

COMPANY SECRETARY

**SBILL CHAPTER 16
(OCCUPATION SAFETY HEALTH AND WORKING
CONDITION CODE 2020) HANDWRITTEN NOTES**

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The Occupational Safety, Health and Working Condition Code 2020

OSHC enacted to streamline and modernise the regulatory landscape. The code consolidate 13 central labour laws into a single comprehensive Statute, making compliance simpler, uniform and more transparent.

The OSHWC contains following acts:

- 1) Factories act 1948.
- 2) min act 1952.
- 3) Dock workers act 1986.
- 4) Building and other construction workers act 1986.
- 5) Plantations labour act 1961.
- 6) Contract labour act 1970.
- 7) Inter state migrant workers act 1979.
- 8) Working Journalist and other News Paper employees act 1955.
- 9) Working Journalist [fixation of rates of wages] act 1958.
- 10) Motor transport workers act 1961.
- 11) The sales promotions employees act 1976.
- 12) Beedi & cigar workers act 1966.
- 13) Cinema workers and cinema theatre act 1981.

Objective of OSHWC:

- a) safeguarding workers rights.
- b) safe working conditions.
- c) creating a just, friendly regulatory environment.

Preamble

Objective of the code is envisaged → Preamble of the code as "An act to consolidate and amend the laws regulating the OSHWC of the persons employed in an establishment and for matters connected therewith or incidental thereto."

Sections 1: - This code is applicable to all over India but does not apply in.

- 1) offices of central govt.
- 2) offices of state govt
- 3) any ship of war of any country.

Conditions: If labour appointed by contractor in any govt. officers they act applies.

Important definitions.

- 1) Appuo. Government: Govt competent to administer and enforce code for an establishment.
+ Govt is appu Govt for.
⊙ Establ. carried on by an under author. of Govt.

- ② Railways and metros.
- ③ major ports
- ④ mines and oil fields
- ⑤ ~~air transport~~ and telecommunication services
- ⑥ continued Industries notification by CbI.
- ⑦ CPSUs and their subsidiaries.

→ CbI. is app. govt for CPSU even if its shareholding falls below 50% after commencement of this code.

- contract labour.

→ worker who shall be deemed to be employed in an in connection with work of establishment he is hired by through a contractor with or without knowl. of principal employer.

→ can activity of an establishment for which Busi. setup but does not include

- sanitation works.
- watch and ward services
- canteen and catering services
- loading and unloading operations
- courier services.
- civil and other construction works.
- gardening and maintenance of lawns
- transport services.

→ Establishment.

→ a place where any industry, trade, busi., manufacturing or occup → carried on in which 10 or more workers are employed.

→ motor transport undertaking, newspaper estab, audio-video production in which 10 or more workers are employed.

→ factory.

→ A mine or part or vicinity

→ factory 2(1)(w) → factory means any premises includes precincts [surrounding area]. there of,

① 20 or more workers are working in any of day preceding 12 month with help of electricity.

② 40 or more workers are working in any of day preceding 12 month without help of electricity.

But does not include :- Hotel, eat places, restaurant, armed forces of union, railway running shed.

For computing no. of workers. include all workers in a day. Electronic data processing or computer unit is install in any premises does not const. as factory if no manufacturing process carried on.

- Manufacturing process - sec 2 (1) (ii) any process for -
- making, altering, repairing, finishing, oiling, washing, cleaning any article with a view to its use, sale transport
 - pumping oil, water, sewage or any other substance
 - generating, transforming or transmitting power.
 - constructing, reconstructing, repairing, refitting
 - preserving or storing any article in cold storage
 - other prescribed by central govt.

Registration

Regis. of establishment - sec - 3

- ① Obligation to regis. New establi. → every employer of establish has to send an e-appel to registering officer within 60 days from the date laws applicable
- ② Forms & particular: Every employer has to submit application in pre prescribed form & manner by central govt.
- ③ Grant of regi. certificate. upon issue of receipt RO may issue e-certificate of registration in pre prescribed form
- ④ Intimation of changes. → submit within 30 days from such changes
- ⑤ Closing of establishment. → Inform to RO of closure and payment to all dues to workers within 30 days.
RO within 60 days remove the name of establishment from register of establishment.
- ⑥ Misrepresentation or fraudulent regis.
→ If regis. in fraudulent manner → 50 penalty.
regis. ← misrepresentation
 ↓
 suppression of any material facts
 ↓
 50 prosecution under 94 but no cancellation of regis.
Burrugi kay fraud: → 50 → ROOBH → and regis. can be → within 60 days
- ⑦ Prohibition. Bina regis. establi. nahi chala sakta kisi ko employ nahi kar sakta.
- ⑧ Deemed regis. If regis. under any central labour law or any other laws.

→ Appeal section 4

If appl. is not accepted in 30 days. may appeal in higher authority [applicant officers] within 30 days + sufficient cause + decision in 30 days

Notice of commencement or cessation of operations :- sec - 5.

NO employer shall commence or cessation any operation without first sending a notice of such purpose → notice to app. officer appointed by central govt. and in e-form.

Duties of employers - Section 76.

General duties of employers:

- ① Ensure workplace is free from hazards.
- ② Comply with OSH standards.
- ③ Provide such annual health examination or test free of cost.
- ④ Provide and maintain reasonably practicable a working environment that is safe & without risk.
- ⑤ Ensure the disposal of hazardous and toxic waste.
- ⑥ Ensure no charges for anything done by employer for OSH of employee.
- ⑦ Issue a letter of appointment to every employee.

→ Specific duties of employer.

- ① Maintenance of plant and system of work in workplace.
- ② Arrangement in the workplace for ensuring safety.
- ③ Provide such info, instruction & training and supervision to ensure health & safety.

→ Notice of certain accident sec-10.

→ Duty to report accident: when the accident occurs in any establishment.

① Body injuries, preventing the person from working 48 hours or more

② death.

So now the notice of accident shall be send to the prescribed authority by the following pers.

① mine → owner, employer, manager, agent

② factory → employer or manager.

③ plantation building construction → employer.

→ Inquiry in case of death + authority receiving the notice shall conduct an inquiry within 2 months.

If no such authority → chief Inspector cum facilitator shall direct Insp - cum facilitator to conduct inquiry within same time period.

→ Section - 11 Notice to certain dangerous occurrences

If any danger occurrence whether or not causing injury or disability → employer shall send to prescribed authority's notice

→ Notice to certain diseases sec-12.

→ Employer's duty + diseases in 3rd sen. to any employee - shall intimate the prescribed authority

→ Medical practitioner: send report without delay to office of chief Insp - cum facilitator

→ Penalty: 10000.

Duties of employees at the workplace. Sec - 13.

- 1) take reasonable care for their own health and safety, &
- 2) comply with safety and health requirement.
- 3) co-operate with the employer in fulfilling statutory oblig.
- 4) Report unsafe or unhealthy situation promptly to the employer.
- 5) No misuse or neglect facility provided for health safety.

Employee's right to info and protection against imminent danger

Sec-14

Every employee can take info → employer or member of safety committee regarding health & safety & if not satisfied so he/she can go to Insp - cum - facilitator.

→ Reporting Imminent danger: If employer or employee have reasonable reason about serious injury, death so approach directly to employer or safety committee and Insp - cum - facilitator.

Occupational safety and health

National occup. safety and health advisory board. (Sec-16)

→ Advise central govt related 4 things

- ① Standard, rules, and regu.
- ② Implementation of provision of the code.
- ③ The issue of pol. policy and programme relating to occupational safety.
- ④ Other may prescribed by govt.

→ State occup. safety and health advisory board, Sec-17.
Advise state govt related above 4 things.

Occupational safety and health standards, Sec-18.

De-activation of standards → Govt may issue notification and declare OSH standard for workplace.

Scope of standards.

① Hazard control → workers keep, protected from physical, biological or any other hazard chemical.

→ Medical Exam. post employment :- Employment → disease so treatment even after cessation of employment if diseases arise during employment.

→ Reports of designated authorities :-

Govt, make necessary authorities to report of OSH

→ Set up specific measures :- A lag lag seton ke liye lag measure karna sakta hai.

safety committee and safety officer. sec-22

① safety committee :- The app. Govt. on general/special order requires any estab. or class of estab. to constit. safety committee

① representative of employers & workers.

② No. of workers resp. > no. of employers

② safety officers :- The employees shall appoint such no. of safety officers who shall possess such qualification and perform such duties.

① factories → 500 or more workers

② factories [hazardous processes] with → 250 or more

③ Building or construction work estab. → 250 or more
more workers.

④ Mines where 100 or more workers.

→ Health, safety, and working conditions.

Responsi. of employer for maintaining health, safety, and wc

sec-23

① General duty :- Employer :- maintain HSWC in his estab. sh.

② specific matters prescribed.

1) Cleanliness & hygiene.

2) Ventilation, temperature

3) Emission, free from dust.

4) Adequate illumination

5) Potable drinking water.

6) Adequate lighting.

7) Standards to prevent overcrowding.

→ welfare provision

welfare facilities in estab. sh. [sec-24].

① welfare facilities :- employers shall provide and maintain welfare facilities as prescribed by central Govt.

→ adequate and suitable washing facilities for male/female, separately.

→ Bathing places and lockers rooms for male/f

→ places for keeping clothing not worn during working hours.

→ Sitting arrangements for employees.

→ Canteen facilities in estab. sh. with 100 or more workers.

② Additional prescribed matters

→ 500+ workers, so ambulance room [with med. treatment equip].

→ med. facilities to motor trans. works, waiting stations, room for M/F.

→ Adequate, suitable, and separate, shelters/
rest rooms & shower room where more than
50 workers are employed & where workers
of motor transp. workers halt at night.

- ① Appointment of welfare officers. Where 50 or workers are employed [factory, mine, oil plantation].
- ② Temporary full time living. acc. to workers who are living a const. site.
- ③ any other may prescribed.

→ Creche facilities:- appl. 50 workers + 1000 chote baccho ko dhyan rakha jata hai workers ko.

Hours of work and annual leave with wages

Daily and weekly working hours, leave, sec-25.

General working hours:- max 8 hours with daily interval & sufficient break.

Special provi. for mines:-

- persons employed below ground shall not work for more than the hours in a day.
- work below ground shall be arranged in shifts
- for work underground (mine) & working hours se tyada nahi hoga.

→ Special provi. for motor & transport workers:

- ① time spent during running of transp. vehicle.
- ② time spent in subst. work.
- ③ period at terminals of less than 15 minutes.

→ working hours for working journalist:

max 14 hours during any four consecutive week and atleast 24 conse. hours break / rest in any 7 conse. days.

→ sales promotion employees & working journalist - leave Enthem.

- + other than holiday given by govt
- + 12 month work @ 1 month leave / full wages [earned leave]
- + Medical leave → 12 month → 1 month leave & half wages.

+ Earned leave may be accumulated.

+ Earned leave < encashed / availed.

+ Exit from establi. or death:- cash for unresised leave.

→ Weekly and compensatory holidays [sec-26].

weekly holiday:- No worker shall be required or allowed to work for more than 6 months in a week

Special provision for motor transport workers

+ 10 days + day, leave but no holiday if lost to humane or gya ho.

Govt:- exemptions:- app. govt. may exempt certain workers from the weekly holiday.

compensatory holidays:- of workers are deprived of weekly holidays due to exemption they shall granted compensatory holiday

Extra wages for overtime. [sec-27].

overtime pay. + twice the rate of wages.

overtime is calculated on a daily or weekly basis as favorable

consent requirement. - consent jaisa hai.

Movent. regulation. - most overtime ki limit [maxi] prescribed
kari sakti hai.

Night shifts. [sec-28].

weekly full day holiday

+ shift end ke bad 24 hours ka conse. rest milega.

Prohibition of overlapping shifts. - 29 sec.

This section prevent overlapping shifts of workers.

→ No workers are [shifting workers] engaged in the same kind of
work at the same time.

Exemption

- 1) any establish. or class of establish.
- 2) any department or section of department
- 3) any category of workers

This sections exemption are not apply to mines.

Restriction on double employment in factory and mine sec-30.

No worker shall be required to work in a mine or factory if
he has already been working in any other similar establish.
within the preceding 12 hours.

Notice of periods of work. sec 31.

Every establishment shall display and conspicuously maintain - a
notice showing, for each day the periods during which
workers may be required to work.

Form & submission → prescribed by app. govt.

change in work system → Intimated to Inspector - cum fact.
before implementation.

Annual leave with wages. [sec-32].

→ eligibility and accrual - all workers in an establish. shall be
entitled to annual leave with wages if.

- ① worked at least 180 days in a year.
- ② Leave accrual.
 - Adult :- 1 leave for 20 days.
 - Adolescent :- 1 leave 15 days
 - mine workers :- 1/15 days.
- ③ periods of layoff, maternity leave, annual leave
count towards 180 days but do not count leave
- ④ Public holiday, weekly holiday. are not counted
in leave period.
- ⑤ discharged, dismissed, quits, retires or dies, so entitled
to wages even if he has not ~~worked~~ worked for
required period.

- a) khud hi gaya to 2 workings days. $\frac{1}{2}$ बिताय
 b) age jyada ho gal ya death to within 2 months.

⑥ Carry forward of leave:

- Max:- 30 days carry forward.
- If leave was applied for but refused = carry ∞ .

⑦ Encashment of leave is allowed.

- ⑧ workers shall be entitled \rightarrow when his total no. of leave exceeds 30 days, to encash such exceeded leave.

Maintenance of registers, records, and return Sec-33.

An employer of estab shall maintain register in prescribed form, electronically -

- 1) work performed by them.
 - 2) no. of hours of work.
 - 3) day of rest allowed in 7 days.
 - 4) wage paid and receipts.
 - 5) leave, leave wages.
 - 6) employment of adolescent.
- Display notice at work place of worker in prescribed form.
 - Issue wage slips to the workers, in electronic form.
 - file such return electronically to Ins-cum-facilitator.

Inspector-cum facilitators and other authority Sec-34.

\rightarrow concept of traditional inspector, model replaces, with facilitators @ inspection approach.

- 1) appointment of insp.-cum is made by app. Govt.
- 2) inspectors cum fac. has duty to conduct inspect.
- 3) Govt. may notify inspector scheme, which may include web based inspection, electronic calling of info, special inspection.
- 4) The scheme may include unique id no. for each estab. each JCF, each inspection.
 - timely uploading of inspection report, special insp based on risk parameters, consd. of nature of employment
- 5) Govt may appoint 1 chief JCF, addl. JCF, joint chief JCF
- 6) JCF may be appointed for one state multiple state, wor
- 7) No person shall be appointed or continue if they are directly / indirectly interested in workplace.
- 8) all such officers are deemed as public servant.

Powers of Inspector cum facilitator Sec 35.

- ① enter any work place may take assist. of Govt. officers public authority as expert.
- ② can take samples of articles or substances
- ③ search seize or take copy of register / records

- ① Direct supervisor to keep premises in article undisturbed during inspection.
- ② require production of reg./document.
- ③ Investigate accident or dangerous occurrence and record statement of persons
- ④ Examine cops in plantation, workers, employed.

Special provision relating to employment of women.

Employment of women [sec-43]

Kam kar / kam kar kam kar sakti hai with proper safety measures
 → before 6:am & beyond 7:pm → women workers consent required.

Adequate safety employment of women in dangerous operations

Sec-44 :- Hazardous danger kam kara sakte h women but with specific safety standard.

Special provision for contract labour.

App. of part (sec-45)

+ Every estab^l where 50 or more labour are employed in last 12 months.

+ Every man^u supply or contractor employed 50 or more labour on any day in 12 months.

Excursion :- It does not involved in parttime workers.

Authority to decide :- If any dispute arises, then app. govt after consulting the National board shall decide.

Parttime worker shall not be denied as parttime if.

+ 120 days in 12 months or seasonal character and work more than 60 days in a year.

Licensing of contractors. [sec 47]

No contract without contractor licence engaging contract labour.

licence shall be issued after verifying that the contractor meet qualification by Govt.

• No. of contract labour permitted.

• Amt of security to be deposited.

work specific licence :- If no qualify, so authority may issue a work-specific licence.

Such licence :-

- ① Is electronically renewable with per. time.
- ② Applies only to concerned work order
- ③ Other may resumed

Condition of license :- ① hours of work, fixation of wages
 ② essential element of contr. labour

licence may obtained from :- state/central authority

Procedure for Issue or Renewal of Licence. (sec-48)

Procedure for issue or renewal of contractor licences.
of formalises the process. Introduces electronic appl. define validity

Electronic application. @ Appl. for licences shall be made electron.

@ Appl. include.

- No. of contract labour.
- Nature of work for which contract labour is employed.

Validity :- 5 years.

If contractor wishes to increase num. contract labour, she/he shall apply for amendment.

Contractor's responsi :- prescribed by app. Govt.

Inform. regarding work order to be given to the app. Govt. sec-50

Mandatory Information :- when a contractor receives a work order from an estab.

- To supply contract labour.
- To execute work through contract labour.

Penalty for Non-compliance :- authority may suspend or cancel the licence after giving ROOBH.

Revocation, suspension and amendment of licence. sec-51

Grounds for revocation or suspension.

- 1) licence obtained from misrepresentation.
- 2) failed to comply with licence conditions

Roe process :- Action take only after giving ROOBH.

Appeal :- sec-52.

Appeal to appellate authority within 30 day + suffi. cause.

Responsibilities for Payment of wages. [sec-55]

Contractor responsi :- responsi. to pay wages to each labour.

Mode of payment :- electronic mode / Bank transfer.

Principal employer liability :- employer pay. not just if principal kamega then vashi not if employer if.

Experience certificate :- sec-56.

Every contractor shall give experience certiff. to labour upon their request.

Prohibitions of employment of contract labour. [sec-57]

Employment of contract labour in core activities of any estab. is prohibited.

Exceptions

- 1) normal functioning of establishment.
- 2) No require full time manker for major porting.
- 3) any sudden increase of volume of work in core activity.

Factories

Approval and licensing of factories. sec-79.

- app. Govt. may make rules with respect of factory for.
- submission of plans including specifi.
 - previous permission for the site on which factory is situated
 - other condition prescribed.

When shall factory not be deemed to be extended.

- ① replacement of any plant & m.
- ② addition of any plant & m.

Liability of owner of premises in certain circumstances. sec-80.

owner leased factory to occupier

- both responsible for OSHWC, hygiene, protection, temperature etc.

Power to apply code to certain premises [sec-81].

app. Govt. by notf, declare all part of provi. to any place where manuf. process is carried with or out electricity
→ after declare such place deemed to be a factory

Compulsory disclosure of info. by occupier. [sec-84].

- occupier informed to → state govt → about, danger, health hazards, measures to overcome such hazards. or substances in manuf., transpo., storage.

→ to whom disclose shall be made.

- ① workers
- ② chief ICF
- ③ local authority @ general public

On-site emergency plan. Every occupier shall.

with approval of C-ICF → draw up - on-site emergency plan and detailed disaster control measure.

known to: general public & workers.

Duty to disclose nature of hazardous process. to C-ICF within 30 days.

penalty: license can be cancel.

Right of workers to warn about imminent danger. [sec-88].

where workers are employed and they have known.

about any ~~to~~ imminent danger so they can commnd.

① occupier, agent, manager. / safety committee.

② Inspector cum facilitator.

Duty of the person receiving notice of imminent danger.

→ take immediate remedial action.

→ send report to Insp. cum facilitator.

