

### Highlights of Code of Wage -2019

Much awaited “Labor Reforms-Implementation of Four Labor Codes”, repealing 29 existing labour Laws have been made effective from 21<sup>st</sup> November, 2025. Consequently, all business sectors have to prepare for implementation, although there are several ambiguities to be resolved. This write up focusses on the most important preparatory segment, “Code on Wages”.

Code on Wages (“**COW**”) replaces, Minimum Wages Act, Payment of Wages Act, Equal Remuneration Act and most importantly, Payment of Bonus Act. Hence, it is important to understand the definition of “Wages”, “Employee” & “Contract Worker”.

**WAGES:** The Code considers National Level Floor Wages, as a major guideline for fixation of Minimum Wages. There have been multiple litigations on the question of fixation of Minimum Wages in almost all the States. However, Hon’ble Supreme Court’s judgment and the Indian Labour Conference of 1957 recommended setting the National Minimum Wage on the basis of a 2700 calorie diet as follows:

- (1) 2700 calories per head per day – 3 units are taken for a Family.
- (2) 66 metres of cloth per annum for the Family.
- (3) HRA @ 10% of sl.1.& sl.2.
- (4) Fuel, electricity & miscellaneous @ 20 % Sl.1. 2. & 3.
- (5) Children’s education, medical, recreation etc. @ 25 % of 1,2,3.

Fixation of Minimum Wages is on the basis of skill, hardship, hazardous nature of work, involvement of underground work and also on geographical basis. Rules on these issues are required so that a uniform approach is adopted throughout the country. It shall fix the national floor wages across the country, while the respective State Governments are empowered to fix the rate of wages for different skills, which shall not be less than the National Floor Wages. But so far, no such concrete steps have been taken by the Central Government and no notifications have been issued. It is expected that this may be addressed in the near future.

To start with, let us look at the definition of **Wages** under the Code. This definition is not only difficult to adopt but more importantly levies huge financial liability on businesses.

Parts of Definition	Comments
<b>FIRST:</b> "wages" means <b>all remuneration</b> whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, 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,	At present, the variable payments namely, attendance bonus / rewards, incentive bonus, performance bonus linked to parameters, overtime allowances are not considered as Wages for the purpose of PF, Gratuity, OT etc.  The FIRST part is an “inclusive one”. Means <b>all remuneration</b> - being special allowances, incentive bonus, incentive payments, attendance bonus etc. and includes basic pay, dearness allowance and retaining allowance, if any.
<b>SECOND: Exclusive</b> of (a) any bonus payable under any law (b) the value of any house-	

accommodation, (c) any contribution paid by the employer to any pension or provident fund, (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) HRA; (g) remuneration payable under any award or settlement (h) any OT allowance; (i) any commission payable ; (j) any gratuity payable on the termination ; (k) any retrenchment compensation or other retirement benefit payable	The Second Part is an “Exclusive one”.
<b>THIRD:</b> Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under <b>clauses (a) to (i)</b> exceeds one-half, or such other per cent. as may be notified by the Central Government, of 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:	The Third Part is an “Inclusive one”. Here, one needs to calculate the payments made by the Employer to the Employee under clauses (a) to (i). In case, such amount exceeds 50 % or such percentage, so notified, such amount shall be added in wages under the clause.

***Some illustrations for clear understanding.***

<b>PRESENT</b>	<b>NOW AS AMENDED UNDER COW</b>
Basic Plus DA: Rs. 8,000 Other allowances: Rs. 20,000 [This is total of “exclusions category”]	One half of Rs.20,000 being Rs.10,000, exceeds Rs,8,000. Wages under the Code will be Rs.8,000 Plus <b>Rs.2,000, thus Rs.10,000 shall be treated as wages.</b>
Basic Plus DA: Rs.12,000 Other allowances: Rs.10,000 [This is total of “exclusions category”]	One half of Rs.10,000 being Rs.5,000 does not exceed Rs.12,000. <b>Hence, the wages under the Code shall be Rs.12,000</b>
Basic Plus DA: Rs.15,000 Other allowances: Rs.25,000 [This is total of “exclusions category”]	One half of Rs.25,000 is Rs.12,500. do not exceed Rs.15,000. <b>Hence the wages under the Code is Rs.15,000</b>
Basic Plus DA : 10,000 Other Allowances: 25,000 [This is total of “exclusions” category]	<b>One half of Rs.25,000 is Rs.12,500.</b> Rs.12500 exceeds Rs.10,000 by Rs.2,500. <b>Hence, the wage under the Code is Rs.12,500</b>

**Payment of Wages:**

Unlike the previous regime, the Code is applicable to all employees including the managerial and supervisory personnel. There are not many radical changes except a few such as date of payment

of salary which shall be by 7th day of the month, insurance premium being taken out of authorized deduction, deduction being restricted to 50 % of gross payable etc

As far as **Equal Remuneration** is concerned, the provisions as per the Equal Remuneration Act are being continued in this Code.

#### Comparison of provisions relating to Payment of Bonus

<b><i>Under Payment of Bonus Act</i></b>	<b><i>Under the Code on Wages</i></b>
"Salary" means Basic plus DA	"Wages" which has been defined and dealt with in detail and illustrated above.
Applicability of the provisions to employees drawing a salary of Rs.21,000 or less	<b><i>No mention of the applicability limit. It means that all employees irrespective of cadre or salary are brought under the Chapter.</i></b>
Payment of Bonus on Rs.7000 or the applicable minimum wages in the scheduled industry.	The Central Government shall notify. So far no notification.
Payment of Minimum Bonus @ 8.33% & Maximum Bonus @ 20%	There is no change
Calculation of allocable surplus and determine the available bonus as per Schedule II of the Act	The Central Government shall notify. Schedule II is repealed. So far no notification.
Set-on & Set-off as per Schedule III	Schedule III is repealed, but the system is retained. However, the Central Government shall prescribe. So far no notification.
Definition of "Employee" means only direct employees. In other words, the contract workers are not included	Definition of "Employee" is inclusive of contract labour. Hence, contract workers are to be paid bonus.

#### Concerns:

1. The Rules were drafted by Central Government based on which, State Governments have also drafted and published but not made effective.
2. Now, as per the information circulated along with the notification made effective from 21<sup>st</sup> November, 2025, Rules would be framed on all the Codes for implementation. What happens to the draft rules published?
3. Since the Codes are made effective from 21<sup>st</sup> November, 2025, the additional financial liability on the Employers, is a matter of concern, since the formulations of Rules might take at least 2 to 3 months.

#### Suggestion:

1. On these lines, an Employer needs to assess for each employee separately. The wages so worked out shall be the "WAGES" for PF/ Gratuity / and Payment of Bonus. This itself indicates the additional financial liability due to enhanced contribution towards PF/Gratuity/Bonus. Consequently, the net take home pay for employees gets reduced.
2. As the effective date is 21<sup>st</sup> November, 2025 the primary step for Employers would be to "Revise the Wage" as per the new definition, for each and every employee on the lines illustrated above and tabulate the revised "Wage".

3. Thereafter calculate the liability towards payment of contribution of PF, OT if any, Bonus, and the total liability may be shown as “provision” in the books of accounts. Further, as and when, the final decisions are taken based on rules, retrospect application may be made.
4. For the Bonus to be paid before 30<sup>th</sup> November, 2025, the Employers can pay based on the existing provisions. Further, amount payable under the Code, may be shown as “provision” in the books of accounts.

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- **Mr. Vittala K Rao, President at KVR Management Services**

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