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COVID-19 and Work from Home in India

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Why in News

The rising wave of the **COVID-19 outbreak in India** has forced the corporate world in the country **to opt for 'work from home' widely**.

Currently, the work from home is the only viable option to **continue and sustain economic activities** in the country **to contain the spread of COVID-19**.

Key Points

- **Legal Provisions:**
 - India's labour laws and proposed Labour Codes **do not recognise work from home as a viable work arrangement**.
 - An organisation is also **required to maintain statutory records** under various acts such as Shops and Establishment Act, Minimum Wages Act, Payment of Wages Act, Equal Remuneration Act, Payment of Bonus Act, Factories Act, and Contract Labour Regulation and Abolition Act.
 - These laws **regulate** hours of work, payment of wages, leaves, holidays, terms of service and other conditions of work of persons employed.
 - However, the above provisions **assume that an employee has a fixed geography of work and does not account for an employee working from a remote location**.
- **Current Scenario:**
 - Most organisations in India **do not have well documented policies and guidelines** to support extended work from home arrangements.
 - Also most of the **managerial staff is not trained and equipped** to manage remote teams.

Applicability and Computation Challenges

- **Labour - a Subject on the Concurrent List:**

- Under the Constitution of India, **Labour is a subject in the Concurrent List** where both the Central & State Governments are competent to enact legislation subject to certain matters being reserved for the Centre.
- There are **416 Labour Laws and Rules between Centre, States and Union Territories** leading to 278 different filings and approximately 1,000 different formats of Registers.
- Thus, if an employee works remotely and is **based in a different state**, the applicable labour laws will change leading to different compliance obligations.
- States have implemented **labour laws with different applicability criteria, registration and documentation requirements.**

- **Minimum Wages Act:**

- The Minimum Wages Act 1948 is an Act of Parliament concerning Indian labour law that sets the minimum wages that must be paid to skilled and unskilled labourers.
- **The different states have different minimum wages based on schedule, skill level and zone.** As an example, just the state of Karnataka has over 800 different minimum wages.
- In the event of employees working remotely from different states, the complexity of wage computation will increase sharply.
- Minimum wage requirements for different states will have to be satisfied to stay compliant.

- **Overtime Wage Calculations:**

- An employer has to compute the wage of an employee **based on the days and hours of work** and maintain statutory registers as evidence.
- Overtime work hours have **different slabs and statutory payment requirements.**
- In a remote work arrangement, organisations will need to manage these records such that they are admissible by the Labour Department.

- **Professional Tax:**

- Professional tax is a tax on all kinds of professions, trades, and employment and levied based on the income of such profession, trade and employment.
- Professional Tax implementation **varies between states** in applicability, computation and filing requirements.

- **Labour Welfare Fund**

- Labour Welfare Fund is a **statutory contribution** managed by **individual state authorities.**
- In case an employee telecommutes from a different state, there are implications leading to additional registration and filings leading to **higher complexity and cost of managing compliance.**

Way Forward

- The world economies have become increasingly connected and interdependent. Greater flexibility, adaptability and resilience will be key to the next-generation workforce.
- **The implementation of technology advancements** in office productivity tools, collaboration tools, digital documents, flexible workflows, cheaper broadband connectivity will continue to make work from home easier.
- The proposed labour codes in India are expected to acknowledge gig, informal and unorganised labour in addition to work from home **as a legal option**.
- The government is also expected to make a **regulatory framework** to enable teleworking, organisations should understand the implications of work from home during the ongoing crisis and ensure that they inadvertently do not miss critical compliances.