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REVISION OF WAGE CEILING UNDER THE PAYMENT OF WAGES ACT, 1936

1. INTRODUCTION

The Payment of Wages Act, 1936 (the “**Wages Act**”) is a Central Government legislation that governs the manner of payment of wages to certain classes of employed persons. The Wages Act, *inter alia*, ascribes responsibility for the payment of wages, provides for the fixation of time periods for such payment, prescribes the manner of disbursing payments and also stipulates a framework for governing disputes arising thereunder. The Wages Act prescribes a wage threshold for its applicability and therefore, it is applicable only to those employees whose wages do not exceed a prescribed limit.

The Central Government has, on August 28, 2017, notified an increase in the average monthly wage ceiling, to determine the applicability of the Wages Act. The notification¹ sets the new wage ceiling at INR 24,000 (Indian Rupees Twenty Four Thousand) per month – revising it from INR 18,000 (Indian Rupees Eighteen Thousand) per month.

This notification follows in quick succession to the Payment of Wages (Amendment) Act, 2017 which was enacted to bring about greater transparency in wage payments, by granting the appropriate Government² the power to mandate certain employers to make payment of wages only by cheque or by crediting wages into employees’ bank accounts.

2. THE WAGES ACT

It is imperative to understand the various components of ‘wages’, so as to determine the applicability of the wage ceiling described above. Section 2(vi) of the Wages Act, which defines ‘wages’, provides for specific components as well as certain exclusions in this regard. Thus, the definition of wages under Section 2(vi) will have to be examined further to understand the extent of the wage ceiling.

Section 2(vi) defines ‘wages’ broadly as all remuneration “*expressed in terms of money or capable of being expressed in terms of money*”, which is payable to an employee in respect of his employment. The following components are specifically included within the definition of wages:

- (a) remuneration with respect to overtime work, holidays or leave periods;
- (b) any additional remuneration (such as bonus) payable under the terms of employment. This could, for example, be the bonus payable under the Payment of Bonus Act, 1965; and
- (c) remuneration payable under any award or settlement between the parties or order of a Court.

¹ Notification S.O. 2806(E), dated August 28, 2017, available at <http://egazette.nic.in/WriteReadData/2017/178375.pdf> last accessed on August 31, 2017.

² In terms of Section 2(i) of the Wages Act, “appropriate Government” means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government.

On the other hand, some of the exclusions are:

- (a) bonus which does not comprise remuneration payable under the terms of employment (for example, a profit sharing arrangement);
- (b) value of house accommodation or other amenities provided;
- (c) employer contributions to any pension or provident fund, and accrued interest; and
- (d) travelling allowance and sums paid to cover any special expenses incurred by the employee.

IndusLaw View:

The increment in the wage ceiling reflects the rising costs of living and might have the effect of benefitting a wider net of people by bringing them within the ambit of the Wage Act, thus furthering the objective of the legislation. It may also pave the way for similar benefits accruing to employees through complementary labour legislations such as the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and the Payment of Bonus Act, 1965.

However, this revision does raise intriguing questions vis-à-vis the Code on Wages, 2017, Bill (the "**Wage Code**")³. The Wage Code, which has been introduced in the Lok Sabha's ongoing monsoon session, seeks to be the all-encompassing legislation regulating wages, amalgamating and simplifying the extant wage legislations such as the Wages Act, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976.⁴ Given this context, it may of course be that the Government is expecting some delay in the implementation of the Wage Code.

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³ The Code on Wages, 2017, Bill available at <http://www.labour.nic.in/sites/default/files/Code%20on%20Wages%20Bill%202017-As%20introduced%20in%20Lok%20Sabha.pdf> last accessed on August 31, 2017.

⁴ For further background, see *Union Cabinet Approves the Wage Code*, August 10, 2017, available at <https://induslaw.com/publications/pdf/alerts-2017/Infolex-Newsalert-UNION-CABINET-APPROVES-THE-WAGE-CODE.pdf?src=website&CTA=ReadMore&Date=11-Aug-2017> last accessed on August 31, 2017.