



## ERGO

*Analysing developments impacting business*

### YET AGAIN: UNION CABINET APPROVES THE CODE ON WAGES BILL

5 July 2019

On 3 July 2019, the Union Cabinet approved the Code on Wages Bill 2019 (Wages Bill). While an official press release in this regard is awaited, the Union Minister for Information and Broadcasting, Mr Prakash Javadekar, informed the media that the Wages Bill was approved in a meeting held on 3 July 2019.

This is for the second time that the Wages Bill is approved by the Union Cabinet. On 25 July 2017, the erstwhile Union Cabinet approved the consolidated code for the first time subsuming the 4 extant labour laws viz. the Payment of Wages Act 1936, the Minimum Wages Act 1948, the Payment of Bonus Act 1965 and the Equal Remuneration Act 1976, following which the same was introduced in the Lok Sabha on 10 August 2017. The then proposed Code on Wages Bill 2017 (Wages Bill 2017) did not see the light of day as it lapsed upon dissolution of the Lok Sabha. Our analysis of the Wages Bill 2017 can be accessed [here](#).

It is imperative to mention that the Wages Bill 2017 was referred to the Standing Committee on Labour – 2018-19 (Committee) for examination, pursuant to which the Committee released a report in December 2018 with its recommendations. Some of the key recommendations are listed below:

- Consultation as regards fixation of national minimum wage: The Wages Bill 2017 provides that the Central Government shall fix a national minimum wage, which may be different for different states or geographical areas. While the state government can fix a different minimum wage for its jurisdiction, such wage should at least match the national minimum wage. In this regard, the Central Government may obtain advice of the Central Advisory Board constituted under the Wages Bill 2017. The Committee has recommended that the said provision does not cast a positive obligation to consult the state governments. Accordingly, it has been recommended that the Central Government obtain the advice of the Central Advisory Board as well as the respective State Advisory Boards.
- Going back to the inspector system: As discussed in our previous update, the Wages Bill 2017 provides for facilitators as opposed to inspectors who are presently empowered to conduct inquiry and investigation. These facilitators would be empowered to also provide the employers and workers with advice in relation to the most effective means of complying with the provisions of the Wages Bill 2017. The Committee is of the view that the use of the term 'facilitator' gives the impression that the Wages Bill 2017 intends to dilute the enforcement mechanism and restrict inspection, an aspect that forms a crucial

part in the Indian labour law. Accordingly, it has been recommended that the said term be substituted by 'inspector'.

- Increased penalty for offences: While the Wages Bill 2017 has significantly increased the penalty for making payment which is less than the amount due to the employee to INR 50,000, the Committee is of the view that such enhanced penalty falls short of creating a deterrent value and should be revised to INR 1,00,000.
- Deductions from wages: The Wages Bill 2017 lists the deductions which may be made by the employer from the wages of the employees. These include deductions of income tax and other tax levied by the Central / state government and deductions for social security contributions. The Committee is of the view that there are several cases where the employer makes the necessary deductions but fails to deposit the same with the competent authority. It has, therefore, been recommended that taking such cases into consideration, the Wages Bill 2017 should provide that where such deductions are made but not deposited, the workers / employees shall not be compelled to re-deposit the amount.
- Applicability of the chapter on bonus: As per Clause 41 of the Wages Bill 2017, the chapter relating to payment of bonus would apply to only such establishments wherein 20 or more persons are employed on any day during an accounting year. The Committee has recommended that the threshold for applicability of the said chapter be reduced to 10 or more persons to ensure greater coverage for availing the entitlements provided therein.
- Disqualification for bonus: In line with the Payment of Bonus Act 1965, the Wages Bill 2017 provides that an employee shall be disqualified from receiving bonus if he is dismissed from service for (a) fraud, (b) riotous or violent behaviour while on the premises of the establishment, (c) theft, misappropriation or sabotage of any property of the establishment, and (d) conviction for sexual harassment (a new entry). Pursuant to several recommendations from trade unions across the country, the Committee has recommended that such disqualification be made more specific to avoid any misuse of the provision. Accordingly, it has recommended that each kind of misconduct highlighted above should have been committed in the premises of or in relation to the establishment for the disqualification to be imposed on the concerned employee.

Given the absence of any official release as regards the Wages Bill, it may be difficult at this stage to ascertain and draw a comparison between the provisions of Wages Bill 2017 and the recently approved Wages Bill. Another interesting aspect to look out for would be whether the recommendations of the Committee have been taken into consideration by the Cabinet whilst approving the Wages Bill.

A long and gruelling process is yet to follow before the Wages Bill ultimately turns into the law and gets implemented. To ensure smooth passing of the Wages Bill into a statute, without much agitation from the relevant stakeholders including trade unions, it is likely that few of the recommendations of the Committee may have been considered by the Cabinet whilst approving the Wages Bill. Pursuant to an official release / statement / clarification in this regard, an update will be prepared and shared by us.

Having said that, the approval of the Wages Bill clearly demonstrates the intention of the government to consolidate the law on wages at the earliest. Considering the

government's persuasive aim of improving India's ranking as regards the ease of doing business, the Wages Bill appears to be positive step.

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