <u><b>apply to all employees</b></u>
Power of fixation of minimum wages vests with both Central & State Govt. in their respective spheres.	Power of fixation of minimum wages vests with both Central & State Govt. in their respective spheres.  Central Govt. to fix a ' <b>National Minimum Wage</b> ' - Minimum threshold for all States
Separate minimum wages fixed for each type of employment	Appropriate Govt. will fix one minimum rate of wages & <b>fix factors for different categories</b> of employees considering skill, arduousness of work, and geographical location

# Major changes - Payment of Wages and Bonus

Existing Provisions	Proposed Provisions
Payment of Wages Act applicable for employees drawing wages less than Rs.24000 per month & in specified and notified establishments only	<ul style="list-style-type: none"><li>• These provisions will apply to <b>all employees and all establishments</b> irrespective of wage ceilings.</li><li>• Coverage can be extended to Government establishments</li></ul>
No <u>provision</u> for payment of wages through bank account	Wages may be <b><u>paid through bank account</u></b> .

# Major changes - Payment of Wages and Bonus

Existing Provisions	Proposed Provisions
For calculation of bonus, some allowances are excluded from wage	Exclusions provided with a restriction that such allowances cannot be more than 50%
Number of authorities/ forums to decide claims	One claim authority for all claims
No provision of appellate authority	Provision of a Appellate
Common penalty for every violation	Provision of graded penalty
No provision of compounding	Provision of compounding of offences

# Benefits to Workers

- Minimum wage extends to all employments
- National Minimum Wage below which no State can fix the minimum wage rate
- Provision of timely payment of wage and regulated deduction extended to all workers
- Payment of wage through bank accounts
- Restriction on loading remunerations under allowances excluded for the calculation of bonus

# Ease of doing Business-Employers

- Transparent inspection scheme - reduce arbitrariness & discretion
- Provision of Graded penalty
- Provision of compounding of offence
- Compliance notice before prosecution (except grave offences)
- Facilitators in place of inspectors
- Simplified common electronic registers & returns



# **THE CODE ON WAGES Bill, 2017**

**A BILL to consolidate and amend the  
laws relating to wages and bonus**

# Definitions

**Establishment** - means any place where any industry, trade, business, manufacture or occupation is carried on

**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, whether the terms of employment be express or implied

**Appropriate Government** - same as provided in I.D. Act, 1947

# Definitions

**wages** means all remuneration, whether by way of:

salary, allowances or otherwise,

expressed in terms of money or capable of being so expressed,

which would, if the terms of employment, express or implied, were fulfilled,

be payable to a person employed in respect of his employment or of work done in such employment, **and includes**,—

# Definitions

- (I) any remuneration payable under any award or settlement or order of a court;
- (ii) any remuneration entitled in respect of overtime work or holidays or any period of leave;
- (iii) any additional remuneration payable , **whether called a bonus** or by any other name;
- (iv) any sum which by reason of the termination of employment is payable under any law, contract
- (v) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;
- (vi) any house rent allowance,

# Definitions

but does not include--

- (A) any bonus payable under this Code,
- (B) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

# Definitions

(C) any contribution paid by the employer to any pension or provident fund,

(D) any travelling allowance or the value of any travelling concession;

(E) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(F) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv):

# Definitions

## Employer means:

A person who employs one or more employees in his establishment ,for:

- Government Department, the authority specified or head of the Department
- Factory, Occupier or Manager of the factory
- Any other establishment, the person who has ultimate control over the affairs of establishment and where said affairs is entrusted to a manager or managing director, such Manager or Managing Director,
- Contractor

# Prohibition of gender based discrimination

- No discrimination among employees on the ground of gender in matters relating to wages in respect of the same work or work of similar nature done by any employee.
- No employer shall, for the purpose of complying with this provisions , reduce the rate of wages of any employee.
- any dispute as to whether a work is of same or similar nature, the dispute shall be decided by authority



# Payment of wages

- No employer shall pay to any **employee** wages less than the minimum rate of wages notified by the appropriate Government
- No deductions from the wages of the employee, except those as are authorised under this Code.

# Payment of wages

The employer shall pay wages to the employees engaged on-

- i. daily basis, at the end of the shift;
- ii. weekly basis, on the last working day of the week,
- iii. fortnightly basis, before the end of the second day after the end of the fortnight;
- iii. monthly basis, before the expiry of the seventh day of the succeeding month.
- iv. Where an employee has been—removed or dismissed; or retrenched or has resigned, or became unemployed due to closure, the wages shall be paid within **two working days**.

# National Minimum Rates of Wages

The Central Government may fix the national minimum wage.

- The minimum rates of wages fixed by the appropriate Government shall not be less than the national minimum wage, and
- if the minimum rates of wages fixed by the appropriate Government earlier is more than the national minimum wage, then, the appropriate Government shall not reduce such minimum rates of wages fixed by it earlier

# Wages for full Day

If an employee whose minimum rate of wages has been fixed by the day, works less than the normal working day, he shall, be entitled to receive wages for a full day

Provided that he shall not be entitled to receive wages for a full normal working day,—

- in case his unwillingness to work, and
- in such other cases and circumstances, as may be prescribed.

# Payment of wages

- All wages shall be paid in
- current coin or currency notes or
- by cheque or
- through digital or electronic mode or
- by crediting the wages in the bank account of the employee.
- Provided that the appropriate Government may specify the industrial or other establishment, the employer of which shall pay the wages **only by cheque or through digital or electronic mode or by crediting the wages in his bank account.**

# Payment of Bonus

- Payment of bonus to every employee drawing wages not exceeding monthly wages notified by the Central Government and has worked at least thirty days in the accounting year
- For the purpose of calculation, amount notified by the Government or minimum wages which ever is higher

# Responsibility for payment

- Every employer is responsible to pay dues under the code.
- Where employer fails to **pay, company, firm, proprietor, owner of the establishment shall be responsible to pay.**

# Claims under the Code

- Authority to hear and determine the claims and direct for payment
- If not paid, authority shall issue recovery certificate to Collector or DM

Claim can be filed by:

- Employee concerned
- Registered TU of which the employee is a member
- Facilitator

( **Limitation period of three year**)



# Burden to Prove

Where a claim has been filed on account of non-payment or less payment of wages or bonus or for making deductions not authorised from the wages of an employee:

**The burden to prove that the said dues have been paid shall be on the employer.**

# Appeal

- **Appeal** against the decision of claim authority to the Appellate Authority with in **ninety days**
- Disposal of appeal in three months

# The Facilitator

May be appointed for:

- (a) supply information and advice to employers and workers concerning the most effective means of complying with the provisions of this Code,
- (b) inspect the establishment

## Web based inspection scheme

The Government, by notification, lay down an inspection scheme which shall also provide for generation of a web-based inspection schedule.

# Cognizance of Offence

No court shall take cognizance of any offence punishable under this Code, save on a complaint

- made by or under the authority of the Government, or
- an officer authorised in this behalf, or
- **by an employee, or**
- **a registered Trade Union. or**
- a Facilitator.

# Compounding of Offence

Offences not punishable with imprisonment only, or with imprisonment and also with fine, may, be compounded for a sum of fifty per cent. of the maximum fine provided for such offence

# Factories Amendment Bill, 2016

Last amendment to the factories Act was made in 1987 (after Bhopal Gas Tragedy )

There have been several developments over the last 30 years which include:

- Changes in manufacturing process,
- Emergence of new technologies,
- I.L.O. Conventions
- Judicial pronouncements
- Recommendations of various Committees/ Commissions

# Factories Amendment Bill, 2016

- To give the effect to changes, a comprehensive factories (Amendment) Bill, 2014 was introduced in Lok Sabha on 7.8.2014 (with 64 amendments).
- The Bill was referred to Standing Committee and the report of the Standing Committee is under examination.
- Passing of the Bill of 2014 may take some more time.

# Factories Amendment Bill, 2016

- To boost the manufacturing sector and to facilitate ease of doing business , it was decided to amend the Section 64 and 65 of the Act to enhance the maximum hours of overtime.
- Enhance the limit on overtime hours from fifty hours per quarter to one hundred hours per quarter.
- With the exemption from Chief Inspector, in exceptional cases, enhance from existing seventy five hours to one hundred and fifteen hours.
- With the prior approval of Government, Chief Inspector can further extend hours of overtime up to one hundred and twenty five hours in the public interest.



## Amendment to Maternity Benefit Act, 1961

- Woman shall be entitled to maternity for **26 weeks** out of which not more than eight weeks shall precede the date of expected delivery.
- Provided, if a woman having two or more than two surviving children, maternity benefits shall be 12 weeks of which not more than six weeks shall precede the date of expected delivery.

## Amendment to Maternity Benefit Act, 1961

- A woman who legally adopts a child below the age of three months or
- A Commissioning mother  
shall be entitled to maternity benefit for a period of **twelve** weeks from the date the child is handed over to the adopting mother or the Commissioning mother.

## **Amendment to Maternity Benefit Act, 1961**

If work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman mutually agree.

## Amendment to Maternity Benefit Act, 1961

- Establishments having fifty or more **employees** shall have the facility of creche within such distance as may be prescribed, either separately or along with common facilities.
- Employer shall allow four visits a day to the creche by the woman.
- Every establishment shall **intimate** in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.

# **Amendment to Employees' Compensation Act, 1923**

- Employer to inform the employee of his rights to compensation under the Act, in writing as well as through electronic means;
- Penalty amount enhanced for violations from five thousand rupees to fifty thousand rupees. For some offences it may be extended to one lakh rupees;

# Amendment to Employees' Compensation Act, 1923

- Employer liable to penalty for failure to inform the employee of his rights to compensation
- Revise the minimum amount involved in the dispute for which appeal can be filed to the High Court, three hundred rupees to ten thousand rupees or such higher amount as the Central Government may notify.

# **Amendment to Employees' Compensation Act, 1923**

Omitted section 30A of the Act which empowers the Commissioner to withhold payment to an employee of any sum in deposit with him where an appeal is filed in the High Court by an employer.

# **Amendment to Payment of Gratuity Act, 1972**

- Central Government to notify the maximum amount of Gratuity.
- Maximum gratuity payable under the Act is increased from existing Rupees ten lakh to Rupees twenty lakh by notification .



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# **DRAFT CONTRACT LABOUR (R&A) AMENDMENT BILL, 2017**

# Explanation to the definition of Contract Labour

A workman, who is regularly employed in an establishment of a contractor, is hired by or through the contractor, with or without the knowledge of the principal employer, shall not be deemed as contract labour.

# Definition of Contractor

in relation to an establishment, means a person, who –

(i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment; or

(ii) supplies contract labour for any work of the establishment as mere human resource; and includes a sub-contractor;

# Definition of Workman

In the definition of workman for the words —five hundred rupees, the words —the amount as notified by the appropriate Government.

(Supervisor drawing up to the amount notified by Central Government is also a worker)

# Period of Licence

The licence shall be valid for three years and shall be renewed thereafter in the prescribed manner and

In case only the number of contract labour to be supplied are increased, then, the licence shall be renewed for the limited purpose of security deposits.

# Intimation to Government

When a contractor receives work order from an establishment –

he shall, intimate the appropriate Government and if he fails to give such intimation then, his licence may be cancelled.

# Responsibility of Principal Employer

- In case contractor supplies contract labour for any work of the establishment **as mere human resource,**

then the responsibility of providing facilities of Canteen, Rest Room and other facilities under section 16, 17 & 18 shall be of Principal Employer, which shall be same as of regular employees of Principal Employers.

# Notice of Compliance

- Other offences under section 24.- If any person contravenes any of the provisions of this Act or any rule made thereunder for which no other penalty is elsewhere provided, he shall be punishable with fine which may extend to ten thousand rupees:  
(presently it is up to Rs1000)
- Provided that where such person commits an offence under section 24 for first time, then, the inspector shall give him notice requiring him to rectify such contravention and  
if the person rectifies the contravention then, no complaint shall be made against him



# Compounding of Offences

- Any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded for a sum of fifty per cent. of the maximum fine provided for such offence, in the manner as may be prescribed.
- Except an offence committed by a person for the second time or thereafter within a period of five years from the date-
- (i) of commission of a similar offence which was earlier compounded; or
- (ii) of commission of similar offence for which such person was earlier convicted.

# Compounding of Offences

- Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.
- Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.
- Any person who fails to comply with an order made by the officer shall be punishable with a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

# The Child Labour (Prohibition & Regulation) Amendment Act, 2016

## Amendment in Title

“An Act to prohibit the engagement of Children in **all occupations** and to prohibit the engagement of **Adolescents in hazardous occupations and processes** and the matters connected therewith or incidental thereto.”

**“The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986”**

# Prohibition of Employment of Children in any Occupation and Process (Section 3)

Employment of children below 14 years is completely prohibited and the age of the prohibition is linked to the age under Right of Children to free and Compulsory Education Act 2009 (RTE Act)



# Exemptions

- Children Helping their families or Family enterprises after school hours or during vacations other than hazardous occupations or processes

(Help not employment)

( Education of the Child should not be affected)

- Children working as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures

# Exemption

- Family means – **Only** Child's mother father , brother , sister and father's sister and brother and mother's sister and brother.
- Artist means- Child who performs or practices as an actor , singer , sportsperson.



# Prohibition of Employment of Adolescents (Section 3A)

Prohibition of working of Adolescent from 14 to 18 years in any of hazardous occupations or processes set forth in the schedule

(Notification may be of non-hazardous work to which an adolescent **may be permitted** to work)

# Regulation of Conditions of Work of Adolescent(14-18 years)

- Maximum Hours of Work:
- Spread over – 6 hours
- Rest – 1 hours
- No employment between 7pm and 8am
- No overtime
- Weekly holiday



# Regulation of Conditions of Work of Adolescent

- Age certificate by prescribed medical authority
- Notice to inspector
- Maintenance of register of adolescent
- Health and safety provision

# Stricter Punishment

- Offences under the section 3 or 3A committed by an employer shall be **Cognizable**
- The punishment by way of **Imprisonment** for a term which shall not be less than **six months** but which may extend **to two years,**
- or with **Fine** which shall not be less than **Twenty Thousand** Rupees but which may extend to **Fifty Thousand** Rupees,
- or with both

# Strict Punishment

## Repeated offence-

Punishable with **only** imprisonment for not less than one year but may extend to three years.

# Cognizable Offence

- F.I.R. can be filed
- Police Officer can investigate without Magistrate permission
- Police Officer can arrest without arrest warrant

# Rehabilitation of Child and Adolescent

Child and Adolescent rescued from workplace shall be rehabilitated in accordance with the law



## Labour Code on Social Security



# Existing Acts on Social Security – to be replaced by the Code

Name of the Act	Enforcement Agency
The Employees State Insurance Act, 1948	ESIC
The Employees Provident Fund and Miscellaneous Provisions Act, 1952	EPFO
The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976*	DGLW
The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976	DGLW
The Mica Mines Labour Welfare Fund Act, 1946*	DGLW
The Beedi Workers Welfare Cess Act, 1976	DGLW
The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972*	DGLW
The Cine Workers Welfare (Cess) Act, 1981*	DGLW
The Beedi Workers Welfare Fund Act, 1976	DGLW

# Existing Acts on Social Security – To be replaced by the Code

Name of the Act	Enforcement Agency
The Cine Workers Welfare Fund Act, 1981	DGLW
The Maternity Benefit Act, 1961	CLC/ State Government
The Payment of Gratuity Act, 1972	CLC/ State Government
The Employees' Compensation Act, 1923	State Government
The Unorganized Workers Social Security Act, 2008	DGLW plus other Central Ministries/State Government
The Building and Other Construction Workers Welfare Cess Act, 1996	State Government



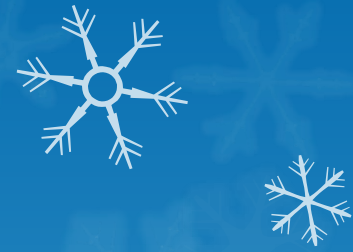
# Purpose

The Labour Code on Social Security and Welfare is an attempt to simplify, rationalize and consolidate the hitherto fragmented laws to make them less complex for easier comprehension implementation and enforcement.

Basic core principles that have been incorporated are:

- (a) Universalization to entire workforce
- (b) Integration of fragmented schemes
- (c) decentralization of administration and
- (d) rights based approach.

# Administrative Structure



- A **three tier** Social Security Administration Structure proposed with tripartite representation in all these bodies drawing representatives of workers, employers and Government.
- **National Social Security Council** headed by the Prime Minister to be the Apex Social Security Organization in the Country for overall regulation and monitoring;
- **Central Board of Social Security** at Union level
- **State Board(s) of Social Security** at State/UT level for implementation of the Social Security framework.
- In addition functions have been prescribed for local bodies (panchayats / urban local bodies) of registrations and facilitation.

# Coverage

● The Code is applicable to *all kinds of employment* including

- wage worker
- part time worker,
- casual worker
- fixed term worker,
- piece rate/commission rated worker,
- informal worker

# Coverage

- home-based worker,
- domestic worker
- self employed worker
- seasonal worker.
- Agricultural worker

The Code is also applicable to all kinds of Employers including small establishments as well as Households

# Compulsory Registration

- Unique Aadhaar Based Registration system for all workers through Local Bodies,
- Compulsory registration for all categories of workers to whom the code applies- employees , self -employed, owner cum worker.
- A Portable Social Security Account i.e. Vishwakarma Karmik Suraksha Khata (VIKAS) to be opened for all workers on registration which shall be linked to the Aadhar number of the worker.

# Compulsory Registration

- Portability of VIKAS along with remittance of the accumulated contribution in case a subscriber moves to another state available to the workers.
- All Establishments to be registered as Employers.

# Contribution

Employers contribution: - Maximum 17.5 percent of wage

(with provision for reduced rates if a cess is levied on any particular industry)

plus 2 percent of wage for Gratuity Fund.

## Workers' Contribution

If in the Organized Sector / wage employed-

12.5 percent of wage/monthly income for employee/non-employee, as the case may be

# Contribution

For self employed –

- 20 Percent of minimum wage if earning is less than wage ceiling but more than or equal to minimum wage.
- 20 Percent of monthly income if earning is more than or equal to wage ceiling.

**Workers contribution is NIL** if the worker belong to 'Poor' Socio-economic profile.

Note : Government contributes in respect of such persons.



# Welfare Funds

- Welfare Funds to be set up in each state for different categories of workers.
- Welfare Funds to consist of money collected through cess and appropriation by Parliament/State Legislature (tax funding)
- The State Board to appropriate moneys from the Welfare Funds for crediting the same to State Social Security Fund of entitled workers.
- The Contribution so appropriated to determine the worker's entitlement to benefits under this code.

# Benefits

Common Schemes to be framed by Central Governments

- Pension, Medical Benefit
- Sickness Benefit, Group Insurance
- Maternity Benefit, Unemployment Benefit
- Disablement Benefit, Provident Fund
- Invalidity Benefit,
- Dependent's benefit, and International worker's pension benefit.

# Benefits

- Additional Voluntary Schemes by State Governments
- Rights based benefit system
- Allowing the payment of benefits from the Fund to a person who becomes disentitled to any benefit due to him on account of Employer's negligence and subsequent recovery of the same from the defaulting employer.

# **Employer Liability replaced by Fund Liability**



Employer's Liability replaced by Fund Liability.

# Administration

Provision for licensing of Intermediate Agencies in the fields of:

- Fund Management,
- Point of Presence,
- Service delivery,
- Benefit disbursement,
- Record keeping and
- Facilitation

For enabling PPP system in administering social security.

Adequate safeguards for exercising control over Intermediate Agencies for protecting the interest of subscribers.

# Administrative Charges

Administrative charges fixed at a maximum of five percent of the contribution due rather than as a percentage of wages as prevalent at present effectively reducing the actual cost.

# Exemptions

Exemption from some or all the schemes to any establishment or class of establishments/ person or class of persons **subject to condition that the establishment provides better benefits.** (for establishment employing  $\geq 100$  workers)

# Facilitation and Enforcement

- *Social Security Facilitators* for assisting workers and employers.
- State Board to provide necessary Grants/financial assistance out of Administrative fund(s) for meeting the salaries of the facilitators appointed for the purpose of this code.
- State Board is to appoint *Inspectors* for the enforcement of the provisions of the code.



# Audit by CAG

- Audit of Accounts of Social Security Organizations by the CAG of India and laying of Annual Report before the appropriate legislature.
- Provision for Social Audits of the schemes once every five years.

# Appeals

- Provision of First Appeal for any person aggrieved by a decision of any of the specified authorities to be made before Departmental Appellate officers and second Appeal to Social Security Appellate Tribunal.
- Appeal and reference to High Court against a decision of the Tribunal if the matter involves a substantial question of law.

# Penalties

- Penalties as specified in the Sixth Schedule to be imposed on any person contravening the provisions of the code as specified in that schedule.
- Provision for Compounding of offences by Commissioner in respect of an offence, not being an offence punishable with imprisonment under this code.

# Indexation of Fines

Central Government to have the power of increasing, reducing or modifying the fines and/or the maximum limit of fines specified under this Code by linking the increase/reduction/modification to change in the Consumer Price Index.

# DRAFT CODE ON OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS

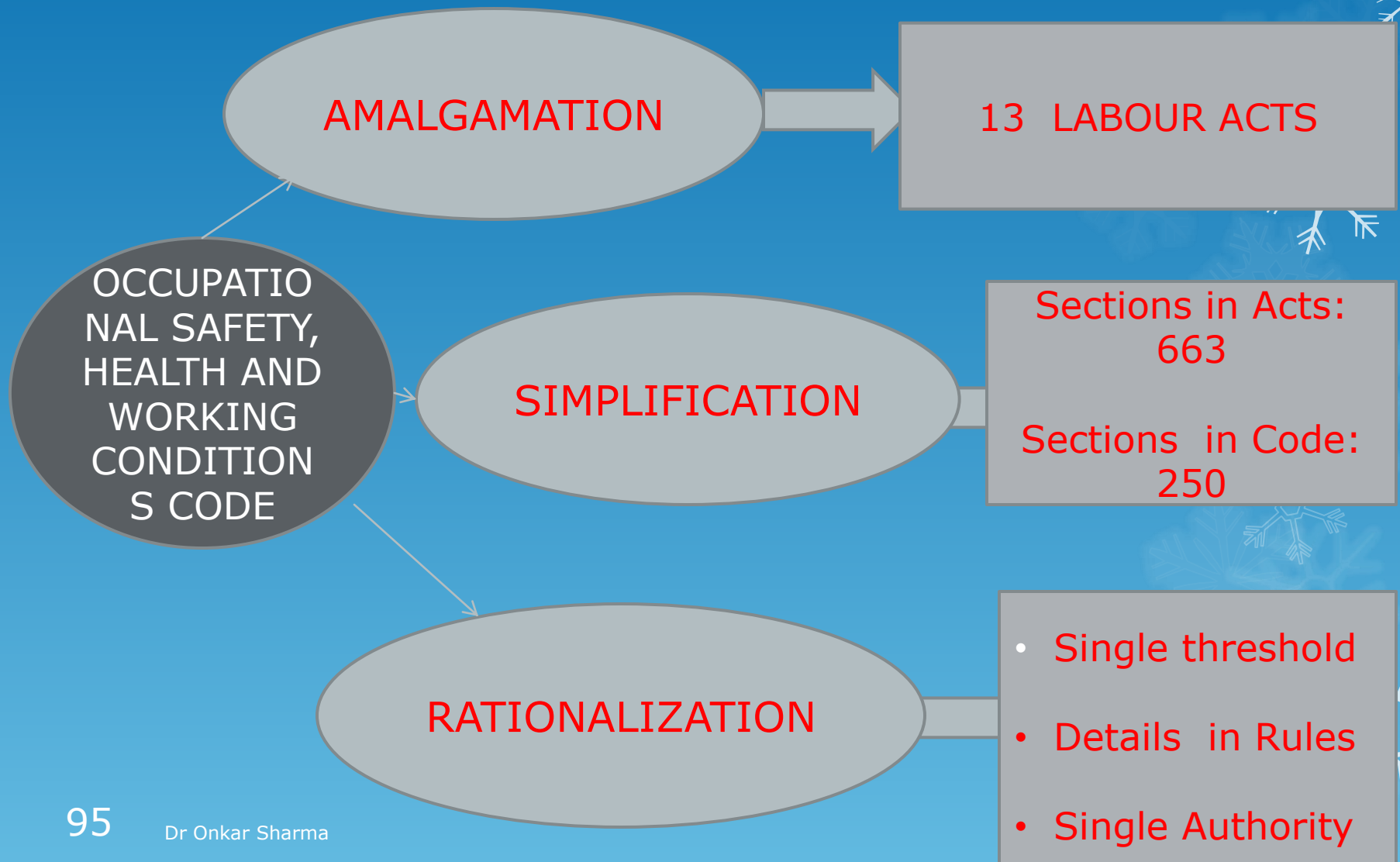


# BACKGROUND

The Code on OSH & Working Conditions amalgamates relevant provisions of 15 Central Labour Laws

The Code provides a broad framework for occupational safety, health and working conditions related matters for the workers

# CODE: BASIC TENETS





# Labour Laws on Health & Safety

1	Factories Act, 1948	8	Working Journalists Act
2	Mines Act, 1952	9	Sales Promotion Employees (RECS) Act, 1976
3	Dock Workers (Safety & Health) Act, 1986	10	Motor Transport Workers Act, 1961
4	Plantation Labour Act, 1951	11	Cine Workers and Cinema Theatre Workers Act, 1981
5	BOCW (RE&CS) Act, 1996	12	Beedi and Cigar Workers Act, 1966
6	Contract Labour (Regulation & Abolition) Act, 1970	13	The Child & Adolescent Labour (Prohibition and Regulation) Act, 1986
7	Inter-State Migrant Workmen (RECS) Act, 1979		



# Details of Chapters



S.No	NAME OF THE CHAPTER	CONTENTS
1	Preliminary	Definitions
2	Registration	Registration, Notice for commencement & cessation of operation
3	General Duties of Employers & Employees	Obligations of employer, employees, manufactures, architect etc
4	National Occupational Safety and Health Board	Constitution, function, Technical Committees, Safety & Health Standards, Safety Committee & Safety Officer, OSH Survey
5	Health and Working conditions	Cleanliness, ventilation, Overcrowding, Lighting, drinking water, Urinals ,waste disposal etc
6	Welfare Provisions	Facility for washing, sitting, canteens, shelters, rest-rooms, crèches, first aid , medical facilities , uniforms & welfare Officers etc

# Details of Chapters



S. No	NAME OF THE CHAPTER	CONTENTS
7	Hours of Work & Annual Leave with Wages	Weekly hours, weekly holiday, daily hours, spread over, night shifts, overtime, Annual Leave with Wages
8	Maintenance of Registers, Records & Returns	Registers and Returns
9	Facilitator & other Authorities	Appointment, powers, functions, special functions, Provision for Medical Officer
10.	Special Provisions relating to Employment of Women	Prohibition on employment in dangerous occupations, working hours restriction
11	Special Provisions	Parts- child & bonded labour separately, special provisions of different Sectors
12	Offences ,Penalties & Procedures	General penalty provisions, prosecution procedure, power of court ,
13	Miscellaneous	power to make rules, power to exempt, power of Central Government to give directions etc.

# Definitions

- Appropriate Government- defined to accommodate existing practice in 15 Acts

It is slightly different from those in Wage/IR Code

- New definition of “establishment”- includes all working places, including Govt.
- Specific sectors viz. mines, factory, plantation, docks etc. also defined separately
- Contractor – modified to apply only for supplying manpower
- Plantation – lowered the threshold from 15 to 10 employees
- Motor Transport- Increased the threshold from 5 to 10 employees

# Safety and Health Standards

- Safety & Health Standards for sectors viz. Factories, Mines, Docks, BoCW, Beedi & Cigar
- Enabling provision for prescribing detailed safety and health standards through Rules
- Detailed Standards to be prescribed by the Central Government – Dynamic with changing technology
- A Board at Central Level namely 'National Occupational Safety and Health Advisory Board' to advise the Government in formulating the standards & Rules.
- National Board can constitute Technical Committees
- Enabling provision for State Advisory Board

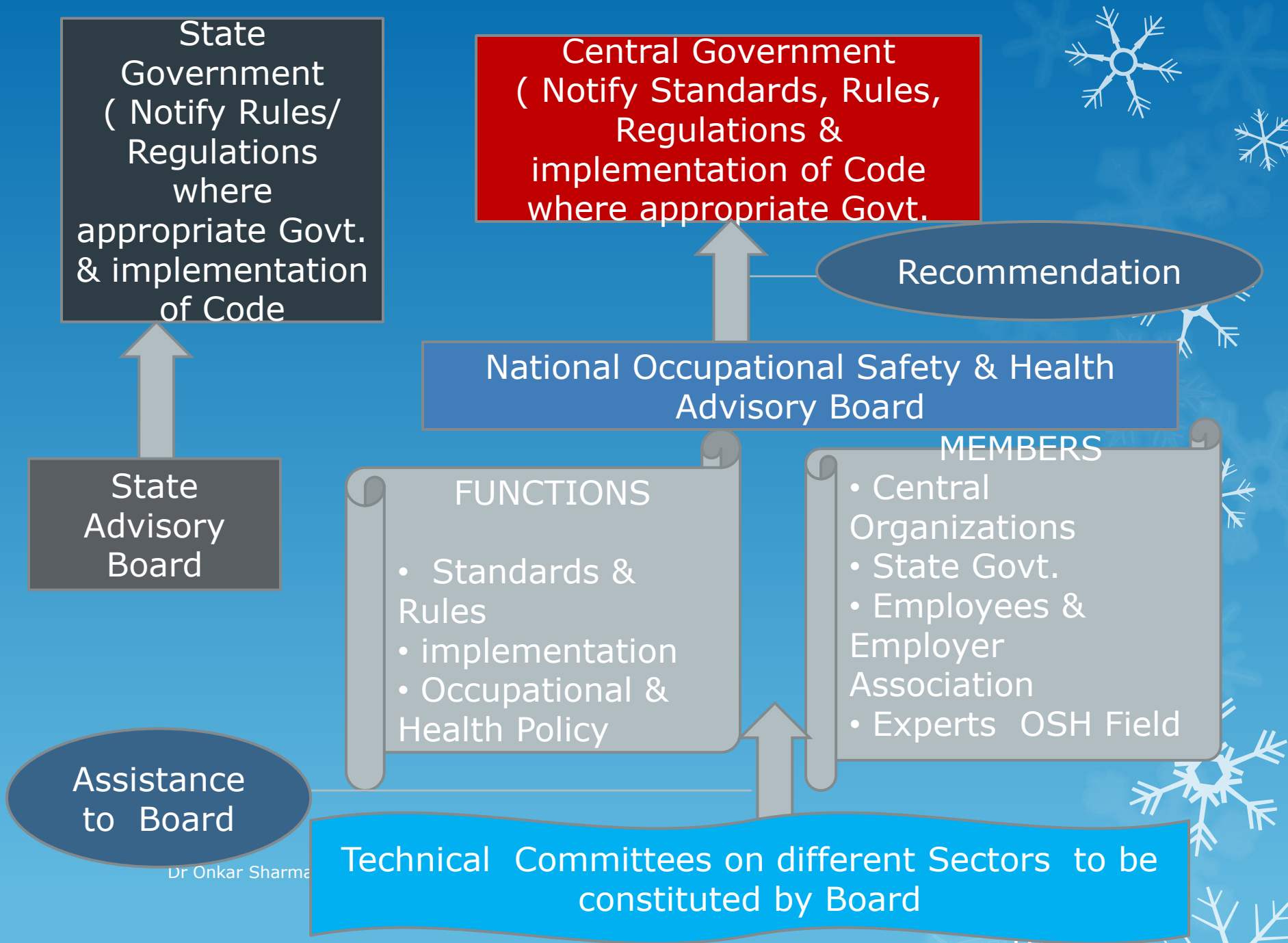
# National Occupational Safety and Health Advisory Board

Board under chairmanship of Addl. Secretary (L&E) with other members from

- Central Organizations viz. CPCB, DGHS, ESIC, DG FASLI, DGMS, OLC etc.
- Representatives from 4 States by Rotation
- 5 Members each from Employers/Employees Organizations
- 5 eminent persons from OSH field

Board will advise on matters

- Safety & Health Standards to be framed
- Rules and Regulations to be framed under the Code
- Implementation of the provisions of this Code



# Health, Working Conditions and Welfare Provisions

- General provisions viz. cleanliness, overcrowding, drinking water, washrooms, canteens etc. applicable to all establishments
- Specific sector-wise details (viz humidification, lighting, dust & fumes, waste disposal, ventilation) to be prescribed in Rules for Factory, Mines, BoCW, Beedi & Cigar

# Working Hours , Annual Leave & other working conditions

- Provisions for daily Working hours, spread over & weekly hours
- Maximum permissible overtime hours
- Presently the provision only in few Acts
- Night work for women allowed with adequate safeguards



# Governance Reforms through Technology

- Shram Suvidha Portal
- Unique Labour Identification Number (LIN)
- Transparent Labour Inspection Scheme
- Online common annual Return
- Online Registration
- U WIN Card-(Un-Organised Workers' Identification Number)

# Governance Reforms through Technology

Unified Web Portal 'Shram Suvidha Portal':

- To bring transparency and accountability in enforcement of labour laws and
- Ease complexity of compliance.

It caters to four major Organisations, namely:-

- Office of Chief Labour Commissioner (Central),
- Directorate General of Mines Safety,
- Employees' Provident Fund Organization; and
- Employees' State Insurance Corporation

# Main features of this Portal

- **Unique Labour Identification Number (LIN)** is allotted to Units to facilitate online registration.
- Filing of simplified **Single Online Common Annual Return** by the establishments.
- Units will only file a single consolidated Return online instead of filing separate Returns.

# Main features of this Portal

- **Transparent Labour Inspection Scheme** through computerized system based on risk based criteria and uploading the inspection reports within 72 hours by the Labour inspectors.
- Timely redressal of grievances will be ensured with the help of the portal

# Transparent Labour Inspection Scheme

- A computerized list of inspections is generated randomly based on risk based objective criteria.
- Serious matters are to be covered under the mandatory inspection list.
- Complaints based inspections determined centrally after examination based on data and evidence.
- Mandatory uploading of inspection Reports within 72 hours.

# Single Online Common Return

- Single Unified Annual Return for 8 Labour Acts.
- This will facilitate filing of simplified Single Online Return instead of filing separate Returns, under the following Acts:-
  - (a) Payment of Wages Act, 1936
  - (b) Minimum Wages Act, 1948
  - (c) Contract Labour (Regulation and Abolition) Act, 1970

# Single Online Common Return

- (d) Maternity Benefit Act, 1961
- (e) Building and Other Construction Workers  
(Regulation of Employment and Condition of  
Service) Act, 1996
- (f) Payment of Bonus Act, 1965
- (g) Inter-State Migrant Workmen (Regulation of  
Employment and conditions of Service) Act, 1979
- (h) Industrial Disputes Act, 1947



# Common Registration under Labour Laws & integration with DIPP's E-Biz Portal

In association with Department of Industrial Policy & Promotion, for design of portal for Common Registration under following 5 Labour Acts:-

- The Employees Provident Fund & Miscellaneous Provisions Act, 1952,
- The Employees State Insurance Act, 1948,
- The Building & Other Construction Workers (RECS) Act, 1996,
- The Contract Labour (Regulation & Abolition) Act, 1970, and
- The Inter-State Migrant Workmen (RECS) Act, 1979





Kindly mail to [drosharma@gmail.com](mailto:drosharma@gmail.com)

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Dr Onkar Sharma

The background is a solid blue color. On the right side, there are several white snowflake graphics of varying sizes and orientations, arranged in a vertical line from top to bottom. The largest snowflake is at the top right, and the smallest is at the bottom right. There are also some faint, larger snowflake outlines in the background.

# THANK YOU

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