



## The Occupational Safety, Health & Working Conditions Code, 2020

The Occupational Safety, Health and Working Conditions Code, 2020 ('OSH Code') was published in the Official Gazette on September 29, 2020 after receiving Presidential Assent. The OSH Code, however, is yet to come into force.

The OSH Code is one of the four labour codes that the government has enacted for the purpose of amalgamating forty-four Central labour laws, into four Labour Codes to simplify compliance by establishments.

The OSH Code, in this respect, sets out to regulate health and safety conditions of workers, by repealing, and therefore subsuming 13 labour laws, namely:

- The Factories Act, 1948;
- The Plantations Labour Act, 1951;
- The Mines Act, 1952;
- The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955;
- The Working Journalists (Fixation of Rates of Wages) Act, 1958;
- The Motor Transport Workers Act, 1961;
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
- The Contract Labour (Regulation and Abolition) Act, 1970;
- The Sales Promotion Employees (Conditions of Service) Act, 1976;
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
- The Cine-Workers and Cinema Theatre

Workers (Regulation of Employment) Act, 1981;

- The Dock Workers (Safety, Health and Welfare) Act, 1986; and
- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996

The OSH Code simplifies, amalgamates and rationalises the provisions of the aforesaid thirteen enactments relating to occupational safety, health and working conditions. Set out below is a summary of key changes introduced by the OSH Code 2020.

### Key Definitions

With respect to general definitions, the definition of "Banking Company"<sup>1</sup> is a fresh insertion that defines the term as that defined under Section 5(c) of the Banking Regulation Act, 1949<sup>2</sup> [Section 2(1)(g)]. Further, the OSH Code provides a **threshold** for various kinds of premises to qualify as an "establishment"<sup>3</sup>. For instance, any industry, trade, business, manufacturing or occupation that is carried out in which ten or more workers are employed is considered to be an establishment. However, no such threshold in terms of number of workers has been laid out in the OSH Code for "mines" and "dock work". Next, the OSH Code provides an all-encompassing definition of "Principal Employer"<sup>4</sup> with whom contract labour is employed or engaged. It states that in addition to heads/owners/ occupiers etc. of offices, factories, mines, a "principal employer" shall

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also be considered as any person responsible for the supervision and control of any other kind of establishment. [Section 2(1)(zz)] “Worker”<sup>5</sup> under the OSH Code, has been defined slightly differently from that in previous regimes. It renders those persons who are employed in a ‘supervisory capacity’ drawing wage exceeding Rs. 18,000 per month or such amount notified by the Central Government, as not qualifying as workers. [2(1)(zzl)].

Coming to more specific, industry-wise definitions, the OSH Code widens the scope of “Manufacturing Process”<sup>6</sup> from the previous regime by including in addition, any process as may be notified by the Central Government. [2(1)(zi)] Then, as per the new definition of “Occupier”<sup>7</sup>, independent directors of a company under section 149(6) of the Companies Act cannot be considered as occupier of a factory. [2(1)(zs)] Further, the OSH Code expands the threshold based on which a “factory”<sup>8</sup> may be defined. [2(1)(w)] The definition of “Building or other Construction Work”<sup>9</sup> excludes such work from its purview, done for residential purposes of individuals. [Section 2(1)(h)] The OSH Code broadens the scope of the definition of “plantation”<sup>10</sup> by including any land used or intended to be used for growing tea, coffee, rubber, cinchona or cardamom, or any other plant which admeasures 5 hectares or more. It further gives power to the State Government to declare any land which is used or intended to be used for growing any plant like tea, coffee etc. irrespective of whether such land admeasures 5 hectares. [Section 2(1)(zx)] The Scope of the definition of “mine”<sup>11</sup> under OSH Code has been expanded to include those mines that are owned by the Government. [Section 2(1)(zl)] Then, the OSH Code expands the definition of “contract labour”<sup>12</sup> vis-à-vis the previous law by including inter-state migrant workers within its purview, but excluding from it, workers who are regularly employed by the contractor for any activity of his establishment, based on mutually accepted standards of employment. [Section 2(1)(m)] The OSH Code narrows the scope of the definition of “Contractor”<sup>13</sup> by keeping out of its purview an independent contractor, agent, employee or otherwise, as had been provided for earlier. [Section 2(1)(n)]

The “Dock Work”<sup>14</sup> definition, wider in scope from previous regime, includes such work that involves all repairing and maintenance processes connected with any hold, tank structure or lifting machinery and any other storage area on board the ship or in the docks. [Section 2(1)(r)] For “Inter-State Migrant Worker”<sup>15</sup>, varying from the previous regime, the OSH Code provides for an inter-state migrant worker to be recruited by the employer directly to the establishment, apart from being employed by or through a contractor. It further provides for the inter-state migrant worker to obtain employment at an establishment on his own. Further, unlike the previous regime, OSH Code provides a wage threshold of rupees eighteen thousand per month for inter-state migrant workers, which may increase at the Central Government’s discretion. [Section 2(1)(zf)] Lastly, the OSH Code broadens the scope of “industrial premise”<sup>16</sup> which includes any place or premises in which not only industrial and manufacturing process is carried out, but also trade, business or occupation is carried out. [Section 2(1)(zc)]

## Registration

The OSH Code consolidates the separate registration requirements under the thirteen laws repealed by it, into one common registration. This will create a centralized database and promote ease of doing business.

The OSH Code requires electronic application to be made before a registering officer, for registration of establishment by employer. Such application is to be made within 60 days from the date of applicability of the OSH Code, failing which payment of late fees is required. In the previous regimes, no strict time-limit for making such an application was specified. [Section 3(1)]

There is a deemed registration concept introduced in case the registering officer does not grant registration within the time-limit specified. This was a feature not present in the previous regimes. [Section 3(3)]

Misrepresentation or suppression of any fact to obtain registration of an establishment shall entail prosecution of the employer under

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Section 94 of the OSH Code. The establishment, however, shall continue running, which is an aspect that differs from the position in some of the repealed laws, wherein, misrepresentation would entail revocation of registration certificate of the establishment. It is only when the registration is received by fraudulence that registration of the establishment may be revoked. [Section 3(6)]

If an employer has not registered his establishment as per provisions of the OSH Code, or has not contested the registering officer's cancellation of registration or revocation of registration of his establishment, he cannot employ an employee in his establishment. [Section 3(7)]

Establishments that have already been registered under a central labour law or any other relevant law, are deemed to have been registered under provisions of OSH Code. Details of such registration shall in that case be provided to the relevant registering officer. [Section 3(8)]

## Duties of Employers

It is the duty of every employer to keep the workplace free from hazards which can lead to injury and occupational disease, provide annual health examination or tests free of cost to employees, ensure the disposal of hazardous and toxic waste including disposal of e-waste, issue an appointment letter to every employee in the manner prescribed, ensure no charge is levied on the employee in respect of anything done towards the maintenance of a safe and healthy work environment. [Section 6]

If an accident occurs at any place in an establishment, causing death or bodily injury which prevents the person injured from working for 48 hours, then the employer of such establishment is to give notice of such accident to such authorities determined by the appropriate government. In this regard, the OSH Code provides specifically with respect to accidents at plantations or establishments dealing with building and construction work,

that an inquiry be made by the authority receiving notice of accident within 2 months from date of receipt of notice, and that if no such authority exists, such inquiry is to be arranged for by Chief Inspector-cum-facilitator. [Section 10]

Similarly, notice of dangerous occurrences causing injury or disability shall be sent by employers to authorities determined by appropriate government. [Section 11]

## Duties of Employees

The OSH Code further, introduces certain duties of employees at the workplace apart from the ones that existed in certain previous regimes, mainly Factories Act, 1948. In this respect, it shall be the duty of every employee at workplace to take care of their own and others' health and safety, comply with safety standards prescribed, co-operate with the employer in meeting the statutory obligations of the employer under the OSH Code, and, report to the employer any unsafe or unhealthy situation at the workplace. [Section 13]

## Duties of designers, manufacturers, importers or suppliers

Every person who designs, manufactures, imports or supplies any article for use is required to ensure the safety of workers in the process of designing and constructing an article, as well as providing all the necessary information pertaining to it. A fresh insertion that the OSH Code makes with regards to ensuring best standards of articles designed or manufactured outside India, is that if there is no standard set in India for an article produced outside India, then the article is to conform to the standard adopted in the country from which it is imported. [Section 8(1)(c)(iii) Proviso C].

A further addition is the requirement of every designer, manufacturer, importer or supplier to conform to such duties set out by the Central Government in consultation with the National Occupational Safety and Health Advisory Board set up afresh under Section 16 of the OSH Code. [Section 8]

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## Qualified Medical Practitioner

The OSH Code further provides for a Qualified Medical Practitioner to examine workers in an establishment who are believed to have contracted any disease as specified in Schedule III of the OSH Code, and send a report in writing to the office of the Chief Inspector-cum-Facilitator regarding this, in the manner prescribed. [Section 12]

## National and State Occupational Health and Safety Advisory Boards

The OSH Code provides for the establishment of a National Board to discharge its functions under the OSH Code and to advise the Central Government on matters pertaining to standards, rules and regulations, implementation of provisions, policies and programs on occupational health and safety, and the like. [Section 16] On similar lines, the State Governments shall constitute a State Advisory Board to advise the State Government on such matters arising out of the administration of this Code. [Section 17]

## Data on Inter-state Migrant Workers

The Central and State Governments are required to maintain database and record for inter-state migrant workers, electronically or otherwise. In this respect, such worker may self-declare himself as inter-state migrant worker. [Section 21]

## Safety Committee

Establishments or classes of establishments may constitute a Safety Committee consisting of representatives of employers and workers, in which the number of employers cannot be higher than the number of workers. Where the number of workers in an establishment is on the higher side, the employer shall also appoint safety officers. [Section 22]

## Welfare Facilities in the establishment

The employer shall be responsible to provide and maintain in his establishment such welfare facilities for the employees as may be prescribed by the Central Government. These are broadly listed in laws repealed by the OSH Code, especially, the Plantations Labour Act, 1951. Further, additional facilities may

be provided for factories, mines, docks, and building and construction work, in the form of welfare officers and temporary housing. In this regard, the OSH Code lays down a uniform threshold for all establishments that fall within its purview, so far as welfare provisions are concerned.

## Hours of work

The OSH Code provides that no worker shall be allowed to work in any establishment for more than eight hours in a day, and that periods of work shall be fixed keeping in mind intervals and spread overs, as notified by the appropriate Government [section 25(1)]. This is a change from the previous regime where permissible weekly hours of work were capped at 48 hours, and the OSH Code has therefore reduced the maximum permissible daily hours of work.

## Changes in relation to overtime work

The OSH Code now provides that employers may require workers to work overtime only with the consent of such worker, and further that the appropriate government may prescribe the hours of overtime work [section 27]. Further, overtime wage rate under the OSH Code is to be calculated on the basis of wages" and not the "ordinary rate of wages", unlike earlier. These are the key changes in the notion of overtime work under the OSH Code vis-à-vis the earlier regime under the Factories Act. Further, as the threshold for normal working hours has reduced under the OSH Code, scope for payment of overtime wages has potentially increased.

## Reduction of threshold for availing paid leave

The OSH Code provides that workers in an establishment are entitled to leave with wages in a calendar year if such worker has worked for one hundred and eighty days or more in such calendar year [section 32]. Under the Factories Act, workers who had worked for two hundred and forty days or more during a calendar year were to be afforded such paid leave. Thus, the changes proposed have reduced the threshold for allowing paid leave to workers substantially. This may require industries to allow paid leave to more workers than before.

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## Maintenance of consolidated registers, forms and returns

Under the OSH Code, employers are required to maintain register in prescribed form, including electronically or otherwise, containing prescribed particulars including work performed, number of hours of work constituting normal working hours in day, days of rest and wages paid [section 33]. Employers are also required to display notices, issue wage slips in electronic forms or otherwise, and file returns electronically or otherwise. Under the previous regime, employers were obliged to maintain multiple registers under each of the repealed laws, as well as display notices etc. The OSH Code has now consolidated the previous obligations of maintaining multiple registers, notices etc. This should assist in easier compliance and is expected to positively impact the ease of doing business.

## Web-based inspection scheme

The appropriate government may prepare an inspection scheme providing for generating web-based inspection and submission of information electronically, which shall also provide for randomised selection of establishments for inspection [Section 34]. Such inspection schemes may also provide for assigning unique numbers to establishments and Inspector-cum-facilitators; timely uploading of inspection reports and providing for special inspections. This is vastly different from the regime of physical inspection under the repealed laws, and in fact is similar to the regime proposed under the Code on Wages, 2019. This measure has the potential to reduce bureaucratic inefficiencies, and will positively impact the ease of doing business.

## Notifying scheme for start-up establishments

The appropriate government is empowered to notify a scheme to empanel experts for the purposes of “start-up establishments” and other allied establishments. Such experts will be assigned third-party audits and certifications in a randomised manner, through a web-based scheme and carry out audits and certification for the said scheme [Section 37]. This is a

novel introduction, and can positively impact business.

## Removal of restrictions on the employment of women

The OSH Code stipulates that women will be employed in all establishments for all types of work. Women may also be employed before 6 am and beyond 7 pm, subject to obtaining their consent and subject to conditions relating to safety, working hours, holidays etc as prescribed by the appropriate government [section 43]. This is a complete change from the previous regime where women’s daily working hours were limited or curtailed to specific times. The OSH Code changes this regime by allowing women to be employed, with prior consent and subject to following conditions laid out by the appropriate government, at all points in time.

## Special provisions for contract labour

- **Applicability:** As against the previous regime, this applies to establishments in which fifty or more contract labour are employed, or were employed on any day of the preceding twelve months through contract. Further, it is not applicable to establishments in which work is only of intermittent and casual in nature. The Appropriate Government, further, has been granted the power to consult with the National Board or a State Advisory board, to determine the intermittent and casual nature of work, if such question regarding nature of work at an establishment arises.
- **Licensing:** The OSH Code provides for a common licence [Section 119] to persons desirous of obtaining a licence in respect of a factory, industrial premises for beedi and cigar work, as well as for engaging contract work. Such licence may be obtained for all three, or even for obtaining a single licence for any one of the three. Application for obtaining such license shall be made electronically, or otherwise to an authority designated by the appropriate government (‘designated authority’), specifying particulars including number of contract labour, nature of work of contract labour, employment of inter-state migrant labour etc. [Section 48(1)] Such designated

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authority shall also deal with issuance and revocation of licenses electronically or otherwise [Section 46]. A license granted under Part I, Chapter XI, of the OSH Code shall be subject to revocation or suspension if the designated authority has reason to believe that such licence has been obtained by misrepresentation or suppression of material fact, or that other conditions based on which the licence was granted, have been contravened. [Section 51]

- **Contractors:** In addition to the requirement for common licence, every contractor is required to fulfil qualifications as may be prescribed by the Central Government in order to engage contract labour for any work [Section 47]. In the event that he doesn't qualify, a "work specific licence" shall be issued electronically to him. Every contractor is required to intimate the designated authority about receiving work order from an establishment either to supply contract labour in the establishment or to execute the contract through contract labour in the establishment. Failure to do so shall result in suspension or cancellation of contractor licence obtained. [Section 50]
- **Welfare Facilities:** Sections 23 and 24 of the OSH Code list a number of welfare facilities to be provided to employees by the employer towards maintaining health, safety and proper working conditions. Varying from the previous regime, wherein the liability of providing welfare facilities to contract labour rested with the contractor, the OSH Code requires principal employer to an establishment employing contract labour to provide welfare facilities as specified, to its contract labour. [Section 53]
- **Contractor:** If a contractor has not obtained a license as is required for under the OSH Code, any employment made of contract labour by a principal employer through such contractor shall be considered as a contravention of provisions of this Code. [Section 54] Contractors are required, to issue on demand, experience certificate to contract labour delineating work performed, in the manner prescribed by the appropriate government. [Section 56]

- **Wages:** Unlike the previous regime, wherein every principal employer was required to nominate a representative to be present at the time of disbursement of wages by the contractor, and to certify the amounts paid in wages, no such requirement is referred to in the OSH Code. The OSH Code provides that failure of payment of wages to contract labour by contractor shall lead to the appropriate government passing orders of making such payment from the amount deposited by such contractor as security deposit to obtain licence. [Section 55] The mode of payment of wages mentioned is bank transfer or electronic mode, information regarding which is to be intimated to the principal employer.

## Special provisions relating to audio-visual workers

A person shall be employed as an audio-visual worker in or in connection with production of any audio-visual programme only by virtue of an agreement entered into with such person: (i) by the producer of such audio-visual programme; (ii) by the producer through a contractor who employs such person; (iii) by contractor or other person through whom such person is employed. Such agreement is required to be registered with the competent authority as notified by the appropriate government. [Section 66(1)]

## Special provisions relating to mines

The provisions of the OSH Code, apart from certain provisions pertaining to duties of the Inspector-cum-Facilitator, are not applicable to a mine in which excavation is being made for prospecting purposes, unless otherwise provided for by the Central Government. They are applicable where excavation is being made for the purpose of obtaining minerals for use or sale. [Section 68(1)(a)]

While the previous regime spelt out specifically the conditions like number of employees, depth of excavation etc. under which such excavation may take place, the OSH Code states that the conditions relating to number of employees, depth of excavation and other matters may be prescribed by the Central Government. Similarly, it is stated that provisions of the OSH

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Code shall not apply to mining of certain items like kankar, murrum etc. subject to conditions relating to workings, open cast workings and explosives as may be prescribed by the Central Government. [Section 68(1)(b)]

## Special provisions for beedi and cigar workers

No place or premise can be used as an 'industrial premise' without obtaining a licence as provided for under Section 119 of the OSH Code. An application in this regard shall be made to the designated authority for use of such premise as an industrial premise, and in the manner laid down under

Such licence shall be granted for five years, and may be renewed thereafter, as against the previous regime wherein the licence was valid not beyond the financial year in which it was granted. [Section 74 (5)]

## Stipulating joint and several liability for owner of premises and occupier of factory

The OSH Code stipulates that where premises or separate buildings are leased to different occupiers for use as separate factories, owners of the premises and the occupiers of the factories who utilise common facilities (such as safety, fire prevention etc) are jointly and severally responsible for providing and maintaining common services [section 80]. This is a complete change from the earlier regime, where liability of owners of premises alone was stipulated. This change is expected to add to the liabilities imposed on occupiers of factories.

## Declaration of premises as "factory"

Under the OSH Code, the declaration of any place as a "factory" and the consequent application of the OSH Code is now to be determined by the appropriate government, as opposed to the State Government earlier [section 81].

## Maximum permissible limits of exposure of chemical and toxic substances to be prescribed by the State Government

Under the OSH Code, the maximum permissible limits of exposure of chemical and toxic

substances in manufacturing process in any factory shall be prescribed by the State Government [section 88]. Under the Factories Act such values were indicated in the Second Schedule to such act, which could be changed by the Central Government. Therefore, under the OSH Code, new limits will now be prescribed by the State Government, as opposed to being statutorily laid down earlier.

## Facilities for plantation workers

Employers in plantations are responsible for providing and maintaining welfare facilities for workers either from their own resources or schemes of the Central Government, State Government, Municipality or Panchayat in which the plantation is situated [section 92]. Under the earlier regime, certain welfare facilities were optional and certain facilities were mandatory. Under the OSH Code, provision of welfare facilities is incumbent on rules to be framed by States. Hence employers need not depend on their own resources to provide such facilities, as they can tap into resources or schemes of the Government. This can reduce the cost of compliance for employers in plantations.

## Offences and Penalties

The penalties under the OSH Code have been rationalized and graded, and fine amounts under various offences have also been enhanced as an effective deterrent. Some key highlights are as follows:

- Penalties for general contraventions under the OSH Code shall range from Rs. 2 lacs to Rs. 3 lacs depending on contravention, and an additional Rs. 2,000 per day for continued contravention. [Section 94]
- With respect to obstructions caused to Chief Inspector-cum-facilitator or Inspector-cum-facilitator or any other officer as may be authorized, in carrying out their duties, the OSH Code has, more or less, retained the quantum of punishment with regards to imprisonment as applicable in previous regimes, but has substantially increased the fine amount payable for an offence of this nature. [Section 95]
- The OSH Code does away with the punishment of imprisonment for an offence

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pertaining to the failure of maintaining, and further, producing register, document, report, file etc. which is required to be done under it. [Section 96]

- The punishment for contravention of any order made under the OSH Code pertaining to prohibition, restriction or regulation of employment of workers including women, audio-visual workers and contract labour, as well as employees below the age of 18 years, does not entail imprisonment anymore. Fine for such an offence, however, has been substantially increased. [Section 97]
- Falsification of any kind of records, be it plans, sections, records, notices etc. as applicable, entails imprisonment for up to 3 months, or fine up to Rs. 1 lac. or both, depending on the offence. The fine payable for this offence has substantially increased under the OSH Code, vis-à-vis previous regimes. [Section 98]
- While the imprisonment term for an offence relating to “hazardous processes” has been substantially reduced in the OSH Code, vis-à-vis the erstwhile Factories Act, 1948, to only 2 years, the fine for committing this offence has gone up substantially. [Section 102]
- In all the above-mentioned offences, both the fine payable, as well as imprisonment, where applicable, shall be enhanced in the event that the person convicted of such offence commits the offence for the second time.
- Failure to comply with or contravention of duties, regulations, rules, byelaws etc. under the OSH Code which results in accident or dangerous occurrences causing death or serious bodily injury shall be punishable with imprisonment and/or a fine, as the case may be. The OSH Code, in this respect provides that a part of the penalty, which shall be a minimum of 50% of the penalty amount shall be provided to the victim or his legal heirs (as the case may be). [Section 103]

## Social Security Fund

A Social Security Fund is proposed to be established under the OSH Code which shall be

utilized for the welfare of unorganized workers. This Fund shall be credited with amounts collected from the compounding of certain offences, as well as amounts collected vide the fines payable for offences committed under the OSH Code. Other sources may be prescribed, additionally. [Section 115]

## Powers to exempt application of OSH Code in public interest

State Governments may exempt (subject to conditions) any new factories from provisions of the OSH Code, if satisfied in the public interest that it is necessary to create more economic and employment opportunities [section 127]. The power to exempt the application of the OSH Code in public interest, to create more economic and employment opportunities is an expansion over similar powers under the earlier regime under the Factories Act.

## Power to exempt in case of public emergencies, disasters or pandemics

Under the OSH Code, the appropriate government is empowered to exempt any workplace or activities from the provisions of the OSH Code for such period as is necessary and subject to necessary conditions, in the case of a public emergency or disaster or pandemic [section 128]. Under the previous regime under the Factories Act, such exemption was only available in case of a public emergency. The expansion of the ambit of this exemption power under the OSH Code, therefore, can be viewed as a direct response to the ongoing Covid-19 pandemic.

## Power to make rules regulating general health and safety

The OSH Code empowers the Central Government to make rules regulating general safety and health of persons residing in the whole or any part of India, in the event of declaration of a pandemic, epidemic or disaster [section 140]. This is a novel provisions, and can be viewed as a direct response to the Covid-19 crisis underway.

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## Endnotes

- 1 “Banking Company”- Means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 and includes the Export-Import Bank of India, the Industrial Reconstruction Bank of India, the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989, the Reserve Bank of India, the State Bank of India, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980
- 2 “Banking Company” u/s 5(c), Banking Regulation Act, 1949- Means any company which transacts the business of banking in India.
- 3 “Establishment”: i) a place where any industry, trade, business, manufacturing or occupation is carried on in which ten or more workers are employed; or  
(ii) motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or  
(iii) factory, for the purpose of Chapter II, in which ten or more workers are employed, notwithstanding the threshold of workers provided in clause (w); or  
(iv) a mine or port or vicinity of port where dock work is carried out:  
Provided that in sub-clauses (i) and (ii), the threshold of worker specified therein shall not be applicable in case of such establishment or class of establishments, in which such hazardous or life threatening activity is being carried on, as may be notified by the Central Government:  
Provided further that notwithstanding any threshold provided in the definition of factory in clause (w), for the purposes of Chapter II, the establishment specified in sub-clause (i) or sub-clause (ii) or sub-clause (iii) shall be deemed to be the establishment within the meaning of this clause though the number of employees employed are ten or more
- 4 “Principal Employer” where the contract labour is employed or engaged, means—  
(i) in relation to any office or Department of the Government or a local authority, the head of that office or Department or such other officer as the Government or the local authority, may specify in this behalf;  
(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;  
(iii) in a mine, the owner or agent of the mine;  
(iv) in relation to any other establishment, any person responsible for the supervision and control of the establishment;
- 5 “Worker”: Means any person employed in any establishment 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 working journalists and sales promotion employees, but does not include any such person—  
(i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or  
(ii) who is employed in the police service or as an officer or other employee of a prison; or  
(iii) who is employed mainly in a managerial or administrative capacity; or  
(iv) who is employed in a supervisory capacity drawing wage exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time;
- 6 “Manufacturing Process” : Means any process for—  
(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or  
(ii) pumping oil, water, sewage or any other substance; or  
(iii) generating, transforming or transmitting power; or  
(iv) composing, printing, printing by letter press, lithography, offset, photogravure screen printing, three Dimensional or four Dimensional printing, prototyping, flexography or other types of printing process or book binding; or  
(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or  
(vi) preserving or storing any article in cold storage; or  
(vii) such other processes as the Central Government may notify.
- 7 “Occupier”: Of a factory means the person who has ultimate control over the affairs of the factory:  
Provided that—  
(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;  
(ii) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;  
(iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government, shall be deemed to be the occupier:  
Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier.
- 8 “Factory”: means any premises including the precincts thereof—  
(i) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on; or  
(ii) whereon forty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

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but does not include a mobile unit belonging to the armed forces of the Union, railways running shed or a hotel, restaurant or eating place:

Provided that where under any law for the time being in force in a State immediately before the commencement of this Code, the number of workers specified is more or less than the number specified in clause (i) or clause (ii), then, the number specified under the law of the State shall prevail in that State till it is amended by the competent Legislature.

Explanation I.—For computing the number of workers for the purposes of this clause all the workers (in different groups and relays) in a day shall be taken into account.

Explanation II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

- 9 "Building or other construction work": Means the construction, alteration, repairs, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include building or other construction work which is related to any factory or mine and the building or other construction work where such work is for own residential purposes of an individual or group of individuals for their own residence and the total cost of such work does not exceed rupees fifty lakhs or such higher amount and employing more than such number of workers as may be notified by the appropriate Government.
- 10 "Plantation": (i) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more; (ii) growing any other plant, which admeasures five hectares or more and in which persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification, so directs.  
Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the former piece of land shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more; and  
(b) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares: Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and  
(c) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (a) and sub-clause (b); but does not include factory on the premises.
- 11 "Mine": Means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—  
(i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;  
(ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;  
(iii) all levels and inclined planes in the course of being driven;  
(iv) all open cast workings;  
(v) all conveyors or aerial ropeways provided for bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;  
(vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;  
(vii) all protective works being carried out in or adjacent to a mine;  
(viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;  
(ix) all power stations, transformer sub-stations, converter stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;  
(x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;  
(xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or coke is being carried on;
- 12 "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 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 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
- 13 "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

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- 14 "Dock-Work": means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—  
(i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;  
(ii) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; and  
(iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area on board the ship or in the docks.
- 15 "Inter-State Migrant Worker": means a person who is employed in an establishment and who—  
(i) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or  
(ii) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State, under an agreement or other arrangement for such employment and draws wages not exceeding the amount of rupees eighteen thousand per month or such higher amount as may be notified by the Central Government from time to time.
- 16 "Industrial premise": means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry, trade, business, occupation or manufacturing is being ordinarily carried on with or without the aid of power and includes a godown attached thereto

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