

## The Code on Wages, 2019

### Section 2 - Definitions

In this Code, unless the context otherwise requires,--

- (a) "accounting year" means the year commencing on the 1st day of April;
- (b) "Advisory Board" means the Central Advisory Board or, as the case may be, the State Advisory Board, constituted under section 42;
- (c) "agricultural income tax law" means any law for the time being in force relating to the levy of tax on agricultural income;
- (d) "appropriate Government" means, --
  - (i) in relation to, an establishment carried on by or under the authority of the Central Government or the establishment of railways, mines, oil field, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking or subsidiary companies set up by central public sector undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, subsidiary companies or autonomous bodies, as the case may be, the Central Government;
  - (ii) in relation to any other establishment, the State Government;
- (e) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013);
- (f) "contractor", in relation to an establishment, means a person, who--
  - (i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or
  - (ii) supplies contract labour for any work of the establishment as mere human resource and includes a sub-contractor;
- (g) "contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker but does not include a worker (other than part-time employee) who--
  - (i) is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and
  - (ii) gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;
- (h) "co-operative society" means a society registered or deemed to be registered under the Cooperative Societies Act, 1912 (2 of 1912), or any other law for the time being in force relating to cooperative societies in any State;
- (i) "corporation" means any body corporate established by or under any Central Act, or State Act, but does not include a company or a co-operative society;
- (j) "direct tax" means--
  - (i) any tax chargeable under the--
    - (A) Income-tax Act, 1961 (43 of 1961);
    - (B) Companies (Profits) Surtax Act, 1964 (7 of 1964);
    - (C) Agricultural income tax law; and
  - (ii) any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification, to be a direct tax for the purposes of this Code;
- (k) "employee" means, any person (other than an apprentice engaged under the Apprentices Act, 1961 (52 of 1961)), employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual,

operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union;

(l) "employer" 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 and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified, by the head of such department, in this behalf or where no authority, is so specified the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,--

(i) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (n) of section 2 of the Factories Act, 1948 (63 of 1948) and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the said Act, the person so named;

(ii) in relation to any other establishment, the person who, or the authority which, has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

(iii) contractor; and

(iv) legal representative of a deceased employer;

(m) "establishment" means any place where any industry, trade, business, manufacture or occupation is carried on and includes Government establishment;

(n) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(o) "Government establishment" means any office or department of the Government or a local authority;

(p) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);

(q) "industrial dispute" means,--

(i) any dispute or difference between employers and employees, or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person; and

(ii) any dispute or difference between an individual worker and an employer connected with, or arising out of, discharge, dismissal, retrenchment or termination of such worker;

(r) "Inspector-cum-Facilitator" means a person appointed by the appropriate Government under sub-section (1) of section 51;

(s) "minimum wage" means the wage fixed under section 6;

(t) "notification" means a notification published in the Gazette of India or in the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(u) "prescribed" means prescribed by rules made by the appropriate Government;

(v) "same work or work of a similar nature" means work in respect of which the skill, effort, experience and responsibility required are the same, when performed under similar working conditions by employees and the difference if any, between the skill, effort, experience and responsibility required for employees of any gender, are not of practical importance in relation to the terms and conditions of employment;

(w) "State" includes a Union territory;

(x) "Tribunal" shall have the same meaning as assigned to it in clause (r) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947);

(y) "wages" means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would (42 of 2005), if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes, --

(i) basic pay;

(ii) dearness allowance; and

(iii) retaining allowance, if any,

but does not include--

(a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other

amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(d) any conveyance allowance or the value of any travelling concession;

(e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(f) house rent allowance;

(g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(h) any overtime allowance;

(i) any commission payable to the employee;

(j) any gratuity payable on the termination of employment;

(k) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under clauses (a) to (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that 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) and (h) shall be taken for computation of wage.

*Explanation.*--Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

(z) "worker" means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961 (52 of 1961)) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes--

(i) working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955); and

(ii) sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976), and for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute,

but does not include any such person--

(a) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(b) who is employed in the police service or as an officer or other employee of a prison; or

(c) who is employed mainly in a managerial or administrative capacity; or

(d) who is employed in a supervisory capacity drawing wage of exceeding fifteen thousand rupees per month or an amount as may be notified by the Central Government from time to time.