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Implementation of Labour Codes: 2nd Handholding Release

We have already published our 1st handholding Article and video earlier on the topic. This Article and video are the 2nd in the series which would give a further understanding on the major changes expected by implementation of Labour Codes. The Labour Codes are already notified in the Official Gazette of India and the date of its implementation will be notified in the near future. It was expected that it would be notified from 1st April 2021 but it has not happened due to the 2nd wave of the Covid-19 Pandemic gripping the Country. However, once the pandemic situation eases a little, it is expected that the Government would fast track the implementation.

Implementing the labour codes would have a far reaching impact on the labour cost of all organizations on the one hand and the 'take home' of the employees on the other. The following are the further discussions on the major changes –

WAGE CODE: CHANGES

The following are the further changes brought in by the implementation of The Wages Code -

- 1. Gratuity, Leave Encashment & Other provisions may be re-calculated and impact may be taken. Due to the change in definition of 'wages' which requires at least 50% of the entire remuneration to be deemed to be considered as Wages for the purpose of gratuity, PF, Etc.**
- 2. Equal Remuneration applicable to 'all' employees and not only 'workers'. Hence for the managerial employees also organizations has to have distinct and differentiated contracts.**
- 3. Overtime rates to be minimum double the normal wage rate. It is again applicable to all categories of workers.**
- 4. Wages at the rate same as that paid to full time employees should be payable to 'part time' employees also. There should be no discrimination.**

5. Penalty goes up and Prosecution goes down. However, penalties for even a single non compliance would be ranging from Rs.20000 to Rs.100000 at the minimum level. Hence the Organizations need to implement the Codes in every aspect so that there is no such cost.

6. PF Enforcement Limit may change from Rs.15,000 over a period.

7. Payment of Bonus Rs.21,000 may change over a period.

8. Supreme Court's **Surya Roshni case** of 2019 applied to PF & gratuity also.

SOCIAL SECURITY CODE: CHANGES

The following changes are made in the Social Security Code-

1. **Definition** of Employees for Social Security expanded to include-
 - a. **Gig Workers**
 - b. Inter State Migrant Workers
 - c. Platform Workers & Film Workers
 - d. Other Unorganized Sector Workforce also
2. **1%-2%** of turnover of Companies employing gig workers to be contributed towards social security of workforce. It will impact Companies like Amazon, Swiggy, Ola, Uder, etc. **The New Age Businesses.**
3. National Security board to notify from time-to-time various benefits and lay down social security benefits to cover 90% of unorganized workforce aggregating **Rs. 50 Crores.**
4. **Period of work for eligibility of Gratuity** may be reduced to less than 5 years in service (For Working Journalists its already reduced to 3 years).

OCCUPATIONAL SAFETY, HEALTH & WORKING CONDITIONS: CHANGES

The below mentioned changes are done in the conditions for Occupational Safety, Health & Working Conditions

1. Workers below monthly remuneration of 18K to only be considered Migrant workers. They can take benefit of

A. PDS

B. ESIC/PF

C. Building Cess

2. Working Hours – 8 (fixed). Any overtime would be considered at twice the normal rate of wages.

3. Women Workers special safeguards in all establishments. Hence, some custodian needs to be appointed in the organizations to take care of this aspect also.

4. Women workers allowed in all establishments. (As per law, Gender Inequality is prohibited).

STAGES IN IMPLEMENTATION MODULE OF NEW WAGE CODE

To achieve seamless implementation of these Codes, they have to be done over a period of time, possibly 3 months – 6 months. These stages should be further subdivided into phases with specific targets per phase. following are the stages along with different phases of Implementation of Labour Code Module:

STAGE I:

PHASE – I: Initial Training & Impact Analysis - This would involve calculating the “Impact” of the change in cost to the company and the payment in the hands of the employees.

PHASE – II: Framing of Broad Guidelines – The broad guidelines as far as changing contracts and processes should be framed.

PHASE – III: ERP Change Management – The ERP Vendors would be required to be handheld to build in the legal aspects of these labour codes into their ERPs.

PHASE – IV: Going Live/ Revalidation – This would require that once the Labour Codes go live, the systems be checked and revalidated for assurance.

STAGE II: POST GOING LIVE MAINTAINANCE – The First 3 returns/ sets of compliances would be critical and the processes regarding the same needs to be reviewed. Also, there would be upteen no. of changes in the first few months which need to be continuously monitored.

THE VIDEO FOR THE ABOVE ARTICLE CAN BE ACCESSED AT THE FOLLOWING LINK

LINK FOR THE VIDEO - <https://youtu.be/NAhml1dL-oY>

ABOUT THE SPEAKER:

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He has worked as a Finance Manager in ITC Ltd. and Chief Compliance Officer with IntraSoft Technologies Ltd. He has more than 15 years of experience in the field of Legal Compliances for Corporates. He was also an All-India Rank holder in CA Final Examination conducted by the Institute of Chartered Accountants of India.