

# THE POWER OF BEING UNDERSTOOD

[www.rsmindia.in](http://www.rsmindia.in)

## Recent Important Circulars and Notifications on Labour Laws

- 30<sup>th</sup> December 2020



## INDEX

Sr. No	Particulars	Page No
I	Draft Notification of The Contract Labour (Regulation and Abolition) Act, 1970	3
II	The Contract Labour (Regulation And Abolition) (Gujarat Amendment) Ordinance, 2020	4
III	Extension of the scheme "ATAL BEEMIT VYAKTI KALYAN YOJANA" and relaxation in its eligibility conditions	5
IV	Extension of the ABVKY Scheme and Relaxed Eligibility Conditions for availing Relief under the Scheme	6
V	Matter of obtaining Fire NOC in factories registered under the Factories Act, 1948	7
VI	Payment of Overtime Wages to All Eligible Workers under Factories Act, 1948 In Gujarat	8
VII	The Factories (Gujarat Amendment) Ordinance, 2020	9
VIII	State wise areas where ESIC has been implemented.	10
IX	The Employees' State Insurance (Central) Amendment Rules, 2020	11
X	The Employees' State Insurance (Central) Rules amended to increase Confinement Expenses	12
XI	Amendment To Applicability Under The Employees State Insurance Act, 1948 For Maharashtra	13
XII	Digitalization of Labour Related Records and Registers in Gujarat	14
XIII	Atmanirbhar Bharat Rojgar Yojana (ABRY)	15-16

## I. Draft Notification of The Contract Labour (Regulation and Abolition) Act, 1970

As per draft notification dated: 26<sup>th</sup> Nov, 2020  
[Draft Notification no. GHR/2020/152/CLA/152020/415126/M3 ]

As per the draft notification, the government of Gujarat hereby makes the following Rules to further amend the Contract Labour (Gujarat) Rule,1972. Government made changes in Section 35 of the Contact Labour Act, 1970.

1. These Rules may be called the Contract Labour (Gujarat) Rule,2020.
2. In Rule 24, the figure “Rs 270” shall be substituted with the figure “**Rs 540**”. (**Security deposit for each workman to be employed as contract labour**)
3. Rule 26 modified: The **fees to be paid** for the grant of certificate **of registration** under Section 7 shall be as per below:

If the number of workmen proposed to be employed on contract on any day:

Fees to be paid for the grant of CERTIFICATE	As per 1971 Rules	As per 2020 Rules
If 20	Rs. 60	-
exceeds 20 but does not exceed 50	Rs. 150	-
exceeds 50 but does not exceed 100	Rs. 300	Rs. 1800
exceeds 100 but does not exceed 200	Rs. 600	Rs.4800
exceeds 200 but does not exceed 400	Rs. 1200	Rs.7200
exceeds 400 but does not exceed 800	Rs. 1500	Rs. 9000
exceeds 800	-	Rs. 12000

4. Rule no 27 : **Validity of license** increased to **5 years**; earlier it was **12 months**.

Fees to be paid for LICENSE	Existing	Proposed				
		01 year	02 year	03 year	04 year	05 year
If 20	Rs. 15	-	-	-	-	-
exceeds 20 to 50	Rs. 37.50	-	-	-	-	-
exceeds 50 to 100	Rs. 75	Rs. 450	Rs. 675	Rs. 900	Rs. 1125	Rs. 1350
exceeds 100 to 200	Rs. 150	Rs. 900	Rs. 1350	Rs. 1800	Rs. 2250	Rs. 2700
exceeds 200 to 400	Rs. 300	Rs. 1800	Rs. 2700	Rs. 3600	Rs. 4500	Rs. 5400
exceeds 400 to 800	Rs. 375	Rs. 2250	Rs. 3375	Rs. 4500	Rs. 5625	Rs. 6750
exceeds 800	-	Rs. 3600	Rs. 5400	Rs. 7200	Rs. 9000	Rs. 10800

5. Rule 29 “Renewal of License”, Rule 30 “Duplicate Certificate” & Rule 32 “Grant of Temporary Certificate” shall be deleted.



## II. The Contract Labour (Regulation and Abolition) (Gujarat Amendment) Ordinance, 2020

As per the Ordinance dated: 20<sup>th</sup> Jul, 2020  
[ORDINANCE NO. 7]

Government of Gujarat had earlier on 13<sup>th</sup> May, 2020 amended The Contract Labour (Regulation and Abolition) Act, 1970, where the applicability to establishments employing 10 or more workmen was increased to 20 or more workmen. Now, the Governor, in view of the current situation of COVID-19, has promulgated The Contract Labour (Regulation and Abolition) (Gujarat Amendment) Ordinance, 2020 vide Ordinance No. 07, 2020 dated 20<sup>th</sup> July, 2020 **which further changes the applicability of the act from those establishments employing 20 or more workmen to 50 or more workmen.**

Thus, no contract labour license registration would be required for establishments employees less than 50 workmen.



### III. Extension of the scheme "ATAL BEEMIT VYAKTI KALYAN YOJANA" and relaxation in its eligibility conditions

As per the Press Released dated: 24<sup>th</sup> Nov, 2020  
[No.—56/E/11/PR/2020-Advt ]

ESIC Corporation had introduced a new cash benefit (on pilot basis) under the name Atal Beemit Vyakti Kalyan Yojana with effect from 01.07.2018 and up to 30.06.2020, to provide cash compensation to insured persons who have been rendered unemployed. **ESIC has now extended the said Atal Beemit Vyakti Kalyan Yojana for another one year period i.e. from 01.07.2020 up to 30.06.2021.** ESIC beneficiaries who have lost their jobs due to the COVID-19 are also eligible for this scheme. The Scheme will be available with original eligibility conditions for the IPs (Insured Persons) who became unemployed on or before 23.03.2020 and those who become unemployed on or after 01.01.2021.

To get relief under the above scheme, eligible employee can make online claim on **www.esic.in** website. To avail benefit employee's bank and aadhar details must be updated on ESIC portal. No physical submission is required. **Link:** <https://www.esic.in/EmployeePortal/login.aspx>

However, it is worth noting that claims may be rejected by ESIC in case where the unit is under lockdown or there is temporary closure of factory or in case of temporary unemployment or where the employee has not been removed from the job permanently.



#### IV. Extension Of The ABVKY Scheme and Relaxed Eligibility Conditions For Availing Relief Under The Scheme

As per the Circular dated: 14<sup>th</sup> Oct, 2020  
[Circular No.—N-12/13/01/2019-P&D]

Vide this circular, ESIC has provided relaxation in the eligibility conditions for availing relief under the scheme as under:

1. The Insured Person should have been in insurable employment for a minimum period of **2 years immediately before his / her unemployment and should have contributed for not less than 78 days in the contribution** period immediately preceding the unemployment and minimum 78 days in one of the remaining 3 contribution periods in 2 years prior to unemployment.
2. The claim shall be **due 30 days after the date of unemployment.**
3. The claim **for relief may be submitted by an IP online**, in the prescribed claim form duly completed, directly to the Branch office. The payment shall be made to the bank account of the IP within 15 days from the receipt of the duly completed claim. Aadhar shall be used for the identification of the Insured Person.
4. Relief to the extent of **50 % of the average per day earning** during the previous 4 contribution periods to be paid up to a **maximum of 90 days of unemployment.** The above-relaxed eligibility conditions shall be applicable for the period 24.03.2020 to 31.12.2020 only.

The other conditions as specified in the original ABVKY scheme as notified on 4th February 2019 shall remain the same. The ABVKY scheme shall be available with original eligibility conditions for the IPs who became unemployed on or before 23<sup>rd</sup> March 2020 and those who become unemployed on or after 1<sup>st</sup> January 2021.



## V. Matter of obtaining Fire NOC in factories registered under the Factories Act, 1948

As per the notification dated: 26<sup>th</sup> Nov, 2020  
[Notification no. FAC/142020/456894/M3 ]

As per Fire Prevention and Life Safety Measures Act, 2013 along with Gujarat Fire Prevention and Life Safety Measures Rule, 2014 & Gujarat Fire Prevention and Life Safety regulations, 2016, for every factory registered as per Factories Act, 1948, it is made **mandatory to obtain Fire NOC**. Normally, Fire NOC is not obtained by many factories as there is no such provision laid down under the Factories Act, 1948. But as per this notification, Fire NOC becomes mandatory for every factory.

In the above matter, following provisions need to be followed:

1. At the **time of New Factory license application**, all factory owners have to submit compulsory Fire NOC to Factory Inspector's office.
2. At the **time of renewal of Factory License**, all factory owners have to submit compulsory Fire NOC to Factory Inspector's office.
3. Factory **which is not having Fire NOC currently**, has to obtain Fire NOC from the appropriate authority immediately and copy of the same has to be submitted to District Industrial Safety and Health department and one copy to Safety and Health department, Ahmedabad.

As per the Circular dated: 22<sup>nd</sup> Dec, 2020  
[Circular no. FAC/142020/456894/M3 ]

As per the above notification Fire NOC was made mandatory for every factory. But with circular dated 22<sup>nd</sup> Dec 2020, relaxation has been given on compulsory Fire NOC.

**Now for any new factory license or renewal of the same, only undertaking given by employer will be enough.**



## VI. Payment Of Overtime Wages to all Eligible Workers Under Factories Act, 1948 in Gujarat

As per the Circular dated: 5<sup>th</sup> Nov, 2020  
[Circular No.—GHR/2020/146/FAC/142020/346/M3 ]

The Honorable Supreme Court of India has quashed the Gujarat government's notification exempting industries in the state from certain provisions of the Factories Act, 1948 relating to the **payment of overtime wages, weekly hours, daily hours, intervals** etc. on the grounds of COVID-19 pandemic-induced lockdown restrictions.

The Supreme Court order has directed **all factories registered under the Factories Act, 1948 to pay overtime wages to all eligible workers who have been working since the issuance of the said notification.** Accordingly the Government of Gujarat has come up with this circular.

The cost of factories would go up due to this circular, in case where the factory is doing overtime to cope up for the loss of production during the lock down period.





## VII. The Factories (Gujarat Amendment) Ordinance, 2020

As per the notification dated: 3<sup>rd</sup> Jul, 2020  
[Notification No. 06]

The Governor of Gujarat has promulgated The Factories (Gujarat Amendment) Ordinance, 2020. As per the notification, the government has increased threshold limit for applicability to the Factories Act, 1948 from 10 or more workers to **20 or more workers for factories operating with the aid of power** and from 20 or more workers to **40 or more workers for factories operating without the aid of power**.

This is an important relaxation for small units who would now come out of the purview of the Factories Act if they employ fewer workers.



## VIII. State wise areas where ESIC has been implemented.

As per the Circular dated: 2<sup>nd</sup> Nov, 2020  
[Circular No.— X-11/14/6/2015-P&D ]

State wise status of implementation as on 01.11.2020 is as under:

1. No of States / UTs whose entire area is notified — 12
2. No of States / UTs where the scheme is partially notified —23
3. Non implemented States / UTs — 1 (Lakshadweep)

The Consolidated status of district wise implementation in respect of above is:

1. Fully Notified District —	387
2. Partially notified District —	188
3. Non notified District —	<u>161</u>
<b>Total</b>	<b>736</b>

**Below is the list of ESIC notified districts of GUJARAT:**

Fully Notified	Partially Notified	Non Notified
1. VADODARA	1. AHMEDABAD	1. AMRELI
	2. ANAND	2. ARAVALLI
	3. BHARUCH	3. BANASKANTHA
	4. BHAVNAGAR	4. BOTAD
	5. GANDHINAGAR	5. CHHOTA UDAIPUR
	6. JAMNAGAR	6. DAHOD
	7. JUNAGADH	7. DANG
	8. KHEDA	8. DEVBHOOMI DWARKA
	9. MEHSANA	9. GIR SOMNATH
	10. MORBI	10. KUTCH
	11. NAVSARI	11. MAHISAGAR
	12. PANCHMAHAL	12. NARMADA
	13. PORBANDAR	13. PATAN
	14. RAJKOT	14. TAPI
	15. SABARKANTHA	
	16. SURAT	
	17. SURENDRANAGAR	
	18. VALSAD	

The Medical arrangement in Non-implemented districts and partially implemented districts would be expedited in consultation with respective State Governments for implementation as per target of Vision—2022

## IX. The Employees' State Insurance (Central) Amendment Rules, 2020

As per the notification dated: 27<sup>th</sup> Oct, 2020  
[Notification no. G.S.R. 675(E) ]

The Government has changed Rule 51B of The Employees' State Insurance (Central) Rules, 1950 which stated that in areas where the **act is implemented for the first time**, the contribution for the **initial 24 months** from such date of implementation for an employer would be 3 percent and employee would be 1 percent.

Now, the revised contribution rates will be **3.75 percent as employer contribution and 0.75 percent as employee** contribution for all newly implemented areas.

Thus, the ESIC cost for employees in such newly covered areas would now go up from 3% to 3.75%.



## X. The Employees' State Insurance (Central) Rules Amended to Increase Confinement Expenses

As per the notification dated: 27<sup>th</sup> Oct, 2020  
[Notification no. G.S.R. 676(E)]

ESIC has implemented The Employees' State Insurance (Central) Amendment Rules, 2020. As per the Amendment, for the **confinement expenses under Rule 56-A, for the words "rupees 7,500", the words "rupees 15,000" is substituted.**

As per the ESIC Rules, an insured woman and an insured person in respect of his wife is eligible for a sum of Rs 7,500 per case as medical bonus on account of confinement expenses, provided that the confinement occurs at a place where necessary medical facilities under the Employees' State Insurance Scheme are not available.

Further, the confinement expenses shall be paid for two confinements only. This confinement expenses have now been revised to Rs 15,000 per case.



## XI. Amendment To Applicability Under The Employees State Insurance Act, 1948 For Maharashtra

As per the notification dated: 29<sup>th</sup> Sep, 2020  
[Notification No.—ESIC 2015/C.R. 150/RAKAVI-2 ]

The Government of Maharashtra has approved the notification dated 10th September, 2020 towards amendments under The Employees State Insurance Act, 1948. As per the amendment, the Act shall extend to Shops, Hotels, Restaurants, Road Motor Transport Establishments, Cinemas including preview theatres and Newspaper establishments as defined in Section 2 of the Working Journalists (Condition of Services) and Miscellaneous Provisions Act, 1995, wherein **10 or more persons are employed** or were employed on any day of the preceding 12 months.

It may be noted that for other industries and organizations, the limit was already 10 persons but for shops, hotels, restaurant, road motor transport establishment, cinemas (including preview theatres) and Newspaper establishments the limit was 20 persons which is now amended to 10 or more persons.



## XII. Digitalisation of Labour Related Records And Registers In Gujarat

As per Circular dated: 5<sup>th</sup> Sep, 2020

[Circular No.—FAC/142020/394384/M3 ]

Keeping in mind “ease of doing business”, the Government of Gujarat has allowed **digitalization of labour related records** and to move towards a regime of online **maintenance of all labour related records** by establishments / industrial units. As per the resolution, the registers and records required to be kept as per the labour laws can be maintained electronically, and therefore, the inspectors are instructed to take note of the same during inspections. The Government may further clarify by way of notifications on the process regarding electronic maintenance of records.

With this circular, records in soft or digital form or software records gets statutory recognition and would ease the administrative burden on organizations for maintenance of records.



### XIII. ATMANIRBHAR BHARAT ROJGAR YOJANA (ABRY)

Start Date: 12-11-2020 (For 2 Years)

#### Context:

The Union Cabinet has given its approval for ATMANIRBHAR BHARAT ROJGAR YOJANA (ABRY) to boost employment in formal sector and incentivize creation of new employment opportunities during the COVID-19 recovery phase under Atmanirbhar Bharat Package 3.0.

#### About the ABRY:

1. Under this scheme, Government of India will provide subsidy for two years in respect of new employees engaged on or after 1<sup>st</sup> October, 2020 and up to 30<sup>th</sup> June, 2021.
2. **Government will pay both 12%** employees' contribution and 12% employers' contribution i.e. 24% of wages towards EPF in respect of new employees in establishments employing up to 1000 employees, for 2 years.
3. Government will pay only employees' share of EPF contribution i.e. 12% of wages in respect of new employees in establishments employing more than 1000 employees, for 2 years

#### Eligibility:

1. An employee drawing monthly wage of less than Rs. 15000/-, who was not working in any establishment registered with the Employees' Provident Fund Organisation (EPFO) before 1<sup>st</sup> October, 2020 and did not have a Universal Account Number or EPF Member account number prior to 1<sup>st</sup> October, 2020 will be eligible for the benefit.
2. Any EPF member possessing Universal Account Number (UAN) drawing monthly wage of less than Rs 15000, who exited from employment during COVID-19 pandemic period from March 1, 2020, to September 30, 2020, and did not join employment in any EPF covered establishment up to September 30 will also be eligible to avail benefits under this scheme.
3. Establishments registered with EPFO, if they add new employees compared to reference base of employees as in September, 2020 as under:
  - Minimum of 2 new employees if reference base is 50 employees or less.
  - Minimum of 5 new employees if reference base is more than 50 employees.





**Process:**

1. EPFO will credit the contribution in Aadhar seeded account of members in electronic manner.
2. EPFO shall develop a software for the scheme and also develop a procedure which is transparent and accountable at their end.
3. EPFO shall work out modality to ensure that there is no overlapping of benefits provided under ABRY with any other scheme implemented by EPFO.

For further information please contact:

**RSM Astute Consultech Pvt. Ltd.**

RSM Lemon House, G-02 - 05, Gem and Jewellery Park,  
Gujarat Hira Bourse, Ichhapore-2, Surat-394510

**Tel.:** +91 90992 08000

**Web:** [www.rsmindia.in](http://www.rsmindia.in)

**E.** [gujarat@rsmindia.in](mailto:gujarat@rsmindia.in)

**Disclaimer and Limitations**

This newsflash is general in nature. In this newsflash, we have summarized and provided Important Circulars and Notifications relating to various labour laws passed by Central & some state Governments. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analysed to ascertain applicability or otherwise of the said notification and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this