

# Delhi GST Professional Group

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## **Occupational, Safety and Health and AND WORKING CONDITIONS Code 2020**

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# This PPT covers

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1. Introduction of OSH Code and its objective
2. Structure of OSH code, 2020
3. Important definitions
4. Single centralized digital registration of all establishments.

# This PPT covers

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5. Provisions relating to contract labour
6. Regulation of inter-state migrant labour
7. Employment of women workers

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# Introduction to OSH Code 2020

# Structure of OSH Code 2020

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1. The OSH Code, 2020 is divided into XIV chapters and three schedules
  - i. Chapter 1 on applicability
  - ii. Chapter II: Registration of establishments
  - iii. Chapter III: Duties of employers and employees
  - iv. Chapter IV: National Occupational safety and health: Constitution of OSH Advisory Board, its composition and powers

# Structure of OSH Code 2020

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- v. Chapter V: Health and working conditions  
– responsibilities of employers
- vi. Chapter VI: Welfare provisions
- vii. Chapter VII: Welfare provisions
- viii. Chapter VIII: Maintenance of registers  
records, and returns
- ix. Chapter IX: Inspector-cum-facilitators and  
other Authority. Sec 35 powers of  
inspectors and also Third party inspections

## Structure of OSH Code 2020

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- x. Chapter X: Special provisions relating to employment of women
- xi. Chapter XI: Special provisions relating to contract labour, interstate migrant labour etc. It has 8 parts
- xii. Chapter XII: Offences and penalties
- xiii. Chapter XIII: Social security fund
- xiv. Miscellaneous provisions

## Chapter XI: Has 8 parts covering special provisions for different section of workers

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- i. Contract labour
- ii. Interstate migrant labour
- iii. Audio visual workers
- iv. Mines
- v. Beedi and cigar workers
- vi. Building and other construction workers
- vii. Factories
- viii. Plantation

# Labour under The Indian Constitution of India

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As per Article 245 read with the  
Seventh Schedule to the Constitution of  
India,

power of make laws on Labour covering  
issues such as,

**wages, conditions of work, safety,  
social security, insurance, employment  
and unemployment, etc., prescribed in  
the Concurrent List.**

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# **Object of the The Occupational Safety, Health and Working Conditions Code, 2020**

# Objects of The Occupational Safety, Health and Working Conditions Code, 2020

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To **consolidate and amend** the laws regulating the occupational **safety, health and working conditions** of the persons employed in **establishments** across the country.

# Objects of The Occupational Safety, Health and Working Conditions Code, 2020

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The Code has the following two objectives:

1. **Safeguarding worker rights** and safe working conditions, and
2. Creating a **business-friendly regulatory environment** spur economic growth and employment thereby making India's labour market more efficient, fair and future ready.

# Objects of The Occupational Safety, Health and Working Conditions Code, 2020

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3. The OSH Code Code provides for a single all India registration, timebound approvals and electronic filing.

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# Important definitions

# Establishment

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**“Establishment”**: means—

- i.** A place where any industry, trade, business, manufacturing or occupation is carried on in **which ten or more workers are employed**; or
- ii.** **Motor transport undertaking**, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or

# Objects of The Occupational Safety, Health and Working Conditions Code, 2020

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**“Establishment”**: means—

- iii.** factory, for the purpose of Chapter II, in which ten or more workers are employed, notwithstanding the threshold of workers provided in clause (w) (Clause w covers factory without (4) or with the the aid of power (20)); or
- iv.** (iv) a mine or port or vicinity of port where dock work is carried out:

# Objects of The Occupational Safety, Health and Working Conditions Code, 2020

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**“Establishment”**: means—

Provided that in sub-clauses (i) and (ii), the threshold of worker specified therein shall not be applicable in case of such establishment or class of establishments, in which such **hazardous or life-threatening activity** is being carried on, as may be notified by the CG:

# Objects of The Occupational Safety, Health and Working Conditions Code, 2020

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**“Establishment”**: means—

Provided further that notwithstanding any threshold provided in the definition of factory in clause (w), for the purposes of Chapter II, (covering Registration) the establishment specified in sub-clause (i) or sub-clause (ii) or sub-clause (iii) shall be deemed to be the establishment within the meaning of this clause though the number of employees employed are ten or more;

# Background of The Occupational Safety, Health and Working Conditions Code, 2020

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1. The OSH Code, 2020 has been enacted pursuant to **the Report of the Second National Commission on Labour on the Occupational Safety, Health and Working Conditions of the Workers.**

# **Amalgamation of erstwhile laws into The Occupational Safety, Health and Working Conditions Code, 2020**

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The Factories Act, 1948, Mines Act, 1952, The Dock Workers (Safety, Health and Welfare) Act, 1986, The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, The Plantations Labour Act, 1951 etc.

# Amalgamation of erstwhile laws into The Occupational Safety, Health and Working Conditions Code, 2020

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5. The Contract Labour (Regulation and Abolition) Act, 1970
6. The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979

# Amalgamation of erstwhile laws into The Occupational Safety, Health and Working Conditions Code, 2020

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8. The Working Journalist and other News Paper Employees (Conditions of Service and Misc. Provision) Act, 1955
9. The Working Journalist (Fixation of rates of wages) Act, 1958
10. The Motor Transport Workers Act, 1961

# Amalgamation of erstwhile laws into The Occupational Safety, Health and Working Conditions Code, 2020

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11. Sales Promotion Employees (Condition of Service) Act, 1976
12. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
13. The Cine Workers and Cinema Theatre Workers Act, 1981.

# Salient features of The Occupational Safety, Health and Working Conditions Code, 2020

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## Enhanced Coverage

The OSH Code is applicable to **all establishments employing 10 or more workers**, where:

any industry, trade, business, manufacture or occupation is carried on,  
including Information Technology establishments or establishments of service sector.

# Salient features of The Occupational Safety, Health and Working Conditions Code, 2020

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- 2. Threshold of applicability** has been made uniform at 10 workers for all establishments,  
**except mines and dock where the Code would be applicable even with one worker.**

# Important definitions

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**“Appropriate Government”**: means—

- i.** in relation to, establishments [other than those specified in sub-clause (ii) (small such as *bidi* establishment) carried on by or under the authority of the CG or
- ii.** concerning any such controlled industry as may be specified in this behalf by the CG or

# Important definitions

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**“Appropriate Government”**: means—

- iii.** or the establishment of railways including metro railways, mines, oil field, major ports, air transport service or telecommunication service, banking company or any insurance company (by whatever name called) established by a Central Act or a corporation or other authority established by a Central Act

# Important definitions

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**“Appropriate Government”**: means—

- iv.** or a Central PSUs or subsidiary companies set up by the Central PSUs or autonomous bodies owned or controlled by the CG, including establishment of contractors for the purposes of such establishment, corporation or other authority, CPSUs, subsidiary companies or autonomous bodies, as the case may be, the CG.

# Important definitions

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**“Appropriate Government”**: means—

(ii) in relation to a factory, motor transport undertaking, plantation, newspaper establishment a

nd establishment relating to beedi and cigar including the establishments not specified in clause (i), the concerned SG where it is situated.

# Important definitions

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**“Hazardous Substances** :means— any substance or such quantity of the substance as may be prescribed by the app Govt or preparation of which by reason of its chemical or physio-chemical properties or handling is liable to cause physical or health hazards to human being or may cause harm to other living creatures, plants, micro-organisms, property or the environment;

# Important definitions

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**“Wages”** :means— all remuneration whether by way of salaries, allowances or otherwise, 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,—

# Important definitions

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**“Wages”** :means— and includes,—

(i) basic pay;

(ii) dearness allowance; and

(iii) retaining allowance, if any,

# Important definitions

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but does not include—

- a. any bonus payable** under any law which does not form part of the remuneration payable under the terms of employment;
- b. The value of any house-accommodation**, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

# Important definitions

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but does not include—

- c. any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- d. any conveyance allowance or the value of any travelling concession;
- e. any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment

# Important definitions

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but does not include—

- f. House rent allowance;
- g. Remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
- h. Any overtime allowance;
- i. Any commission payable to the employee;
- j. Any gratuity payable on the termination of employment;

# Important definitions

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but does not include—

- k. Any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under sub-clauses (a) to (i) exceeds

# Important definitions

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**one-half, or such other per cent. as may be notified by the CG, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:**

Provided further that for the purpose of equal wages to all genders and

# Important definitions

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for the purpose of payment of wages, the emoluments specified in sub-clauses (d), (f), (g) and (h) shall be taken for computation of wages.

Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any **remuneration in kind** by his employer, the value of such remuneration in kind **which does not exceed fifteen per cent. of the total wages** payable to him, shall be deemed to form part of the wages of such employee;

# Important definitions

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**Worker(zzl):** means any person employed in any establishment to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward,  
whether the terms of employment be express or implied, and  
includes working journalists and sales promotion employees,  
but does not include any such person—

# Important definitions

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## **Worker(zzl):**

- i.** Who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or
- ii.** Who is employed in the police service or as an officer or other employee of a prison; or
- iii.** who is employed mainly in a managerial or administrative capacity; or

# Important definitions

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**Worker(zzl):**

- iv.** Who is employed in a **supervisory capacity** drawing wage **exceeding eighteen thousand rupees** per month or  
an amount as may be notified by the Central Government from time to time;

# Important definitions

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for the purpose of payment of wages, the emoluments specified in sub-clauses (d), (f), (g) and (h) shall be taken for computation of wages.

Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any **remuneration in kind** by his employer, the value of such remuneration in kind **which does not exceed fifteen per cent. of the total wages** payable to him, shall be deemed to form part of the wages of such employee;

# Important definitions

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## **Factory:**

1. Very similar definition as given in the erstwhile Factories Act, 1948, except that the number of workers engaged therein has been raised to 20 with the aid of power and 40 without the aid of power.
2. Provided that where under any law for the time being in force in a State immediately before the commencement of this Code, the number of workers specified is more or less than the number specified in clause (i) (2) or clause (ii) (40).

# Important definitions

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## **Factory:**

then, the number specified under the law of **the State shall prevail in that State till it is amended by the competent Legislature.**

# Salient features of The Occupational Safety, Health and Working Conditions Code, 2020

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## **3. Definition of Working Journalists and Cine worker have also been modified to**

include workers employed in electronic media and all forms of audio-visual production.

# National Occupational Safety and Health Advisory Board (NOSHAB)

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The Code mandates for establishment NOSHAB which will be of **tripartite nature**, having the representation from **trade unions, employer associations, and State governments.**

# Functions of NOSHAB

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To advise the CG on the matters relating to—

- a. standards, rules and regulations to be declared or framed under this Code;
- b. Implementation of the provisions of this Code and the standards, rules and regulations relating thereto;

# Functions of NOSHAB

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- c. The issues of policy and programme relating to occupational safety and health referred to it, from time to time, by the Central Government;
- d. Any other matter in respect of this Code referred to it, from time to time, by the Central Government.

# National Occupational Safety and Health Advisory Board (NOSHAB)

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2. This will result in:
  - i. reduction in multiplicity of bodies/committees in various Acts and
  - ii. simplified and coordinated policy-making.

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# Other provisions on Occupational Safety and Health

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1. Setting up of National Occupational safety and health standards (Sec 18)
2. Conducting Safety and occupational health survey (Sec 20)
3. Collection of statistics and portal for inter-State migrant workers (Sec 21)
4. Safety committee and safety officers (Sec 22)

# Safety Committee

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The following establishments to have safety committees:

1. **Factory** wherein five hundred workers or more; or
2. factory carrying on hazardous process wherein two hundred fifty workers or more; or

# Safety Committee

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3. building or other construction work wherein **two hundred fifty workers** or more; or
4. mine wherein **one hundred workers** or more, are ordinarily employed,

# Sec 23: Responsibility of employer in maintaining:

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1. Cleanliness and hygiene;
2. Ventilation, temperature and humidity;
3. Environment free from dust, noxious gas, fumes and other impurities;
4. Adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work rooms;

# Sec 23: Responsibility of employer in maintaining:

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5. Potable drinking water;
6. Adequate standards to prevent overcrowding and to provide sufficient space to employees or other persons, employed therein;
7. Adequate lighting;

# Sec 23: Responsibility of employer in maintaining:

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8. Sufficient arrangement for latrine and urinals separately for male, female and transgender
9. Effective arrangements for treatment of wastes and effluents; and
10. Any other arrangement which the Central Government considers appropriate

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10. Any other arrangement which the Central Government considers appropriate

# Single Registration Mechanism

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1. The Code proposes **one registration for an establishment** instead of multiple registrations.
2. This will create a centralized data base and promote **ease of doing business**.
3. Under the erstwhile laws, separate registration was required to be obtained under six Acts.

# Duties of Employers

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Duties of the employers, include-

- 1. Providing a hazard free workplace**
- 2. Providing free annual health examinations to employees.**

# Duties of Employees include:

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1. Taking care of their **own health and safety**
2. Complying with the **specified safety and health standards**
3. Reporting **unsafe situations to the employer/inspector.**
4. Every employee will have the **right to obtain from the employer information** related to safety and health standards.

# Power of the Government to declare any place as factory

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1. Government can declare any place wherein **manufacturing process is being carried** out as a factory, and for any persons working at such premises to be classified as workers.

# Special Provisions for Factories

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2. As opposed to the earlier threshold of **30 women workers** prescribed under the Factories Act, a *crèche facility* is now required to be provided by all Establishments (including factories) **where more than 50 workers** are ordinarily employed.

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# Health, Safety, and Working Conditions of Employees under OSH Code

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## **The Code provides for**

1. Separate washing facility for male and female employees
2. Males, Females, and Transgender must be allocated separate bathing places and locker rooms
3. Sitting arrangement for employees working in a standing position

# Health, Safety, and Working Conditions of Employees under OSH Code

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4. Proper first-aid facilities
5. Cleanliness and hygiene must be maintained at the workplace
6. Portable drinking water must be made available
7. Adequate lighting
8. Adequate measures to avoid overcrowding

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# Provisions for Contract Labour

# Sec 2 (n): Definition of Contract Labour

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“Contract labour” means a worker who:  
shall be deemed to be employed in or in  
connection with the work of an establishment  
when he is hired in or in connection with such  
work

**by or through a contractor,**

with or without the knowledge of the principal  
employer and includes inter-State migrant worker

# Sec 2 (n): Definition of Contractor

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“Contractor”, in relation to an establishment, means a person, who—

- i. 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

# Sec 2 (n): Definition of Contractor

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- ii. Supplies contract labour for any work of the establishment as mere human resource, and includes a sub-contractor;

# Sec 2 (n): Definition of Principal employer

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Where the contract labour is employed or engaged, means:—

1. in relation to any office or Department of the Government or a local authority, the head of that office or Department or such other officer as the Government or the local authority, may specify in this behalf;

# Sec 2 (n): Definition of Principal employer

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2. in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;
3. in a mine, the owner or agent of the mine;
4. in relation to any other establishment, any person responsible for the supervision and control of the establishment;

# Provisions for Contract Labour

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1. These provisions apply to every establishment in which 50 or more contract labour are/were employed on any day of the preceding 12 months. (Sec 45)
2. **License:** Every contractor employing 50 or more contract workers must obtain a licence. (Section 47).

# Provisions for Contract Labour

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3. The licence shall be valid for 5 years.  
(Section 48)
4. A contractor seeking to supply or engage contract labour, or to carry out contract work in multiple States or across India, may obtain a licence from the authority notified by the CG. (Sec 47).

# Provisions for Contract Labour

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5. The Principal Employer will be responsible for providing welfare facilities as prescribed under Section 23 and Section 24 of the Code. (Section 53)

# Provisions for Contract Labour

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6. In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then, the principal employer will be liable to make payment to the contract labour. (Section 55).

# Core and Non Core activities under OSH Code, 2020

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1. Core activities are the primary, essential functions for which an establishment is set up.
2. *Examples:* Manufacturing on a factory floor, IT services in an IT company
3. **OSH Code restricts contract labour use in core activities.**

# Core and Non Core activities under OSH Code, 2020

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4. Non-core activities, often outsourced, include **support services** which are excluded from the core prohibition.
  - i. Sanitation, cleaning, sweeping, and waste disposal.
  - ii. Watch and ward (security services).
  - iii. Canteen and catering services.

# Core and Non Core activities under OSH Code, 2020

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- iv. Loading and unloading operations.
- v. Running of hospitals, educational/ training institutions, or guest houses.
- vi. Courier services.
- vii. Civil/construction works and maintenance.
- viii. Gardening and landscaping.

# Regulation of Core under OSH Code, 2020

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As per Sec 57, the principal employer may engage contract labour in any core activity, if

- a. the normal functioning of the establishment is such that the activity is ordinarily done through contractor; or
- b. The activities are such that they do not require full time workers for the major portion of the working hours in a day.

# Regulation of Core under OSH Code, 2020

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- c. Any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.
- 2. **Power of Govt:** The appropriate Govt may, by notification, appoint a designated authority to advise that Government on the question whether any activity of an establishment is a core activity or otherwise

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# Provisions for Interstate Migrant Workers

# Provisions for Interstate Migrant Workers

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1. These provisions will apply to every establishment in which 10 or more interstate migrant workers are/were employed on any day of the preceding 12 months. (Section 59)

# Sec 21: Collection of statistics of Interstate Migrant Workers

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1. The CG and the SG shall collect, compile and analyse in such form and manner as may be prescribed.
2. The Govts shall maintain the database or record, for inter-State migrant workers, electronically or otherwise in such portal

# Sec 21: Collection of statistics of Interstate Migrant Workers

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3. An inter-State migrant worker may register himself on such portal on the basis of self-declaration and Aadhaar
4. The workers who have migrated from one State to any other State and are **self-employed in that other State** may also register themselves on that portal

# Provisions for Interstate Migrant Workers

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- 2. Journey Allowance:** Employers must pay every inter-State migrant worker employed in the establishment a **lump-sum journey allowance once** in a year to cover the to-and-fro travel fare between the place of employment and the worker's native place. (Section 61)

# Provisions for Building and Construction Workers

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1. Employer must provide **free temporary living accommodation** to all building workers at or near the worksite and for ensuring removal of such accommodation and restoration of land obtained from local authorities after its use. (Section 24).

# Provisions for Building and Construction Workers

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2. Principal Employer must make payment of the expenses incurred by the contractor for providing accommodation where the building or other construction work is carried out through a contractor. (Section 24).

# Provisions for Building and Construction Workers

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**3. Employer must not employ any person who is known, or reasonably believed, to have**

hearing impairment, defective vision, or a tendency to giddiness in building or construction operations that may pose a risk of accident to themselves or others.  
(Section 78)

# Provisions for Building and Construction Workers

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4. Employer must comply with occupational safety and health standards notified for BoCW by the Central Government. (Section 18)

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# Facilitative Governance

# Inspector cum Facilitator Model

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The Code replaces traditional inspectors, enabling:

1. Advisory-based compliance
2. Randomized digital inspections
3. Reduced subjective intervention
4. More predictable regulatory oversight
5. Third-party audits

# Third Party Audit

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1. Under Chapter 9, Section 37 of the OSH Code, the appropriate government is authorised to notify a scheme for empanelling qualified experts to conduct third-party audits and certifications.
2. The scheme may be designed for start-ups or any other specified class of establishments.

# Third Party Audit

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3. Empanelled experts shall be assigned audit and certification duties through a government-managed, web-based, randomised allocation system.
4. They shall carry out these audits in accordance with the procedures and objectives set out in the notified scheme.

# Women centric reforms

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Women can now:

1. Work in all establishments and all types of jobs
2. Work at night with consent, subject to safety and transport arrangements
3. Access creche facilities (now gender-equal) in establishments with 50+ workers

These measures support India's push to increase female labor force participation.

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# Grievance Redressal under OSH Code

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Key aspects of the Grievance Redressal Mechanism include:

- 1. Safety Committees:** Mandatory in factories (500+), construction (250+), and mines (100+) to address health, safety, and welfare complaints.

# Grievance Redressal under OSH Code

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- 2. Conciliation/Inspector Involvement:** If not resolved internally, grievances can be forwarded to the Inspector-cum-facilitator.
- 3. Migrant Worker Focus:** Specific provisions exist for Inter-State Migrant Workers, including a dedicated toll-free helpline.

# Grievance Redressal under OSH Code

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- 4. Time-Bound Action:** Grievances submitted to the principal employer under draft rules are to be resolved by a committee within one month.
- 5. Individual Disputes:** Grievances relating to termination, dismissal, or retrenchment can be taken to an Industrial Tribunal.

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Thank you very much.  
Have a nice day!

**R.K. Khurana**  
**Advocate**