

THE INSIGHT

Weekly Newsletter from HR Vidyalaya Corporate Services LLP
Volume 109 27th March 2022

Topic of this week

Many Organizations (almost all MNC's), have 2 different types of employees; One is Billed & another Non-Billed. Usually Billed employees are those who are directly engaged in the core business of the establishment and brings revenue. Sales & Marketing, Production, Services, Operations are major segments of Billed type. HR, Finance, Purchase, Stores, IT Admin support, etc. are considered as Non-Billed. This set of employees get the share of the Revenue generated by the Billed. That is how the Business is considered nowadays.

Sooner or Later all such types of Un-billed employees may be either outsourced or to be engaged only on Contractual roles. It is already a style of engagement in Start-ups, Micro and Small industries under MSME's. Investors | Business Owners of Medium and Large industries are exploring the possibilities of making this happen soon in their establishments.

Government may support this in a big way, as it (Outsourcing) can influence this industry and generate more employment. Notwithstanding lots of Revenue through GST.

Whether this is a successful model or not, this may bring lot of changes in the industry & to stay for various reasons.

This may have little or no impact on Employees as they will have employment, with loss of few direct benefits from the employer. Looking forward to the new era of Outsourcing.....

Inside this Issue

(Series.... II)

A General Guide on Preparedness

Code on Occupational Safety, Health and Working Conditions

Impacts & Duties of the Employer, A Detailed ANALYSIS

(General & Related to Factories)

Employers FYKI.. Unlike current Legislations, many Code provisions are specific to Worker only (and not to Employee)

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NEW

NEW

Major Change
Added duty to Employer

Big Change
Added duty to Employer

METRICS

REMARKS

New in the Code

Duties of Employee is specifically described, which was not part of Factories Act, or Mines Act

- Take care of their own (and other employees) health and safety
- Comply with safety & health requirements
- Cooperate with employer to conform statutory obligations of employer
- Report unhealthy or unsafe situations

New in the Code

- ⇒ Safety and occupational health surveys
- ⇒ For All types of Establishments including commercial offices
- ⇒ **Duties of Employee**

Every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession which is relevant to the survey.

Amendment to Appointment of SAFETY OFFICER

- ⇒ **Duty of Employer....Added...**
Hence all those Ordinary and Dangerous Manufacturing establishments who have HEAD COUNT between 500 to 999 needs to RECRUIT SAFETY OFFICER once the Rules is notified.

Industry	Factories Act	OHS & WC Code
Every Factory	1000 or more Workers	500 or more Workers
Hazardous Factory	No Head Count threshold	250 or more Workers

New insertion in the Code

- ⇒ **Duty of Employer....Added...**
- ⇒ Health, Safety and Working Condition
- ⇒ For ALL Establishments
- ⇒ Provide separately for Transgender also

- ⇒ Sufficient arrangement for latrine and urinal accommodation to male, female and transgender employee separately and maintaining hygiene therein;
- ⇒ Bathing places and locker rooms for male, female and transgender employees separately;

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METRICS

REMARKS

Amendment in Provision of Canteen

- ⇒ **Duty of Employer....Added...**
- ⇒ Employer (having head count of 100 to 249)
- ⇒ Provision of Canteen
- ⇒ Formation of Canteen Committee
- ⇒ Providing food at subsidized rates

Industry	Factories Act	OHS & WC Code
Every Factory	250 or more workers	100 more workers including Contract Labourers

As per the Code the facilities of Canteen are to be extended to Contract Labourers also.

Amendment to Appointment of Welfare Officers

- ⇒ **Duty of Employer....Added...**
- ⇒ Employer (currently having head count of 250 to 499)
- ⇒ Need to appoint one Welfare Officer

Industry	Factories Act	OHS & WC Code
Every Factory	500 or more workers	250 or more workers

Amendment to Provision of Creche

- ⇒ **Duty of Employer....Added...**
- ⇒ **Provide Crèche (on-site or a common crèche)**

(amended head count is – ALL PERSONS)

Industry	Factories Act	OHS & WC Code
Every Factory	30 or more women workers	50 or more workers are ordinarily engaged

Major Change

Added duty to Employer

Big Change

Added duty to Employer

Slight Change

Added duty to Employer

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Formation of Safety Committee – A Comparison

Metrics	OHS & WC Codes For Factory & other Establishments	Factories Act
Constitution of Safety Committee	Every establishment with 500 or more workers	In every factory – (a) wherein 250 or more workers are ordinarily employed; or (b) which carried on any process or operation declared to be dangerous under Section 87 of the Act; or (c) which carries on 'hazardous process' as defined under Section 2(c) of the Act;
Comprises of	50% Workers representation 50% Employers representation	Same
Tenure of the Committee	3 years	Same
Meeting of the Committee	Once in 3 months (for Mines once in a month)	At least once in a quarter
Choosing Worker Representative	By Trade Union; if no Trade Union is there then by Workers themselves	Not elaborate
Representation of Women workers	Ensure adequate number of Women workers in the committee (NEW)	No mention
Composition of Safety Committee	Employer: 1. Senior Official, to be the Chairman 2. Safety Officer, to be the Secretary 3. Medical Officer (if available) 4. 1 person each from Production, Maintenance and Purchase departments Worker: Equal Numbers in total	Same

**** Refer Draft Rules of the Respective States for more info**

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CHANGES IN THE CODE In comparison to the Factories Act

1. Restriction on Double Employment: (Factories Act)

- No **adult worker** shall be required or allowed to work in any factory **on any day** on which he has already been working in any other factory, save in such circumstances as may be prescribed.

Whereas it is slightly changed in OHS & WC Code:

- No **worker** shall be required or allowed to work in a mine or factory if he has already been working in any other such similar establishment within the **preceding twelve hours**, save in such circumstances as may be prescribed by the appropriate Government

2. Notice of periods of work for adults (Factories Act)

- Shall be displayed in a conspicuous place at or near the entrance to the factory

Whereas it is slightly changed in OHS & WC Code:

- Displayed and correctly maintained in every establishment, showing clearly for every day the periods during which workers may be required to work in accordance with the provisions of this Code.
- The form of notice shall be sent to the Inspector-cum-Facilitator shall be such as may be prescribed by the appropriate Government.

3. Annual Leave with Wages (in OHS & WC Code)

Leave encashment in case of carried forward leave is more than permissible leave.....

- worker shall be entitled, where his total number of leave exceeds thirty days, to encash such exceeded leave. (during the employment)

4. Henceforth, no need to get exemption to maintain Registers in DIGITIZED MODE.... Which is a current cumbersome exercise).

The Code Provision allows the Establishment to maintain register in prescribed form, electronically or otherwise, containing such particulars.....

Relaxation
to both
Employee
and
Employer

Added
duty to
Employer

Delight to
Employee

Relief to
Employer

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