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## 245. What is the maximum percentage of subsistence allowance payable under the Industrial Relations Code, 2020, during the period of suspension?

The Industrial Relations Code, 2020 (IR Code) consolidates and amends laws related to industrial disputes, trade unions, and employment conditions in industrial establishments. One important aspect covered under the IR Code is the payment of subsistence allowance to a worker who is placed under suspension pending an inquiry into complaints or charges of misconduct.

### Relevant Legal Provision: Section 38 of the Industrial Relations Code, 2020

#### 1. Obligation to Pay Subsistence Allowance

As per Section 38(2) of the IR Code, 2020, the certified standing orders of an industrial establishment must provide that if a worker is suspended, the employer is required to pay a subsistence allowance. This allowance is meant to financially support the worker during the suspension period while an inquiry or investigation into alleged misconduct is ongoing.

#### 2. Rate of Subsistence Allowance

The rate of subsistence allowance is specified under Section 38(3) of the IR Code, which categorizes the payment into two stages:

- **For the first 90 days of suspension:**

The worker is entitled to 50% of the wages that they were earning immediately before the date of suspension.

- **Beyond 90 days of suspension:**

The subsistence allowance increases to 75% of the wages if the delay in completing the disciplinary proceedings is not attributable to the worker's conduct.

Thus, the maximum percentage of subsistence allowance payable under the Industrial Relations Code, 2020, is 75% of wages.

**Disclaimer: This document is for educational purposes only and does not constitute legal advice.**

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### 3. Key Conditions for Maximum Subsistence Allowance (75%)

- The allowance increases from 50% to 75% only after 90 days of suspension.
- The delay in the disciplinary proceedings must not be caused by the worker. If the worker's actions contribute to the delay, they may not be entitled to the increased allowance.

### 4. Objective of Subsistence Allowance

The provision ensures that:

- A worker under suspension is provided financial relief until the conclusion of disciplinary proceedings.
- Employers do not arbitrarily delay inquiries, as they will have to bear a higher cost (75% of wages) after 90 days if the delay is not due to the worker.
- Workers do not suffer undue hardship due to prolonged suspensions without income

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