

## The Code on Wages 2017: Comparison of the Code with recommendations of the Standing Committee

The Code on Wages, 2017 was introduced in Lok Sabha on August 10, 2017.<sup>1</sup> The Code replaces four laws: (i) the Payment of Wages Act, 1936, (ii) the Minimum Wages Act, 1948, (iii) the Payment of Bonus Act, 1965, and (iv) the Equal Remuneration Act, 1976. The Standing Committee on Labour (Chair: Dr. Kirit Somaiya) submitted its report on the Code on December 18, 2018.<sup>2</sup> The table below compares the provisions of the Bill with the key recommendations of the Standing Committee.

**Table 1: Comparison of the Code on Wages, 2017 with the recommendations of the Standing Committee on Labour**

Code on Wages, 2017	Standing Committee recommendations
<b>Definition of employee and worker</b>	
<ul style="list-style-type: none"> <li>Worker is defined as a person employed in any industry who does work including manual, unskilled, skilled, or technical work.</li> <li>Employee is defined as a person employed on wages who does work including skilled, semi-skilled unskilled, technical, managerial, and administrative work.</li> </ul>	<ul style="list-style-type: none"> <li>Definition of worker is similar to that of 'workmen' under the Industrial Disputes Act, 1947. However, definition of employee is broader as it includes managerial and administrative functions under its scope.</li> <li>Lack of consistency in definitions within the Code may lead to employers discriminating between workers and employees.</li> <li>Since minimum wage is a matter of right for every working person, a common and comprehensive definition of employee/worker should be given in the Code.</li> </ul>
<b>Definition of employer</b>	
<ul style="list-style-type: none"> <li>The definition of employer in the Code includes a person who employs one or more persons in an establishment.</li> </ul>	<ul style="list-style-type: none"> <li>The definition in the Code makes it difficult to identify the principal employer. Employer should be defined as a person who employs, either directly or through any other person, one or more employees in his establishment.</li> <li>Legal representative of deceased employer should be included in the definition of employer.</li> </ul>
<b>Factors for fixing minimum wages</b>	
<ul style="list-style-type: none"> <li>The central or state governments can fix factors by which minimum wages will be determined for different types of work.</li> <li>The Code specifies certain factors including skills required, difficulty of work assigned, and geographical location.</li> </ul>	<ul style="list-style-type: none"> <li>In addition to these factors, experience and length of service in an organization should be taken into account when fixing minimum wages.</li> </ul>
<b>Revision of minimum wages</b>	
<ul style="list-style-type: none"> <li>The Code states that the central or state government must revise minimum wages at an interval of five years.</li> </ul>	<ul style="list-style-type: none"> <li>To allow for flexibility, the Code should allow the central or state governments to revise minimum wages at an interval not exceeding five years.</li> </ul>
<b>National minimum wage</b>	
<ul style="list-style-type: none"> <li>The central government can set a national minimum wage and may set different national minimum wages for different states and regions.</li> <li>Before fixing the national minimum wage, the central government may obtain the advice of the Central Advisory Board.</li> </ul>	<ul style="list-style-type: none"> <li>This provision should be amended to state that the central government shall fix the national minimum wage in the manner as may be prescribed from time to time.</li> <li>State governments should be consulted before the national minimum wage is fixed by the central government. Therefore, before fixing the national minimum wage, the central government must obtain the advice of the Central Advisory Board and State Advisory Boards.</li> </ul>
<b>Central Advisory Board</b>	
<ul style="list-style-type: none"> <li>The Code provides for a Central Advisory Board consisting of: (i) employers, (ii) employees in equal number as employers, and (iii) independent persons (not exceeding one-third of the total members).</li> </ul>	<ul style="list-style-type: none"> <li>In addition, the Board should include five representatives of state governments to be nominated by the central government.</li> </ul>
<b>Work of similar nature</b>	
<ul style="list-style-type: none"> <li>The Code prohibits gender discrimination in wage payments for work of similar nature. Work of similar nature is work where the skill, effort, and responsibility required are the same.</li> </ul>	<ul style="list-style-type: none"> <li>In addition, experience should be considered as a component while comparing work of similar nature.</li> </ul>

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#### Prohibition of gender discrimination

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- The Code prohibits discrimination on the basis of gender in matters related to wages.
  - The Code should prohibit discrimination on the basis of gender in payment of wages as well as recruitment and conditions of employment.
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#### Working Hours

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- The central or state government can fix the number of hours which will constitute a normal working day.
  - In addition, the Code should specify that the number of working hours in a day will not exceed eight hours.
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#### Deductions from wages

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- The Code lists the various deductions that an employer is allowed to make from the wages of an employee.
  - There should be an additional provision stating that if an employer has made deductions but has not deposited them in the appropriate fund, the employee will not be held responsible.
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#### Non-applicability of bonus

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- The Code states that provisions related to bonus payments will not apply to establishments in which 20 or more persons are employed.
  - The threshold for application of bonus payments should be reduced to establishments in which 10 or more persons are employed.
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#### Inspections

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- The Code provides for the appointment of a Facilitator to carry out inspections, and provide information to employers and employees for better compliance.
  - Inspections will be done on the basis of a scheme decided by the central or state government.
  - The word 'Inspector' should be used instead of 'Facilitator' in the Code.
  - To strengthen the enforcement mechanism, central and state governments should also publish periodic reports on status of implementation of the provisions of the Code.
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#### Penalties

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- The Code provides penalties for offences by employers which vary from Rs 10,000 to one lakh rupees.
  - The Committee noted that penalties are not substantial enough to act as a deterrent. They should be increased to a range of Rs 50,000 to ten lakh rupees.
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Sources: Code on Wages, 2017; 43<sup>rd</sup> Report: The Code on Wages Bill, 2017, Standing Committee on Labour, December 18, 2018; PRS.

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<sup>1</sup> Code on Wages, 2017, [https://www.prsindia.org/sites/default/files/bill\\_files/Code%20on%20Wages%2C%202017.pdf](https://www.prsindia.org/sites/default/files/bill_files/Code%20on%20Wages%2C%202017.pdf).

<sup>2</sup> "43<sup>rd</sup> Report: The Code on Wages Bill, 2017", Standing Committee on Labour, December 18, 2018, [http://164.100.47.193/Isscommittee/Labour/16\\_Labour\\_43.pdf](http://164.100.47.193/Isscommittee/Labour/16_Labour_43.pdf).

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