



Code on Wages 2019



Background of

4 New Labour Laws

In 2019, the Ministry of Labour and Employment had introduced 4 Bills (Codes) to consolidate 29 laws of Central Government as regards employee remuneration.

These Codes were proposed to regulate the following 4 key aspects:

- i. Wages,**
- ii. Industrial Relations,**
- iii. Social Security, and**
- iv. Occupational Safety, Health & Working Conditions.**

The Code on Wages was passed by the Parliament in 2019, whereas the other 3 bills were referred to the Standing Committee on Labour.

Standing Committee on Labour submitted its report on the rest 3 Bills. Thereafter the Government replaced these Bills with new Codes on 19th September 2020.

In this report, we shall analyse the relevance and the applicability of the **Code on Wages 2019**.

Overview of the Code on Wages 2019

The Code on Wages 2019, also referred to as the “**Wages Code**”, has been passed by the Indian Parliament with the sole objective of consolidation and rationalization of the regulations pertaining to the remuneration of the industrial workers.

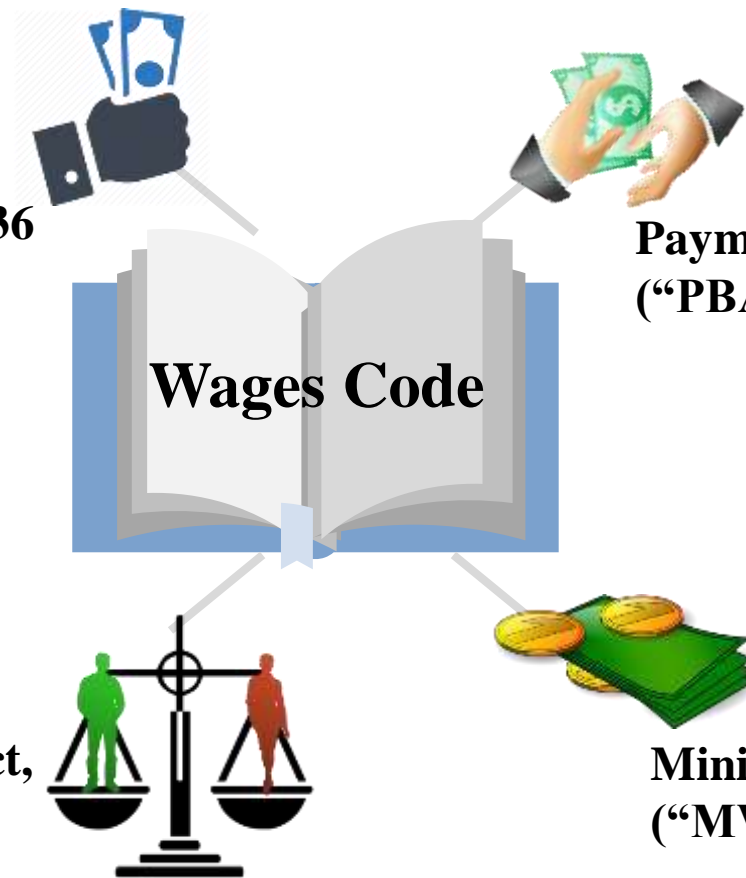
This is perhaps the primary stage in consolidating a set of separate Central labour legislations concerned with workers’ wages into a uniform legislation. This Code proposes to superimpose 4 separate legislations, viz.

Payment of Wages Act, 1936
(“PWA”)

Payment of Bonus Act, 1965
(“PBA”)

Equal Remuneration Act, 1976
(“ERA”)

Minimum Wages Act, 1948
(“MWA”)



Objective of the Wages Code

The key objective of the Wages Code is to revise and integrate the intent behind the aforesaid 4 laws related to wages, incentives and allied aspects. However, the legislative motive behind the Wages Code is to usher in a uniform system of governance that calls for a unified compliance on remuneration that can be easily understood and effectively implemented.



Integration, Streamlining and Rationalization of the provisions of the individual wages' laws.



Implementation on all the business entities, employees and employers as specified in the Code.



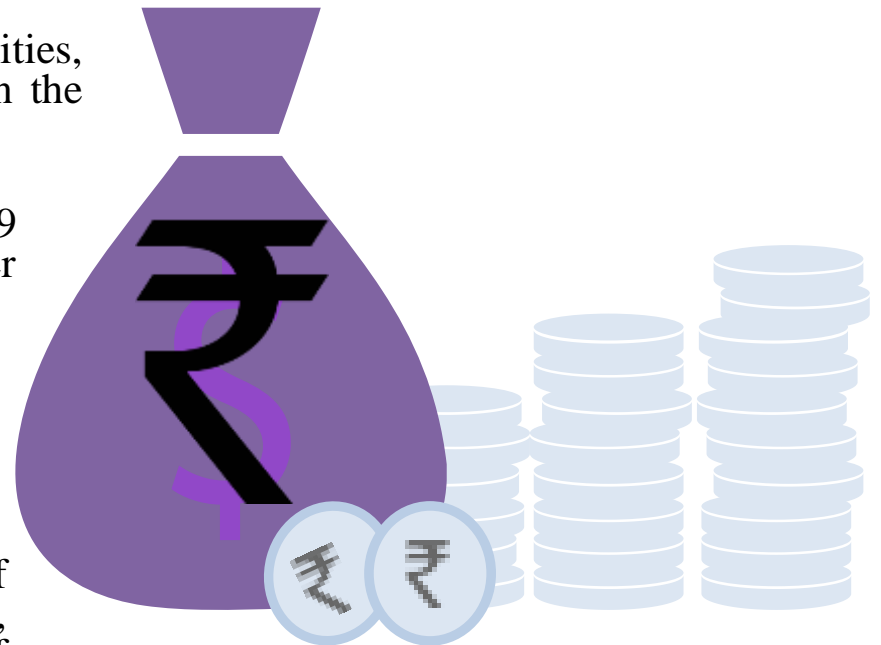
Précising the wage regulations into 9 chapters & 69 sections – as against earlier 115 sections of the 4 legislations.



Separate provisions for Due Payments, Claims & Audit, Inspector cum Facilitator, Offences & Penalties.



Specifically dealing with aspects of Minimum Wages, Payment of the Wages, awarding incentive and Provisions of Equal Remuneration. All these are covered in the first chapter itself.



Key Definitions



Wages

All remuneration whether by way of salary, any allowances or any pay expressed in terms of money or capable of being so expressed which would if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

- *Basic pay;*
- *Dearness allowance; and*
- *Retaining allowance (if any)*



Employer

Employer refers to any individual who provides employment to 1 or more employees whether directly or through any third party on his behalf, at his establishment. In case of a production unit, he must be accompanied with an overseer and a manager. For all other establishments, anyone who is in control of all the affairs of the organization, i.e., a CEO or managing director who has been entrusted with the affairs. In case the employer has passed away, the employer shall be the Contractor as well as the Legal Representative of the demised employer



Establishment

Establishment refers to any location where an industry, trading, business, manufacturing or production activity is carried out. This includes both Public and private sector undertakings.





Employee

All Employee is a person (except apprentice/trainee) who has been employed on a regular wage by an organization for the following types of labour:

- Skilled,
- Semi-skilled,
- Unskilled ,
- Manual,
- Operational,
- Supervisory,
- Managerial,
- Administrative,
- Technical or clerical job

All of the above work is for hire or reward, regardless of whether the employment terms are express or implied. This also includes a person who is declared to be an employee by the appropriate government. However, this does not include a person of the Indian Armed Forces.

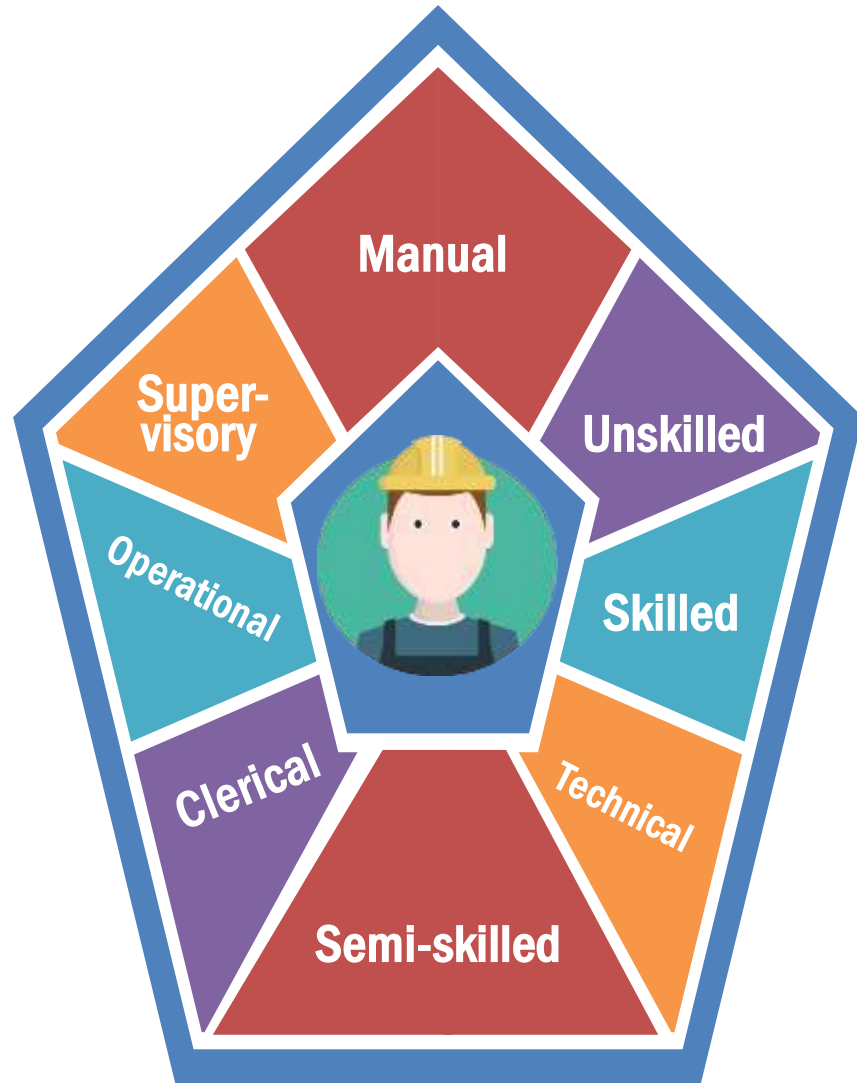
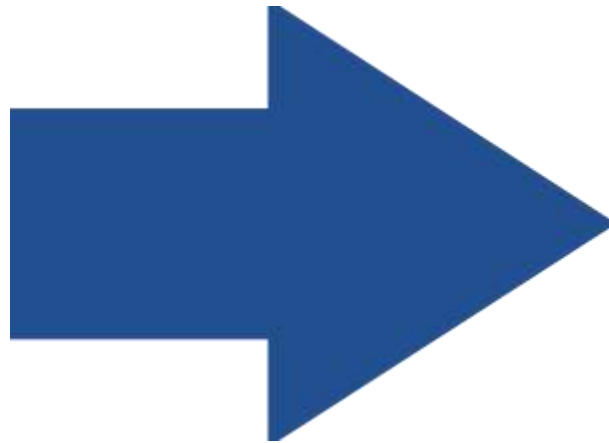


Contractor

It refers to any individual who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or supplies contract labour for any work of the establishment as mere human resource and includes a sub-contractor.

Who is a **WORKER?**

Worker is a person (except apprentice/trainee) who has been employed on a regular wage to do the following activities:

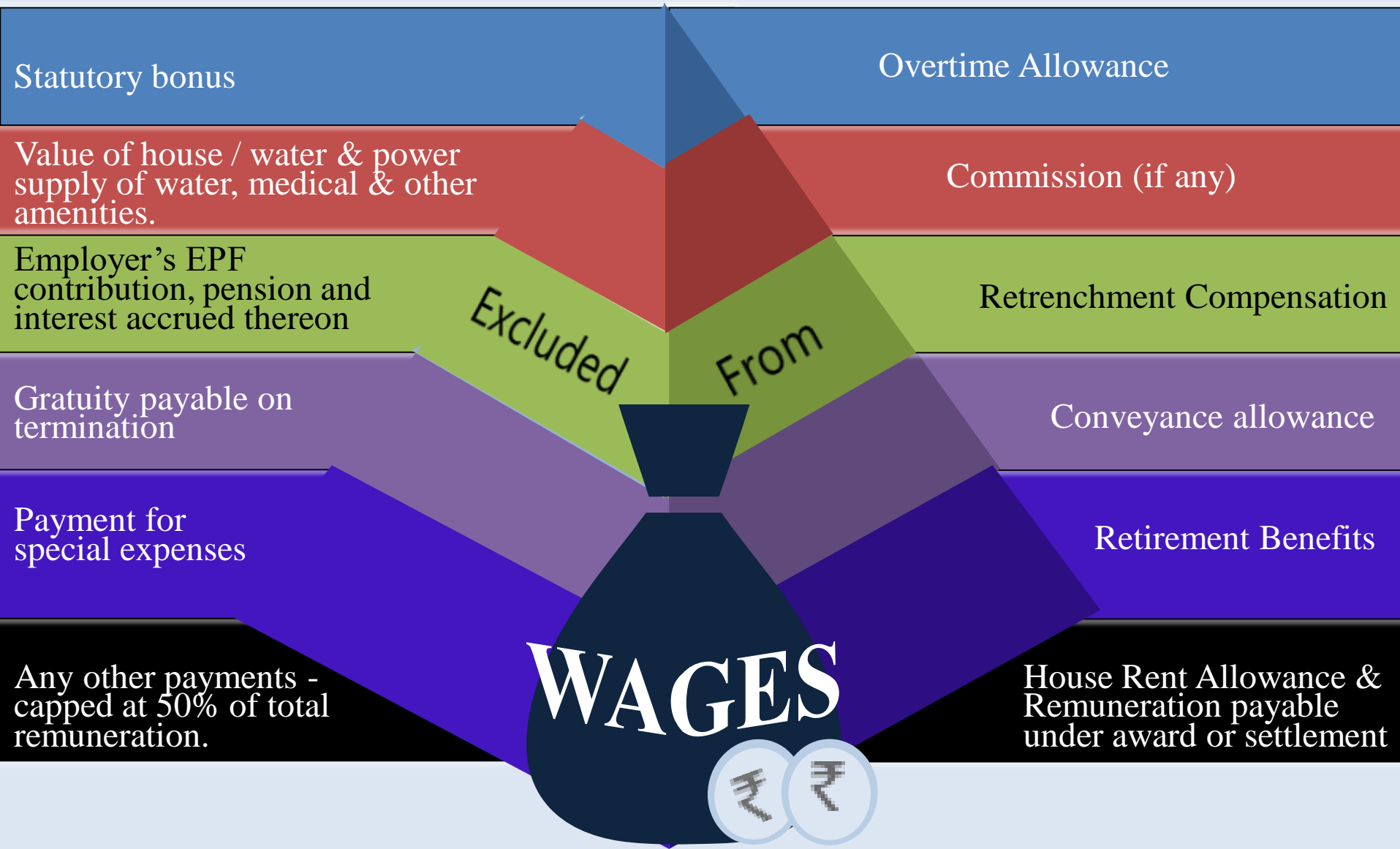


He is recruited on hire or for a reward regardless of whether the employment terms are express or implied.

This also includes working-journalists and sales-promotion personnel.

What all excluded from wages?

The following transactions shall be excluded from the definition of the Wages:



Concept of minimum wages

The concept of minimum wages as discussed in the Wages Code is explained below:

Applicability	Treatment under the Code All kinds of employments –Both Scheduled & Non-scheduled	Criteria for minimum wage	Treatment under the Code Based on the following aspects:
Wages	Wide definition with specific exclusions – HRA covered under exclusions	<input type="checkbox"/> _____ Skill sets <input type="checkbox"/> _____ Geography <input type="checkbox"/> _____ Difficulty of labour, <input type="checkbox"/> _____ Working environment	
Normal working hours	Rest day in 7-week days. Specific Rules to specify working hours that make up a normal work day.	National Floor Wages	Introduced in the Wages Code itself. Union Govt. of India shall fix National Minimum Wage limit
Overtime pay	Paid for work over & above normal working hours = 2X normal wages	Revision of minimum wages	Minimum wages be revised max. within 5-year intervals.

Provisions for Wage Payment

Applicability

- No wages threshold has been set. The Wages Act specifies ₹24,000 as the threshold.
- All organizations have been covered against specific industries/factories under the current Act



Must not go beyond one month, because this causes difficulty in managing new joined payrolls

Timelines for wage payment

Meaning of wages

- Following has been excluded in wages:
- Conveyance/ travelling allowance,
 - House Rent Allowance,
 - Remuneration payable under any award or settlement or order of Court/Tribunal,
 - Overtime allowance

- Daily wage period: At the end of the shift
- Weekly wage period: Last working day of the week
- Fortnightly wage period: second day-end after end of fortnight
- Monthly wage period: 7th day of the next month

Wage period

Deductions

Aggregate deductions can't exceed 50%
This includes –

- EPF & Pension (NPS) contributions,
- Tax deductions,
- Advances & penalties allowance



Cases involved:

- Removal,
- Resignation,
- Firing,
- Retrenchment

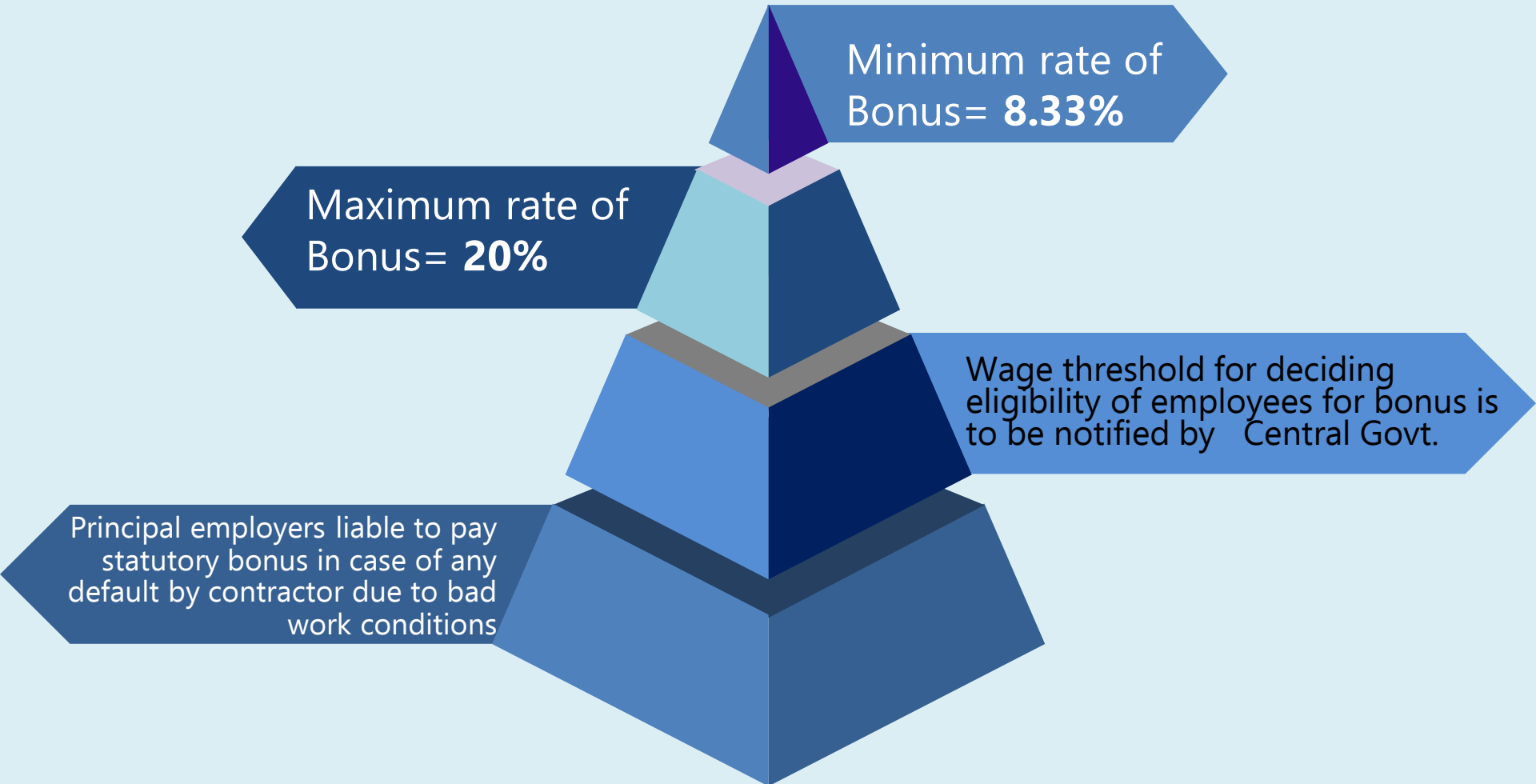
Very short deadline of 2 working days provided – no specifically defined deadlines in Wages Act.



Final Settlement

Provisions for Bonus Payment

Following provisions of bonus payment are applicable to the organizations with 20 employees or more—



Equal Remuneration Provisions

Here are the provisions related to equal remuneration to the employees –



Applicability

- Applicable to all establishments;
- Applicable to all Genders
- No gender-based discrimination for same/similar works.
- Term “experience” also added apart from skill, effort and responsibilities

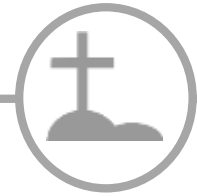
Definition of Wages

- Following excluded from wages:
- Conveyance,
 - HRA
 - Remuneration payable under any award or settlement or order of Court/Tribunal,
 - Overtime allowance

Definition of Employee

Employee refers to individual employed in an establishment and worker to one employed in an Industry

Employer's Responsibilities



General Duties

Record keeping

Wage slip

Display of Notice

Payment of dues On Death

- Payment of minimum and overtime wages
- Payment within timelines prescribed:
- Monthly wage— before 7th of next month
- Fortnightly wage— by 2nd day succeeding the fortnight;
- For dismissed/ resigned employees' wages to be settled within 2 working days:
- Adhering to limits for wage deductions
- Complying with the rules of working hours and providing days of rest as specified.

Maintenance of employee registers in prescribed format (electronic or hard copy) is mandatory

Issuing wage slip in prescribed format to every employee is also mandatory.

Display of notice on the notice board at common place of the office premises.

In the event of demise of employee, remaining dues to be paid to the nominee to the specified authority [deputy chief labour commissioner (central)] before 3/6 months.

1 Underpayment of wages:

- First instance – Penalty up to ₹50,000.
- 2nd and subsequent default– Jail-term up to 3 months and/or fine up to INR ₹1lakh

2 Violation of all other provisions:

- First instance – Fine up to ₹20,000.
- 2nd and subsequent default– Jail-term up to one month and/or fine up to ₹40,000

OFFENCES & PENALTIES

4 Non-compliance of the provision of the Code after the timelines under the directions from Facilitator Cum Inspector:

- Prosecution proceedings may be initiated after providing opportunity of being heard;
- No opportunity will be provided for repetition of violation within five years
- from the date on which first violation was committed

3 Non-maintenance or wrong records:

Fine up to ₹10,000.

Thank You!



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