

Littler Global Guide - India - Q3 2019

New Code on Wages

New Legislation Enacted

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On August 8, 2019, India's new Code on Wages (Code) received the Presidential assent and was notified in the official gazette. The Code consolidates four major federal-level labor laws pertaining to wages paid by the employer. Amongst other changes, the Code has expanded the ambit of the law to cover a broader working population by removing the concept of scheduled employments and introducing floor wages. Further, it has removed multiple and overlapping definitions of terms (like wages and employees) and accordingly seems to ensure ease of compliance and ability to do business in India seamlessly. The effective date of the Code is currently awaited.

Employers to Contribute Social Security (Provident Fund) on Universal Allowances

Precedential Decision by Judiciary or Regulatory Agency

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On February 28, 2019, the Supreme Court of India held in a landmark ruling that special allowances that form part of wages shall be subject to provident fund (PF) contributions in India. As a result of the judgment, allowances that are universally, ordinarily and necessarily paid to employees across the board are to be considered as "basic wages" for payment of PF contributions (unless they are specifically excluded by law). The judgement is likely to increase the employees' PF contributions, which in turn would decrease their current take-home pay, but eventually increase their retirement savings.

Maternity Benefit Rules in the States of Karnataka (Bangalore) and Haryana (Gurgaon) for Crèche (Day Care) Facility

New Regulation or Official Guidance

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The State Government of Karnataka has notified the Karnataka Maternity Benefit (Amendment) Rules, 2019, on August 8, 2019. Similarly, draft rules on crèche facility have been issued by the State Government of Haryana on July 9, 2019. These rules provide for implementation of crèche facility to be provided to female employees as per the Maternity Benefit Act, 1961 of India (as amended in 2017) to introduce crèche facility provisions, including the distance of the crèche facility from the establishments, age of the children until which crèche facility is to be provided.

Standing Orders Law Applicability in Bangalore (State of Karnataka) and Gurgaon (State of Haryana)

Upcoming Deadline for Legal Compliance

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On May 25, 2019, the Karnataka State Government renewed the exemption from the Industrial Employment (Standing Orders) Act, 1946 (Standing Orders Act) in the state of Karnataka (Bangalore) for the information technology and information technology-enabled sectors (along with certain other knowledge-based sectors) for five years. Separately, the Standing Orders Act was extended to commercial establishments in the State of Haryana, effective from December 12, 2018. The Standing Orders Act *inter alia* governs the employment conditions of the employees employed in an establishment.

Registration of Anti-sexual Harassment Committee Mandatory in Select Indian States

Upcoming Deadline for Legal Compliance

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The Department of Women and Child Development in the Indian States of Telangana & Maharashtra, respectively, issued a circular for Telangana (on July 1, 2019) and an office order for Mumbai (on March 23, 2017), mandating registration of the employer's Internal Committees (IC) formed under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Concerning Telangana, the employers are required to register their ICs on the Telangana SHe-Box website; for Mumbai, the employers are required to submit details of their ICs in a prescribed form.