

LABOUR LAWS FOR VENDOR COMPLIANCE MANAGEMENT

Ram K Navaratna
Chief Executive, HR Resonance



For compliance issues

Ram K Navaratna can be reached at: hrresonance@gmail.com | www.hrresonance.com

Today we are living in the world of vastly regulated world that can frequently seem confusing and sometimes frightening also. How do you know what you have to comply or not comply?

What do you do when you get conflicts between principles, statutes, regulations etc.? What will be your action plans while overcoming with day to day labour laws compliance issues? How to deal with Government, labour, shop and establishment, ESIC, Provident Fund etc. authorities? What are the legal consequences and penalties when you face with non compliance in your organization?

Ongoing globalization will increase the complexity of principles, regulations, and the cultures in which organizations operate. Increasing litigation, legislation, and regulations will carry important compliance implications. Good corporate governance demands that every organization comply with regulatory needs, and this is not a choice; but the increasing complexities of business in a diverse, global environment have brought the need for a more proactive management of the process. Thus compliance has become one of the most competitive edge in business.

Many cases Compliance has become non-negotiable for many. Compliance just means to comply with or adhere to. Hence statutory compliance means you are following the laws on a given issue. A company that follows all the rules is in statutory compliance.

With increased outsourcing and heightened regulatory concern, all establishments have to carefully manage their relationships with vendors of all types. To achieve this, statutory compliance under various labour laws should be ensured by establishments and the vendors deployed into those establishment. It is not just limited to the statutory deposits, returns and records to be maintained by the employer under various labour

laws, but it also to represent them in case of prosecution under various statutes.

Hence, it hardly needs to be emphasized that the labour related laws cast an obligation on the employer as well as their vendors for careful, perfect and timely compliances. In the event of violation or delay in complying with the statutory requirements, the consequences in terms of levy of damages, prosecution is inevitable. Further, under most of the employment laws, (Occupier and Manager) or the head of the institution/organization, as the case may be, is held liable and responsible and is required to personally attend such matters before the competent Authority or Court. In order to facilitate day-to-day functioning smoothly, Vendor compliance Management will be an added advantage to overcome with all the lacunas faced by establishment and their vendors.

The Various Labour statutes under which every establishment and their vendor need to comply are as follows:

1. Contract Labour (Regulation and Abolition) Act, 1970
2. Employees Provident Funds Act, 1952
3. The Employees State Insurance Act
4. Equal Remuneration Act
5. Factories Act, 1948
6. Payment of Bonus Act, 1965
7. 7 Payment of Gratuity Act, 1972
8. Industrial Disputes Act
9. Industrial Employment (Standing Orders) Act
10. Minimum Wages Act
11. Payment of Wages Act
12. Trade Unions Act, 1926
13. Employees Compensation Act, 1923

14. Shop and Establishment Act.
15. Interstate Migrant workers act
16. Building and construction Workers (Regulation of Employment and conditions of Service Act, 1996.
17. Motor Transport workers Act
18. The Building and Other Construction Workers' Welfare Cess Act,1996
19. Supreme Court guidelines- Prevention of sexual harassment

In Vendor compliance everybody who are concerned with this have to keep in mind the main critical implication of non compliance under various labour statutes like, for Principal Employer it would be show cause notice to Directors, Fine, Penalties, closure of business, prohibition order etc, for Vendor/Contractors it would be loss of pay, termination of contract, penal action, industrial relations problems etc. in addition to other visible and non visible pain and sufferings.

To make compliant organization, be clear about the applicability of respective laws to organization and vendor. Be aware about contract of employment and contract for employment where employer and employee relations determine for various entitlements. Hence, it is always advisable to engage only Registered/Licensed Vendor in the sense who is having all due registrations/licences under applicable labour laws and who is duly discharging Employer obligations. Therefore to be on safer side both employers should be aware about duties, responsibilities and obligations. These should be properly discharged.

Another factor is supervision and control on vendor's employees. Principal employer should have only secondary control. Have the insight about Out Worker and follow accordingly. Under all labour laws contractual obligations are to be seen and complied. To put it in one word strict compliance and satisfied worker concept has to be monitored regularly. However principle employer has also to ensure proper control and supervision of all statutory and non statutory records. See

that employment, terminations, settlements, claims are attended expeditiously and resolved. Most of these employment laws are of regulatory, payment, social security nature a lenient view is taken towards weaker section i.e vendor employees. So safety, health, welfare, payments proper congenial workings are expected.

Due to the modernization lot of female employees entry is inevitable. Hence insistence on compliance of women related laws like lifting of weights, working hours, child care, maternity, prevention of Sexual harassment, transport are also need of the hour for vigilance and implementation. These and many other steps will pave the way to acclaim Model Employer..

Failure on these part The Principal employer as well as vendors should also aware the types of fines which they can face on basis of non compliance, namely under Contract Labour Act 's Section 22- punishment for obstructing the inspector or failing to produce registers etc. - 3 months' imprisonment or fine upto Rs.5000/-, or both. Under Section 23 of Contract labour act for violation of the provisions of Act or the Rules, imprisonment of 3 months or fine upto Rs.1000/- and on continuing contravention, additional fine upto Rs.100 per day.

Under Payment of Wages Act the punishment will be imprisonment for 6 months or fine upto Rs.10,000/- for avoiding to make payment by making false statement or representation.

Under The Employees' Provident Funds And Miscellaneous Provisions Act the defaulting person is liable to be arrested without warrant. Defaults by employer in paying contributions or inspection/administrative charges attract imprisonment upto 3 years and fines up to Rs.10,000 (S.14) For any retrospective application, all dues have to be paid by employer with damages up to 100% of arrears. Rate of damages on delayed payment of contribution w.e.f. 26 / 09 / 08, up to 2 months @5% per annum. Above 2 months & up to 4 months @10% per annum. Above 4 months & up to 6 months @ 15% per annum. Above 6 months @ 25% per annum. Simple interest @ 12% pa is charged separately on

delayed payment of contribution. Thus following various provisions of laws averts dangers. Compliance cost is cheaper than Litigation cost.

To sum up we can only say one thing that implementation of Vendor compliance Management is today's one of the top most need in order to keep the organization's name intact, secure and popular among top listed organization list. With good governance practices can become Preferred Employer (company) even by the outsourced/vendors personnel world.

Conclusion:

Let me conclude with Japanese saying –Let us not follow a path set by others. Let us set a path for others to follow. Follow a right path to achieve competitive edge in business.

References:

- a. Various sources.