



# VGNLI POLICY PERSPECTIVES



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## India's Code on Wages – Ensuring Sustainable & Inclusive Growth

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**T**ransformations in the world of work, emerging new business models, gender issues at the workplace as well as changes in the organization of work and production processes over a period of time, have brought in new challenges. In a huge country like India, the existing labour laws and the institutions designed to promote equity, increasingly face more challenges as vast proportion of workers are in the informal economy. The Second National Commission on Labour had recommended, apart from others, to rationalize, simplify and amalgamate the existing labour laws into four or five groups

### Key Features

- No employer shall pay to any employee wages less than the notified minimum rate
- No discrimination on the ground of gender in matters related to wages
- Review/ revise minimum wage rate - every 5 years
- Representation from employers, employees and independent persons while fixing/ revising minimum rates of wages
- Drastic reduction in the number of minimum wage rates across states
- Simplification in definition of wages, employee, employer, worker, establishment, etc.

(i.e., wages, social security, industrial relations, safety and welfare and working conditions) with an objective to address the economic and labour market woes.

Accordingly, the Ministry of Labour and Employment has taken up the onerous task of reforming the existing 44 labour laws and grouping them into four codes with twin objectives of stimulating economic growth and jobs creation while making businesses productive and competitive. While the Code on Wages has been passed by the Parliament and the draft rules have been notified for comments, the Code on Occupational Safety, Health and Working Conditions has been referred to the Parliamentary Standing Committee on Labour. The other two codes viz. the Codes on Industrial Relations and Social Security have been introduced in the Lok Sabha, for consideration.

The Code on Wages, the first of the four codes to become an Act after receiving the accent of President on 8<sup>th</sup> August, 2019, subsumes the existing four major wage legislations viz. the Payment of Wages Act, 1936; the Minimum Wages Act, 1948; the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976. The Code attempts to amalgamate, rationalize and simplify the above four acts and as recommended

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by the Second National Commission on Labour, standardize definitions of the basic terms like 'Wages', 'Worker', etc.

### **Protecting Workers Interests**

The Code on Wages attempts to reduce the existing 1915 scheduled minimum wage rates across the states for various job categories as per the economic survey 2018-19 to an approximate average number of 12 wage rates per state, classified according to skill level and geographical areas. This simplification exercise would not only reduce the complexity of the existing minimum wage system but also helps in better compliance through a transparent system of implementation and enforcement. The strengthening of the minimum wage system in the country is expected to promote inclusive and sustainable economic growth, apart from protecting workers rights and alleviating poverty.

The wage rules provides for defining skills objectively by using National Skill Qualification Framework (NSQF) and National Classification of Occupations (NCO) criteria so that higher level of skills, competencies and qualifications are appropriately rewarded through higher minimum wages. This will encourage skill acquisition among the workers, especially the youth and give an impetus to the "Skill India" and 'Make in India' programmes of the government.

One of the notable features of the Wage Code is extension of its provisions to all categories of workers, both in the formal and the informal sectors. From a gender perspective, the Code goes one step ahead from the hitherto Equal Remuneration Act by stipulating that there can be no discrimination in wage rates based on

gender. This would also mean a large section of the women working as domestic workers, unpaid home based workers and other marginal workers in the informal economy would now be brought within the ambit of this code. With the enactment of this code, minimum wages becomes the right of every worker in the country. This universal coverage is in tune with the Centenary Declaration, 2019 of the International Labour Organisation (ILO). A spinoff of this universal coverage would be an increase in the private consumption and investment as the purchasing power of workers goes up thus having a positive impact on the overall economy and quality of life.

Apart from universalizing the coverage, the Code has also universalized timely payment of wages to all workers. Prohibiting unauthorized deductions from the wages, shifting the responsibility of payment of wages directly on the employer, rationalization of penalties and promoting payments through digital means are other important features of this code which would be a huge relief to the millions of illiterate and less educated informal economy workers, thus addressing the major concerns of a large section of the trade unions. The above steps along with prohibition of gender based discrimination in payment of wages, recruitment and conditions of work have the potential to enhance women participation rate in the labour force.

The Code on Wages has made a provision for fixing 'Floor Wage' as per minimum living standards of a worker by the Central Government after obtaining advise from the Central Advisory Board. Different floor wages may be fixed for different geographical regions. The minimum rates

of wages fixed by the states cannot be less than the Floor Wage. Inclusion of the uniform norms for fixation of minimum wages coupled with review/revision of minimum wages ordinarily within every five years will help in arresting huge inter-state variations in minimum wages witnessed today and ensure timely setting of minimum wages at adequate and balanced level. This is in line with the provisions of the Minimum Wage Fixing Convention, 1970 of the ILO. Further, inclusion of the minimum wage fixation norms was a long standing demand of the trade unions which has been addressed in the code.

### **Promoting Enterprises & Ease of Doing Business**

The Code on Wages is expected to benefit the employers and businesses too. The amalgamation, simplification and rationalization of the existing four wage related Acts would help in reducing compliance burden and thus easing the doing of business. The code provides for a simple and uniform definition of wages, workers, employees, employers, establishments, appropriate government, etc. coupled with reduction in the number of authorities, boards and minimum wage rates. This is expected to reduce ambiguity in the application of rules, avoidable litigations, unnecessary legal expenses and the bureaucratic rigmarole.

The existing Inspection and Enforcement culture is expected to undergo a behavioural change with the re-designation of the erstwhile 'Inspector' as 'Inspector-cum-Facilitator'. Apart from inspecting, the Inspector-cum-facilitator is now expected to guide, advise and bridge the information gap between the government agencies, employer and the

employee. The introduction of web-based randomized computerized inspection scheme, allocation of jurisdiction-free inspections, calling of information electronically relating to the inspection, etc. are expected to reduce arbitrariness and promote enforcement of labour laws in a transparent and accountable manner. With regard to dealing with offences, the code has provision for providing prior notice and opportunity to rectify before launching prosecution. A provision of fine upto Rupees 50,000/- for first time offences without any criminal proceedings has been provided. Further, no legal authority inferior to a Metropolitan Magistrate or a First Class Judicial Magistrate is competent to try cases under this code.

The above changes are expected to encourage compliance by reducing the burden on the employer. The improved compliance of the codal provisions from the employer's perspective will also promote sound and healthy employer-employee relationships as most of the industrial disputes arise due to non-payment/short payment/delayed payment of minimum wages, apart from fuelling investment and growth.

To conclude, the Code on Wages reflects a fine balance of promoting equity and labour welfare with growth and sustainability of enterprises. It is designed to catalyze economic growth, innovation, creation of decent employment opportunities and move India towards a US\$5 trillion economy. Further, the code is in tune with the ILO's Centenary Year Declaration proposing a Human-centered agenda for the future of work and implementing a transformational and measurable agenda for gender equality, thus taking India a step closer to attaining the Sustainable Development Goals.

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