



April, 17<sup>th</sup> 2020

## India – COVID-19 – Extension of lock down and focus on employment law

### I. Central

- On 14<sup>th</sup> April 2020, the Government of India extended the lock-down till **3<sup>rd</sup> May 2020**. All restrictions that have been imposed in various sectors and on various activities (as spelt out in the [Consolidated Guidelines of MHA](#)) remain in force. Ministry of Home Affairs (MHA) also issued subsequent clarifications to these guidelines to ensure availability of essential goods and services across the country and prevent hardships to the people:
- **Inter-state and intra-state movement of all trucks** and other goods / carrier vehicles with one driver and one additional person is allowed as long as the driver is carrying a valid driver's license (irrespective of the nature of the cargo, whether essential or otherwise). No further permit or approval would be required.
  - **Empty trucks/ goods carriers** should also be allowed to operate while on way to pick up goods, or returning after completing a delivery.
  - Local authorities should actively facilitate the **movement of truck drivers and cleaners** from their place of residence to location of their trucks.
  - Local authorities should facilitate the easy to and from **movement of workers** to workplace and back, in respect of all the permitted industrial/ commercial activities.
  - Regarding **issuance of passes** to workers engaged in the manufacturing of permitted categories, the State/ UT Governments are advised to expeditiously issue passes on the basis of authorizations issued by companies/ organizations. The State/ UT Governments shall ensure that these passes are honored both for movement within their State/ UT and in bordering areas of other States/ UTs.
  - MSMEs engaged in **the manufacture of essential items** like wheat flour (atta), pulses (dal) and edible oils should be allowed to function freely, without any hindrances.
  - **Warehouses/ cold storage** should be allowed to freely function with allowance for to and fro movement of trucks and without regard to the

nature of the goods, whether essential or otherwise. Warehouses of companies should also be allowed to operate.

These stipulations apply to all areas other than the areas requiring containment, quarantine and surveillance measures (hotspots) as per the guidelines of Ministry of Health and Family Welfare (MoHFW).

#### ➤ **Central Government advisory**

On 20th March 2020, the [Ministry of Labour and Employment](#) advised employers not to terminate employees or reduce wages (“**Central Government Advisory**”). If any employee takes leave, he/she should be deemed to be on duty without any consequential deduction of wages for this period. If the place of employment is non-operational due to COVID-19, the employees of such unit will be deemed to be on duty

#### ➤ **Pradhan Mantri Garib Kalyan Yojana (PMGKY) scheme**

Under the PMGKY relief package:

- amendments has been made to the Employees’ Provident Fund Organisation (EPFO) scheme to allow organised sector workers to withdraw the non-refundable advance: up to three months’ salary or 75% of the amount available, whichever is lower, can be withdrawn.
- for three months, the employee’s and the employer’s [contribution towards the EPF](#) scheme will be paid by the government. However, this benefit will be provided to employers having employment up to 100 and whose 90% of the employees are getting wages less than Rs. 15,000.

EPFO has issued a [FAQ](#) on EPF advance and a on 16<sup>th</sup> April 2020 a [FAQ](#) on how to avail benefit under PMGKY.

#### ➤ **ESI contributions**

On 9<sup>th</sup> April 2020, ESIC [announced](#) that as a relief measure, the period for filing ESI contribution for the month of February and March was extended to 15th April and 15th May.

On 16<sup>th</sup> April 2020, [ESIC further extended](#) the period for filing ESI contribution for the month of February to 15th May, 2020.

## II. **State governments**

- Most of the State Governments have extended the lock down till 3<sup>rd</sup> May 2020 in line with the announcement of the Central Government.
- Certain states such as Haryana, Andhra Pradesh issued local advisory in line with the Central Government Advisory. Irrespectively, in all states, employers are strongly advised to comply, to the extent possible, to the Central Government Advisory.

As such,

- Termination or reduction of wages should be avoided;
- Wages should be fully paid even if the unit is non-operational;
- Time off shall not be considered as paid leave but employees to be deemed on duty

Companies facing financial difficulties, unable to pay wages and/or considering insolvency proceedings may approach the appropriate authorities to seek permission to retrench/lay off employees. As per the Industrial Disputes Act, 1947, employer will be liable to pay retrenchment compensation to workmen.

For any additional information, please contact



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