

Presentation on The Code on Wages, 2019



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CONSULTECH



CONTENTS

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BACKGROUND

PAYMENT OF WAGES

SALIENT FEATURES

PAYMENT OF BONUS

DEFINITIONS

GENDER DISCRIMINATION

IMPORTANT KEY POINTS

OFFENCES AND PENALTIES

PAYMENT OF MINIMUM WAGES

FAQ

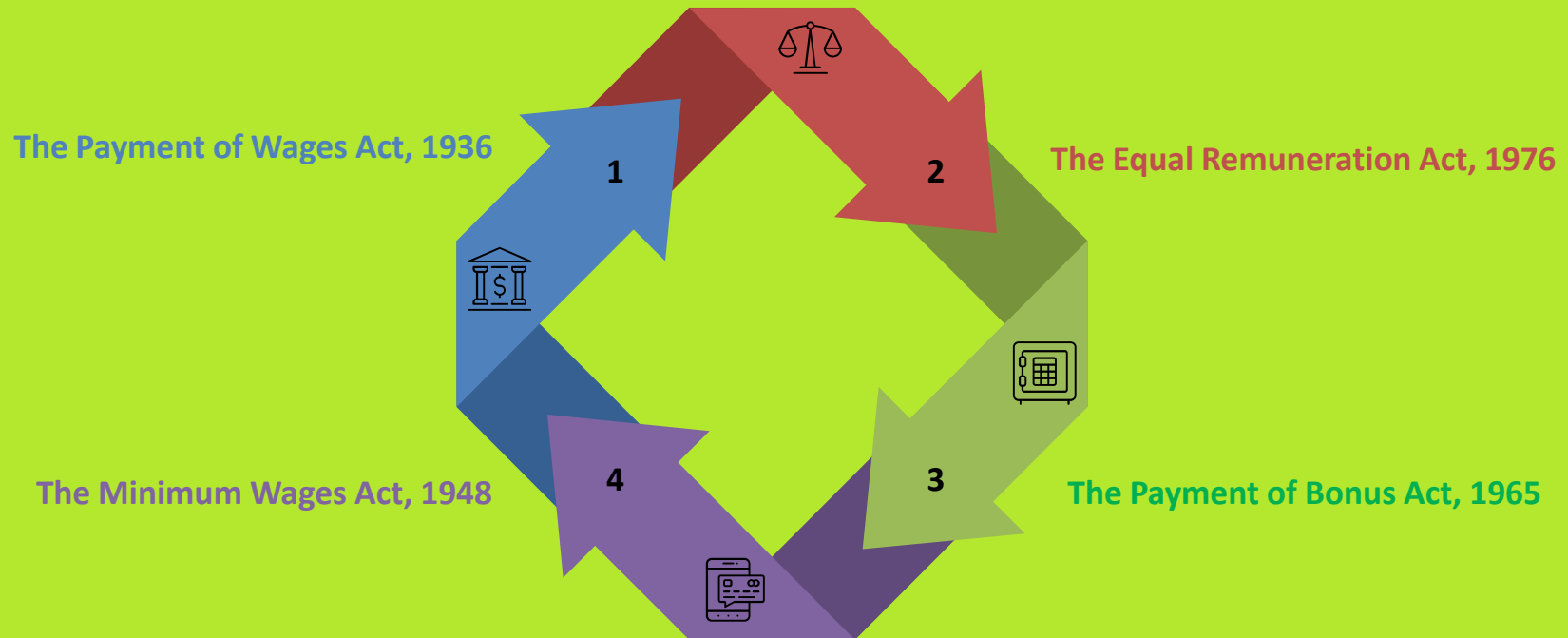




BACKGROUND

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The Code on Wages, 2019 was introduced in Lok Sabha by the Minister of Labour, Mr. Santosh Gangwar on July 23, 2019 and is enacted by the president of India on 8th August 2019. The Code devours the following four laws:

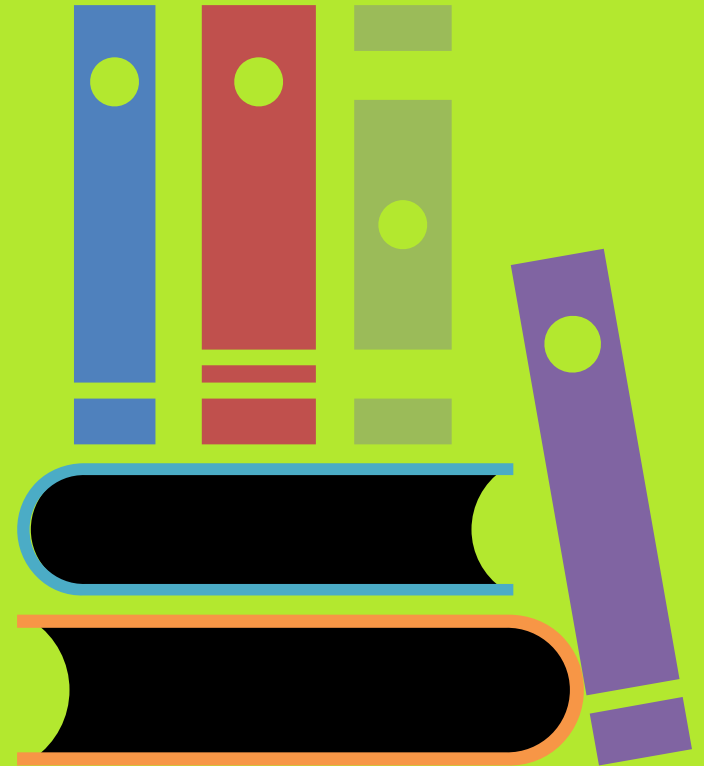




SALIENT FEATURES

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- ◆ Central/State Government to determine the factors by which the minimum wages shall be fixed for different category of employees. The state governments are empowered to notify minimum wage but not below floor wage decided by the central government.
- ◆ The Code on Wage 2019 has defined definition of wage and empowered relevant state government to decide component of minimum wage through section 7 sub-section (1). In Most of the cases HRA was part of the minimum wage however; it will not be part of Minimum wage subject to specific notification issued by the State/Central Government. Therefor liability of Provident Fund may increase in case of lower salary.+
- ◆ The Code on Wage 2019 shall be applicable for all employees and workman irrespective of salary and designation.





SALIENT FEATURES

The period of limitation for filing of claims by a worker has been enhanced to three years, as against the existing time period varying from six months to two years, to provide a worker more time to settle his claims.



Limitation for Filing claims

Penalty provisions are made more stringent under the code on wage bill 2019.



Penalty



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DEFINITIONS

Definitions

Establishment - Sec.2(m)

It includes any place where any industry, trade, business, manufacture or occupation is carried on and includes Government establishment.

Contractor - Sec. 2(f)

It includes job work – Material supplier and Man-power supplier.

Employer - Sec.2 (i)

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.

- Factory: Occupier or defined factory manager is Employer.
- Other Establishment: Appointed Manager or Managing Director.
- Contractor and Appointed legal representative



DEFINITIONS

Employee

Sec.2 (k)

- Any person (other than an apprentice engaged under the Apprentices Act, 1961), employed on wages by an establishment with whatever roles and responsibility and designation.



Contract Labour

Sec.2 (g)

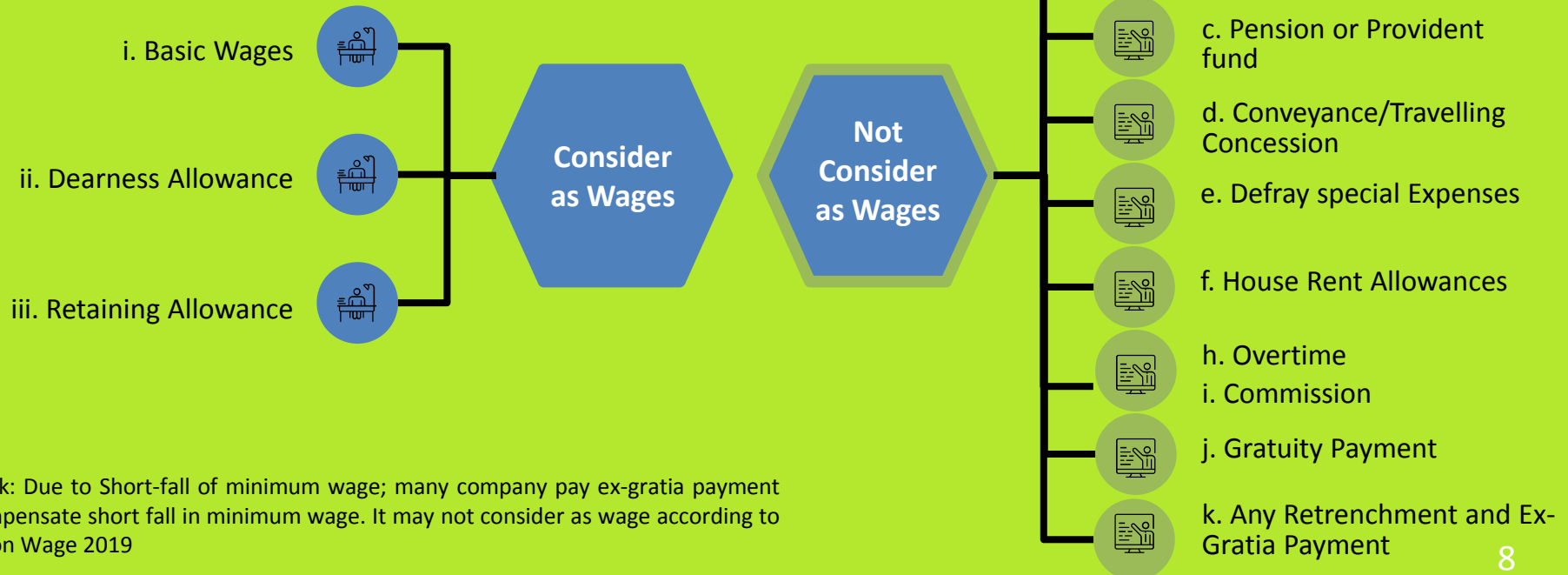
- Any person hired for specific work by a contractor with or without knowledge of principal employer but excluded any person as a contract Labour if;
- Any person is a regular employee of the establishment for any activity of contractor establishment and not for establishment of principal employer.
- Gets periodical increment in the pay, social security coverage and other welfare benefits from establishment of contractor.





DEFINITIONS

Wages : Section :2 (y) Means all remuneration,



Remark: Due to Short-fall of minimum wage; many company pay ex-gratia payment to compensate short fall in minimum wage. It may not consider as wage according to Code on Wage 2019



IMPORTANT KEY POINTS

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Section	Provisions	Law and Annotations
Section.2 (k)	Value of Remuneration	<ul style="list-style-type: none">• Any payment made in any heads (a) to (i) exceed 50% of total payment, shall be deemed as wage/ Remuneration.• For the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in clauses (d), (f), (g), (h) shall be taken for computation of wages.• Explanation - The value of remuneration in KIND which does not exceed fifteen percentages (15%) of the total wages payable to him shall be deemed to form part of the wages of such employee.
Section.2 (z)	Not Consider as Workers	<ul style="list-style-type: none">• Person recruited as managerial/Supervisory or Administrative category and wage is above 15,000 or as notified by central government shall not be considered as “worker” but he will remain under definition of “employee” under code of wage 2019.



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PAYMENT OF MINIMUM WAGES ACT

Fixation of Minimum Wages - Section. 6 (1)

Appropriate Government (State Government) empowered for fixing of minimum wage.

Time Bases & Piece Based Minimum Wages - Section. 6 (2)

- Minimum wage shall be classified in “Time based minimum wage” and “Piece based Minimum wage”
- The Minimum rate of wages on time work basis may be fixed in accordance with any one or more of the following wage Periods, namely:
 1. Daily Basis
 2. Hourly Basis
 3. Monthly Basis.

Wage for Overtime work - Section. 14

- In case employees work in excess of a normal working day, they will be entitled to overtime wage, which must be at least twice the normal rate of wages.

Explanation: It should be on gross wage at the rate of double rate.

Procedure for Fixing Minimum wage - Section. 6 (6)

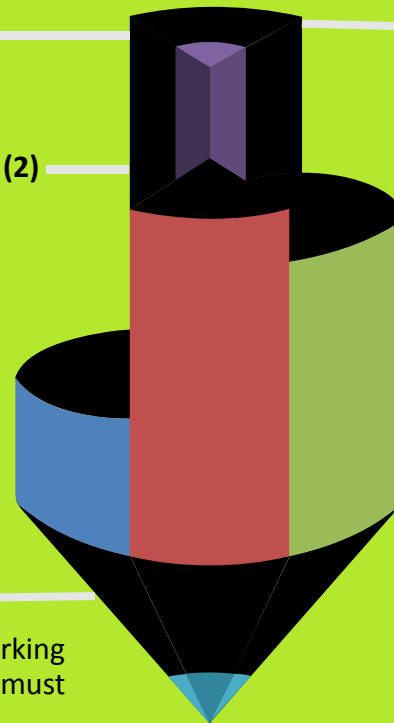
Consider following factors such as:

- Based on skill of workers geographical area or both, and difficulty of work like temperature or humidity normally difficult to bear, hazardous occupations or processes or underground work.
- Where employees are employed on piece work, the appropriate Government shall fix a minimum rate of wages for securing such employees a minimum rate of wages on a time work basis.

Components of Minimum wage

wage shall be as notified by the state government with following three possibilities;

1. Basic wage and an allowances connected with cost Index (Cost of Living Allowance/Dearness Allowance/Special Allowance)
2. Basic Wage with or Without Cost of Living Allowance
3. All-Inclusive



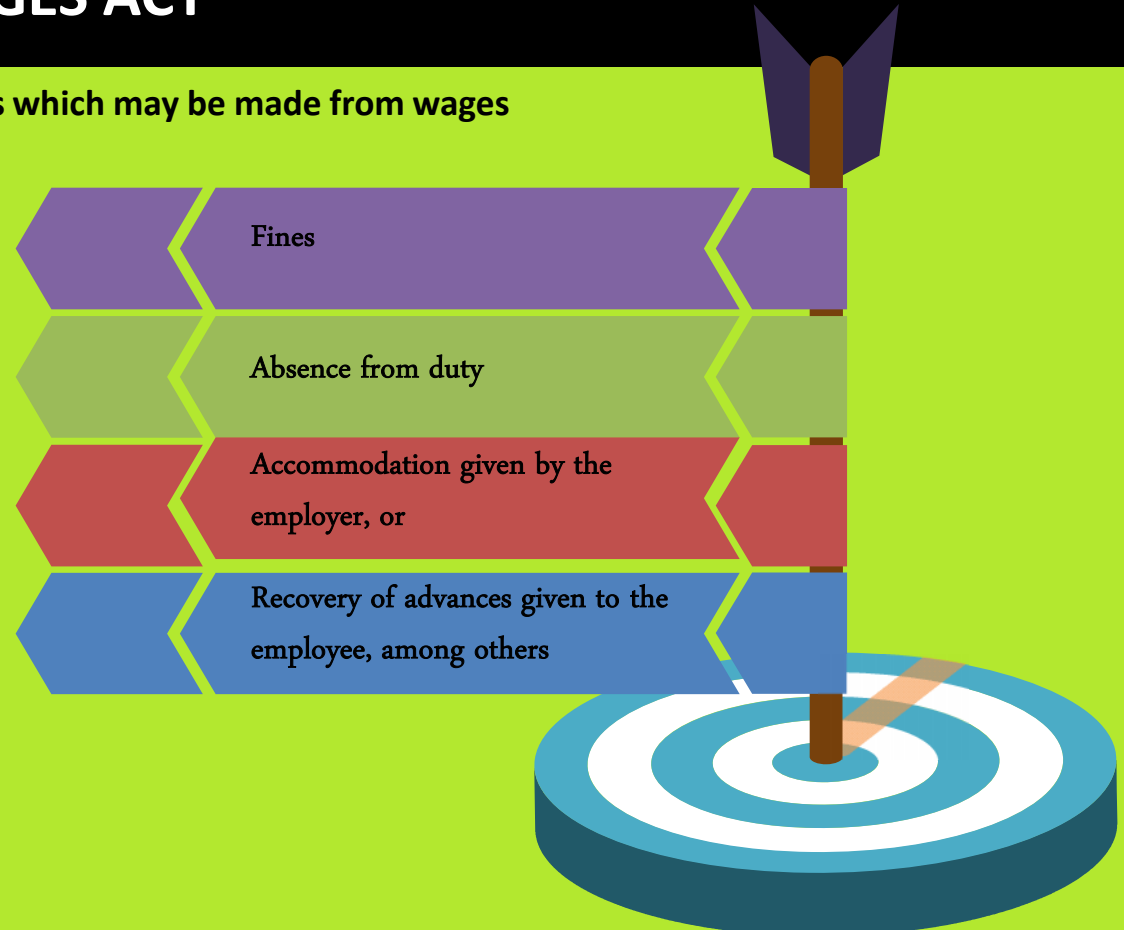


PAYMENT OF WAGES ACT

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Deductions which may be made from wages

- These deductions should not exceed 50% of the employee's total wage.
- Where any deduction is made by the employer from the wages of an employee.
- No fine shall be imposed without permission from the competent authority and opportunity to employee to explain his case. The total amount of fine which may be imposed in any one wage-period on any employee shall not exceed an amount equal to three percentages (3%) of the wages payable to him in respect of that wage-period.
- A deduction for damage or loss shall not exceed the amount of the damage or loss caused to the employer by negligence or default of the employee.





PAYMENT OF BONUS ACT

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Section	Provisions	Law and Annotations
Section 26 (1)	Eligibility of Bonus	<input type="checkbox"/> Up to 21,000 Gross Salary and between 8.33% to 20% after completion of 30 days of work.
Section 26 (6)		<input type="checkbox"/> Up to first 5 years of operations – Bonus to be paid only in respect of accounting year in which employer derives profit from such establishment.
Section 39 (1)	Mode of Payment of Bonus	<input type="checkbox"/> Bonus should be paid in bank Account only - No cash bonus permissible.
Section 26(3)	Bonus Calculation	<input type="checkbox"/> Employer has to pay bonus to an employee more than minimum bonus, if allocable surplus exceeds the amount of minimum bonus payable to the employee (an amount in proportion to the wages earned by the employee during the accounting year). For Example: <ul style="list-style-type: none">• Allocable Surplus Amounts is Rs. 15,00,000/-• Bonus as per 8.33% Amount is Rs. 10,00,000/-• In this case Bonus to be Paid 12.50% (Amount in Proportion to Such wages) Rs. 15,00,000/-



PAYMENT OF BONUS ACT

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Section	Provisions	Law and Annotations
	Set On	<input type="checkbox"/> When allocable surplus exceed maximum Bonus, then the exceed amount subject to max. 20% should be carrying forward for set on in next 4 accounting years.
	Set Off	<input type="checkbox"/> When allocable surplus is nil or less than or equal to the minimum bonus. In this case the deficiency is carried forward to next 4 accounting years.

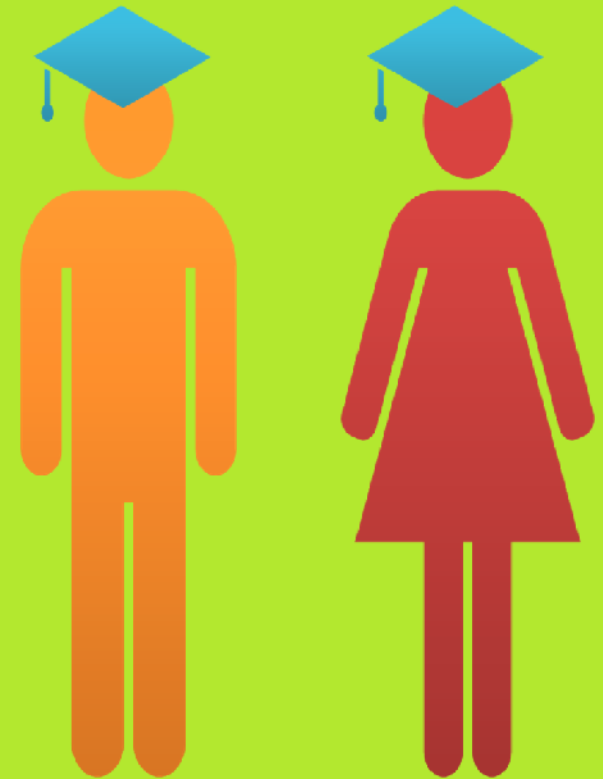


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GENDER DISCRIMINATION

❑ Prohibition of Discrimination on ground of Gender - Section 3

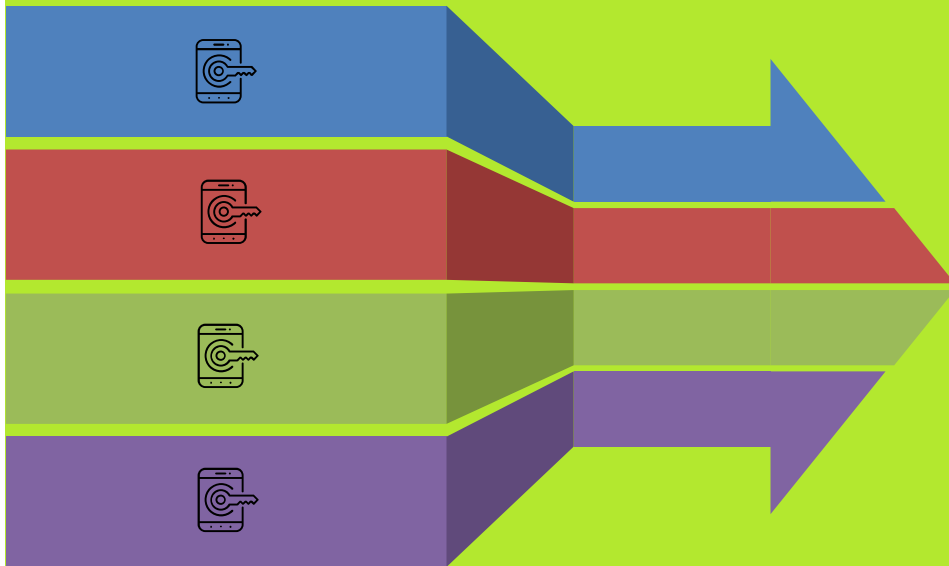
- The Code prohibits gender discrimination in matters related to wages and recruitment of employees for the same work or work of similar nature. Work of similar nature is defined as work for which the skill, effort, experience.





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OFFENCES AND PENALTIES



Less Payment as defined in Code on Wage,2019

- First offence – Penalty of Rs. 50,000
- Repetitive offence within Five years, may lead to imprisonment up to three months and fine may extend up to one lakh rupees or both.

Contravenes with any other Provision

- Fine up to Rs.20,000
- Repetitive offence within Five years, may lead to imprisonment up to one month and fine may extend up to Forty thousand rupees or both.

Non Maintenance or Improper maintenance of Documents

- Fine up to ten thousand rupees



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FAQ - The Code on Wages, 2019

❑ What is the meaning of Gazette?

- Mere notification in a gazette does not provide status of law. Term notification means bring to the notice of public, thus publication in gazette implies and it is assumed that it has been brought to the notice of the public at large, and none can take plea of being unaware or ignorant.
- A publication in the Official Gazette viz., the **Gazette of India** is the ordinary method of bringing a rule or subordinate legislation to the notice of the persons concerned. Gazette Notification is an important legal requirement to validate, authenticate and to make effective various kinds of Laws, Acts, Rules, Orders and Government decisions.
- Law becomes law as soon as it's passed by parliament or legislative assembly and signed by president or Governor. Any Ordinance becomes law as soon as its signed by President or Governor and it has to be passed by legislature within six months otherwise it expires.





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FAQ - The Code on Wages, 2019

- ❑ **What is the penalty under code on wage bill, 2019?**
 - The Code specifies penalties for offences committed by an employer, such as (i) paying less than the due wages, or (ii) for contravening any provision of the Code. Penalties vary depending on the nature of offence, with the maximum penalty being imprisonment for three months along with a fine of up to one lakh rupees.

- ❑ **Advertisement for the recruitment in news-paper with gender specification is a violation under the code on wage bill?**
 - Prima facie Yes subject to relevant facts
 - The Code prohibits gender discrimination in matters related to wages and recruitment of employees for the same work or work of similar nature. Work of similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same.





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Thank You.....!!!

And looking forward to help you achieve your goals...!!!