

OHS & Working Conditions Code 2020

Overall the Code aims to empower both employees and employers. On one side it allows flexibility in hiring and retrenchment on other side it will expand the social security net for both formal and informal workers.

Occupational Safety, Health and Working Conditions Code, 2020 (OSHWC) was introduced in Lok Sabha by Minister of State for Labour and Employment. It was re-introduced with new changes leading to withdrawal of Occupational Safety, Health and Working Conditions Code, 2019.

The Code proposes to subsume 633 provisions of 13 major labour laws into one single Code with 143 provisions. The laws to be subsumed are:

- i. *The Factories Act, 1948*
- ii. *The Contract Labour (Regulation and Abolition) Act, 1970*
- iii. *The Mines Act, 1952*
- iv. *The Dock Workers (Safety, Health and Welfare) Act, 1986*
- v. *The Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996*
- vi. *The Plantations Labour Act, 1951*
- vii. *The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979*
- viii. *The Working Journalist and other News Paper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955*
- ix. *The Working Journalist (Fixation of rates of wages) Act, 1958*
- x. *The Cine Workers and Cinema Theatre Workers Act, 1981*
- xi. *The Motor Transport Workers Act, 1961*
- xii. *The Sales Promotion Employees (Conditions of Service) Act, 1976*
- xiii. *The Beedi and Cigar Workers (Conditions of Employment) Act, 1966*

SCOPE

- The Code applies on factories having 20 or more workers and manufacturing process is being carried on with the aid of power or 40 or more workers where manufacturing process is being carried on without the aid of power.
- The Code emphasizes on health, safety and welfare of the workers employed in various sectors like industry, trade, business, manufacturing, factory, motor transport undertaking, building and other construction work, newspaper establishments, audio-video production, plantation, mine and dock-work and service sectors.
- The Code doesn't apply to the offices of Central Government, State Government and any ship of war or any nationality but at the same time it applies to contract labour employed through contractor in the offices where Central Government or State Government are principal employer.

Occupational Safety, Health and Working Conditions Code, 2020 OSHWC

- The Code sets up occupational safety boards at the national and state level to advise the central and state governments on the standards, rules, and regulations to be framed under the Code.
- The Code creates special provisions for certain classes of establishments such as factories, mines, dock workers, and constructions workers. These include separate provisions on licenses, safety regulations, and duties of employers.
- The Code consists of schedules which includes list of industries involved in hazardous process, list of matters where standards are to be followed with respect to health and safety of workers, and list of notifiable diseases for which communication shall be made to concerned authorities

KEY HIGHLIGHTS

- The Code aims at lessening the burden of the employers as it would replace multiple registrations under various enactments to one common registration, one licence and one return which will ultimately create a consolidated database centrally and will be helpful under ease of doing business.
- The workplace should be kept free from hazards that cause or likely to cause injury or occupational disease to the employees
- Employers are required to conduct free annual health check-up for their employees.
- Employers are required to ensure the disposal of hazardous and toxic waste including e-waste.
- Issuance of appointment letter to every employee on their appointment in the establishment.
- Workers / Employees are entitled to receive overtime amount at the rate of twice the wage.
- Employers or Contractors are responsible to provide welfare facilities to inter-state migrant workers.
- Employers are required to provide facilities such as ventilation, humidification, potable drinking water, adequate lighting, creche, washing facilities, bathing places, locker rooms etc.



- The Code makes mandatory provisions for the employers to provide a safe working environment and trying to cover the risk of unfortunate incidents arising in the course of employment.
- The Code bars civil courts from hearing matters under the Code. The only judicial recourse for a person aggrieved is to file a writ petition before the relevant High Court.
- Central Government shall constitute a National Occupational Safety and Health Advisory Board to discharge the functions conferred on it by or under this Code and to advise to the Central Government on the matters relating to standards, rules and regulation to be framed under this Code.
- The State Government shall constitute a Board to be called the State Occupational Safety and Health Advisory Board to advise the State Government on such matters arising out of the administration of this Code as may be referred to it by the State Government.
- The appropriate government may require constitution of safety committees in certain establishments, and for a certain class of workers. The committees will comprise of representatives of the employer and the workers. However, the number of employer representatives cannot exceed the employee representatives. These committees will function as a liaison between employers and employees
- The licence issued by the appropriate authority for inter-state migrant workers shall be made electronically containing all the particulars like the number of contract labour, nature of work for which contract labour is to be employed, responsibilities of contractor and such other particulars including the information relating to the employment of inter-State migrant workers
- The contractor shall apply for amendment of licence along with security deposit in case if there is increase in number of the contract labour.
- Inter-state migrant work shall be provided with the facilities which are available to worker of that establishment including benefits under the Employees' State Insurance Act, 1948 or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any other law for the time being in force and the facility of medical check-up as available to a worker.
- It shall be the complete responsibility of the employer to pay yearly journey allowances to every inter-state migrant worker a lump-sum amount of fare for to and fro journey to his native place from the place of his employment, in the manner taking into account the minimum service for entitlement, periodicity and class of travel
- Employer in plantation to make provisions for necessary housing accommodation including drinking water, kitchen and toilet, health and recreational facilities, to every worker employed in the plantation (including his family), crèches facilities for plantations having more than 50 workers (including workers employed by any contractor), educational facilities for children of workers between six to twelve years of age.

KEY CHANGES

- The limit of female workers for the purpose of creating creche facility for the children below 6 years of age, would increase to 50 female workers from 30 currently.
- As per The Factories Act if any establishment has 500 or more workers than occupier should appoint welfare officers but post implementation of this Code, limit shall be reduced to 250 employees.
- The establishment employing 100 workers will be responsible to provide canteen facility, reduction from current limit of 250.
- Provisions have been made for the employment of female employees for working beyond 7 pm till 6 am with their consent and conditions relating to safety, holiday, working hours.
- Workers cannot be required to work for more than 6 days / week and will be entitled to one day off for every 20 days of work & one day off every week
- Workers employed in Transport, Sales Promotion and Journalism have special work hour and leave requirements specified.
- Employer in construction business cannot hire workers with defective vision, deafness, or a tendency for giddiness, if there's risk of accident.
- Elaborative provisions related to inter-state migrant workers, employers of plantations and liabilities of contractors has been inserted in considering it gives leverage to either sides.
- Considering Covid-19, the Central Government has reserved his power to make regulation for general safety and health of persons in the event of declaration of an epidemic, pandemic or disaster. This has not be effected by any other law for the time being in force.
- The Code has made maximum registration process to be initiated electronically and hence a minimum of physical contact exists.
- Key definitions of terms like Wages, Banking Company and Core Activity of an Establishment has been inserted.
- Contrary to earlier provisions women workers are entitled to be employed in all establishments for all type of work including hazardous process subject to the conditions that the government may require the employer to provide adequate safeguards prior to their employment in hazardous or dangerous

LICENSE AND REGISTRATION

Establishments covered by the Code are required to register within 60 days (of the commencement of the Code) electronically to the registering officers appointed by the Central or State government. Further, some establishments such as factories and mines, and those hiring workers such as Beedi and Cigar workers, may be required to obtain additional licenses to operate.

OFFENCES AND PENALTIES

- Obstructing discharge of duties of Inspector, imprisonment upto 3 months & fine upto INR 1 lakh
- An offence that leads to the death of an employee will be punishable with imprisonment of up to two years, or fine up to INR 5 lakhs, or both.
- Where penalty is not specified, the employer will be punished with a fine between INR 2 - 3 lakhs.
- If employee violates provisions of the Code, fine upto Rs 10,000.
- Offences committed by a Company shall hold each person liable who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company.

Further More Clarifications on this Code – Contact EHS Alliance Services



Construction and Environmental Pollution

Construction is the back-bone of economic development of a country. In India, construction industry is the second largest industry after agriculture and is an important contributor to India's economy. It accounts for around 9 % of India's GDP and also generates employment for a large number of people. Further, it is highly fragmented and is mainly segmented into real estate (residential and commercial construction), infrastructure (transportation, irrigation, power) and industrial construction. Although the working capital and profitability of the construction projects varies across these segments, key segments namely power generation, highway construction, railway expansion and export and import cargo are major construction activities accounting for the growth.

However, all construction sites generate different types of harmful pollutants which have severe health effects.

Air pollution

Construction, land clearing, burning, waste due to building materials, remodeling, repair and demolition of any civil structure as well as operation of diesel engines, hazardous chemicals (oils, glues, thinners, paints, treated woods, plastics, cleaners etc.) used on construction sites are major contributors to the air pollution. A ton of cement yields at least half a ton of CO₂, according to the European Cement Association and hundreds or even thousands of tons go into ordinary office buildings.

Dust along with toxic gases, and smoke, is one of the most common air pollutants from these sites since the materials such as concrete, cement, wood, stone and silica used for building work, releases dust which can be carried over wide areas. As per the Delhi Pollution Control Committee (DPCC) officials, 30 per cent of air pollution is caused due to dust which emanates from construction sites.

In the wake of an alarming rise in air pollution in Delhi, stringent measures were taken by Environment Pollution Control Authority (EPCA) on all construction activities in Delhi and other NCR districts.

Water Pollution

Run-off of debris, diesel, oil, toxic chemicals, and building materials like cement into the drains or local waterways from the building site causes water pollution as these substances contaminate the water and makes it unfit for the use. These pollutants on construction sites can also seep into the groundwater, which is much more difficult to treat than the surface water.

Another aspect to water pollution is during land clearing, the silt and soil can erode and travel as sediments in the local water body making it turbid or can lead to blockage of the underground sewers in urban areas, which then poses further health risks.

It's no secret that the construction industry has a significant impact on the environment. According to some studies, construction is responsible for up to 50% of climate change, 40% of energy usage globally, and 50% of landfill waste, not to mention air, water, and noise pollution and destruction of natural habitats.

Noise Pollution

A lot of noise is being produced by building sites. Excessive and loud noise is mainly due to vehicles, heavy equipment and machinery on construction sites, which not only can be annoying and distracting but also lead to hearing loss, high blood pressure, sleep disturbance and extreme stress. Controlling construction noise can pose special problems for contractors. Unlike general industry, construction activities are not always stationary and in one location.



So, in order to minimize the impact on environment, few preventive measures are discussed below:-

- Use of reclaimed materials. It is often adapted for a different use, for example a roof beam might be used as a mantelpiece. Reclaimed materials are those that have been previously used in a building or project, and which are then re-used in another project. The materials might be altered, re-sized, refinished, or adapted, but they are not reprocessed in any way, and remain in their original form. Examples of materials that can be reclaimed include: bricks, slate roofing, ceramic tiles, fireplaces, doors, window frames, glass panels, metal fixtures and fittings, stairs, cobbled stones, steel sections and timber.
- A reduction in air pollution at the site can be done by properly covering the construction material at the site and on the vehicles that carry them. Keeping the ground at construction sites wet to let the dust settle and inhibit it from spreading. Setting barriers around construction site and covering mounds of sand with dust barrier sheets.
- Minimizing the land disturbance (whilst leaving as much vegetation as possible during the excavation process), covering up all drains on a construction site, using non-toxic chemicals where possible (and tightly cover and monitor toxic substances when they have to be used), covering building materials so the risk of them being washed away during rain (or other natural conditions) is minimized, and collecting and treating the wastewater before it is discharged as an effluent, can result in decrease in water pollution.
- High noise levels on construction worksites can be lowered by using commonly accepted engineering and administrative controls. The main preventative measures include movable noise barriers, putting up wall-like structures to act as sound shields, carefully handling materials and substituting existing equipment with quieter equipment; retrofitting existing equipment with damping materials, mufflers, or enclosures and shutting down noisy equipment when not needed. Management decisions on work activities, work rotation and work load to reduce workers' exposure to high noise levels are few examples of administrative controls. Further, earplugs are the typical PPE (Personal Protective Equipment) given to workers to reduce their exposure to noise.
- Construction firms should adopt more environment friendly construction practices and incorporate green building into their design and building process. These green building rating systems are becoming essential attributes which increase the value of a building, introduce energy efficiencies and also helps in reducing the environmental impact associated with the building materials.

Eco-Friendly Building Design In the design phase of a project, companies have many opportunities to make eco-friendly choices. For instance, companies may choose recycled or natural building materials that produce less CO₂ when they are manufactured. Design teams must also consider the durability of a building or structure, as well as its long-term waste production and energy consumption needs. Building designs can include renewable energy sources like solar panels, smart appliances and HVAC systems, and strategic window placement to maximize the use of natural light.

Green Construction Practices Once the building is designed, new opportunities for sustainable construction practices open up on the construction site. Reducing noise is a good way to start, since noise pollution is a common complaint from those who live or work near active construction sites. Companies can upgrade their heavy equipment to newer, more fuel-efficient models or use alternative fuel sources when possible, as well as limiting the amount of time machines spend idling and carefully maintaining all equipment. Whenever possible, recycling and reusing materials rather than filling local landfills can help reduce construction site waste.

Sustainable Building Operations During a building's lifetime, operational efficiency is key to limiting its impact on the environment. Educating building occupants and maintenance or facilities management staff on eco-friendly policies is the first step toward ensuring that a building's sustainability is guaranteed over the long term.



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