



Learning Series

The things every HR & IR Professional should know in India

Issue - 02 | May -22

Q1 Which of the existing labour laws the Occupational Safety, Health, and Working Conditions Code, 2020, shall repeal?

The Occupational Safety, Health, and Working Conditions Code, 2020 consolidates the following 13 labour laws:

1. The Factories Act, 1948,
2. The Mines Act, 1952,
3. The Dock Workers (Safety, Health, and Welfare) Act, 1986,
4. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996,
5. The Plantations Labour Act, 1951,
6. The Contract Labour (Regulation and Abolition) Act, 1970,
7. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979,
8. The Working Journalist and other Newspaper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955,
9. The Working Journalist (Fixation of Rates of Wages) Act, 1958,
10. The Motor Transport Workers Act, 1961,
11. The Sales Promotion Employees (Condition of Service) Act, 1976,
12. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, and
13. The Cine Workers and Cinema Theatre Workers Act, 1981.

Q2 How the Occupational Safety, Health, and Working Conditions Code, 2020 has been organised?

The code is organized into 14 chapters with a total of 143 sections and 3 schedules.

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Chapter #	Name of the Chapters	Sections	Total Sections
I	Preliminary	1 - 2	2
II	Registration	3 - 5	3
III	Duties of Employer and Employees, Etc.	6 - 15	10
IV	Occupational Safety & Health	16 - 22	7
V	Health, Safety and Working Conditions	23	1
VI	Welfare Provisions	24	1
VII	Hours of Work and Annual Leave with Wages	25 - 32	8
VIII	Maintenance of Registers, Records and Returns	33	1
IX	Inspector-cum-facilitators and other Authority	34 - 42	9
X	Special Provisions Relating to Employment of Women	43 - 44	2
XI	Special Provisions for Contract Labour and Inter-state Migrant Workers, Etc.		
Part I	Contract Labour	45 - 58	14
Part II	Inter-state Migrant Workers	59 - 65	7
Part III	Audio-Visual Workers	66	1
Part IV	Mines	67 - 73	7
Part V	Beedi and Cigar Workers	74 - 77	4
Part VI	Building or Other Construction Workers	78	1
Part VII	Factories	79 - 91	13
Part VIII	Plantation	92 - 93	2
XII	Offences and Penalties	94 - 114	21
XIII	Social Security Fund	115	1
XIV	Miscellaneous	116 - 143	28

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Q3 Name the three schedules in the Occupational Safety, Health, and Working Conditions Code, 2020.

Schedules	Description of the Schedule	Reference Section
First Schedule	List of Industries Involving Hazardous Processes	Section 2 (za)*
Second Schedule	List of Matters	Section 18 (2) (f)**
Third Schedule	List of Notifiable Diseases	Section 12 (1)***

*Section 2 (za):

"hazardous process" means any process or activity in relation to an industry or plantation specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, hazardous substances, wastes or effluents thereof or spraying of any pesticides, insecticides or chemicals used therein, as the case may be, would—

- (i) cause material impairment to the health of the persons engaged in or connected therewith, or
- (ii) result in the pollution of the general environment;

**Section 18 (2) (f):

(2) In particular and without prejudice to the generality of the power to declare standards to be followed under sub-section (1), such standards shall relate to —

(f) matters specified in the Second Schedule to this Code.

***Section 12 (1):

Where any worker in an establishment contracts any disease specified in the Third Schedule, the employer of the establishment shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.



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Q4 Does the Occupational Safety, Health, and Working Conditions Code, 2020 apply to Contract Labour employed through contractors in Central/State Government Offices?

Yes.

The code is not applicable for the offices of the Central/State Government. However, the code is applicable for contract labour employed through contractor in the offices of the Central/State Government, where, the Central/State Government is the Principal Employer.

Q5 Who is the Principal Employer as per the Occupational Safety, Health, and Working Conditions Code, 2020?

As per the Section 2 (zz) of the Code, where the Contract Labour is engaged, the Principal Employer is –

Where?	Principal Employer
In Government Department/Office /Local Authority	The Head of the department/Office/Local Authority
In a Factory	The Owner or Occupier of the factory and the Manager of the factory (where a person has been named)
In Mine	The Owner/Agent of the mine
Any other establishment	any person responsible for the supervision and control of the establishment

Q6 Who is the Contractor as per the Occupational Safety, Health, and Working Conditions Code, 2020?

As per the Section 2 (n) of the Code, in relation to an establishment, “contractor” means a person, who –

“Undertakes to produce a given result for the establishment through contract labour or supplies contract labour for any work of the establishment as mere manpower.”

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Q7 What does the establishment mean by the Occupational Safety, Health and Working Conditions Code, 2020?

As per the Section 2 (v) of the Code, the “establishment” means –

Where?	Threshold of Workers
A place where any industry, trade, business, manufacturing or occupation is carried on	Ten or more
Motor Transport Undertaking	
Newspaper Establishment	
Audio-Video Production	
Building and other Construction Work or Plantation	
Factory (for the purpose of Chapter II)	
A mine or port or vicinity of port where dock work is carried out	As given below

- Threshold of workers is not 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.
- The mine or port or vicinity of port where dock work is carried out, which is not in the above category will be establishment with the workers threshold provided in the definition of factory in clause 2 (w) for the purposes of Chapter II (**Registration**) of the code. For other chapters the establishments within the meaning of the number of employees employed are ten or more is applicable.

Q8 What is a “factory” according to the Occupational Safety, Health and Working Conditions Code, 2020?

As per the Section 2 (w) of the Code, the “Factory” means any premises including the precincts thereof –

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- 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,

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.

Q9 What is an “industrial premises” according to the Occupational Safety, Health and Working Conditions Code, 2020?

As per the Section 2 (ZC) of the Code, an “industrial premises” 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.

Q10 What does “precinct” mean?

As per the dictionary meaning, precinct means, “the area within the walls or perceived boundaries of a particular building or place.”

In simple terms the precinct means a space enclosed by walls.

The case law of **K.V.V.Sharma** AIR, 1953, Mad 269, stated precincts as “a space enclosed by walls or fences. A place solely used for some purpose other than the manufacturing process carried on in a factory or a workshop does not constitute a factory.”

Disclaimer:

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