

INFOLEX CONSULTANTS

LEGAL INSIGHTS:

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IMPORTANT COMPLIANCES UNDER CODE ON WAGES OF 2019

A. CoW, 2019 | COMPLIANCE 1 OF 6 WAGE COMPLIANCES

1. Employer shall pay minimum rates wages notified by appropriate government to employees .
(Section 5)
2. Employers must not discriminate on the basis of gender in paying wages for the same or similar work, and must not discriminate on the basis of sex while recruiting employees. **(Section 3)**
3. Every establishment shall fix wage periods, which may be daily, weekly, fortnightly, or monthly. All wages must be paid within the prescribed timelines. **(Section 6)**
 - Daily basis - at the end of the day
 - Weekly basis - on the last working day of the week
 - Fortnightly basis - before the end of the second day after the end of the fortnight
 - Monthly basis - before the expiry of the seventh day of the succeeding month.
4. When an employee leaves an establishment, whether by resignation, dismissal, or termination, the employer is required to pay all due wages within two working days. **(Section 17)**

A. CoW, 2019 | COMPLIANCE 2 OF 6 WORKING HOURS & OVER TIME

1. Employer must comply with the daily and weekly working hour limits prescribed under the Code and the Rules made thereunder. **(Section 14)**
2. If an employee whose minimum rate of wages has been fixed under the Code, works beyond normal working hours, the employer must pay overtime for each extra hour at a rate of at least twice the normal wage. **(Section 14)**

A. CoW, 2019 | COMPLIANCE 3 OF 6

REGISTER & RECORDS

1. Employer must maintain the following in prescribed form:

- Attendance registers cum muster roll
- Wage register
- Overtime register
- Register of fines and deductions.

These registers must always be kept updated and can be maintained either in physical or electronic form. The record shall be preserved for period of 5 years.

2. Employers must issue wage slips in prescribed form to all employees on or before payment of wages.

A. CoW, 2019 | COMPLIANCE 4 OF 6

DISPLAY ON NOTICE BOARD

1. Employers must display the following on the notice board in English, Hindi and local language:

- Minimum rate of wages
- Normal working hours
- Wage period
- Date of wage payment
- Name and address of the Inspector-cum-Facilitator

A. CoW, 2019 | COMPLIANCE 5 OF 6

AUTHORIZED DEDUCTIONS FROM WAGES

1. Employers must not make any deductions except authorized under the Code.
2. These include deductions for absence from duty, deduction for damage or loss, deductions for recovery of advances or loans, deductions for fines imposed after giving the employee an

opportunity to be heard, house accommodation or amenity in service on acceptance. Deductions shall not exceed 50% of wages during the wage period.

A. CoW, 2019 | COMPLIANCE 6 OF 6

BONUS PROVISIONS

1. Subject to the eligibility criteria established under the law, bonus must be paid to every employee who draws wages up to the limit set by the appropriate government and has worked for at least 30 days in the accounting year i.e. the year commencing on the first day of April.
2. Subject to eligibility criteria established under the law, the annual bonus is to be paid @ minimum rate of 8.33% of the wages earned or INR 100/- (*whichever is higher*) and at a maximum rate of up to 20% of the wages earned by the employee.

IMPORTANT COMPLIANCES UNDER THE INDUSTRIAL RELATIONS CODE OF 2020

B. TIRC, 2020 | COMPLIANCE 1 OF 8

BI - PARTIES COMMITTEES (WORKS COMMITTEE)

1. Employers of industrial establishments that employ, or have employed, 100 or more workers in the preceding 12 months may be required by the appropriate Government, through a general or special order, to constitute a Works Committee.
2. The number of representatives of workers shall not be less than the number of representatives of employers.
3. The representatives of the workers shall be chosen from among the workers of the establishment, should be as prescribed by the appropriate Government and in consultation with their trade union.
4. The Works Committee must function with the objective of promoting and maintaining harmonious relations between the employer and workers.

B. TIRC, 2020 | COMPLIANCE 2 OF 8

BI – PARTIES COMMITTEES (GRIEVANCE REDRESSAL COMMITTEE)

1. Every industrial establishment employing 20 or more workers must constitute one or more Grievance Redressal Committees to address individual employee grievances.
2. The Committee must have an equal number of representatives from the employer and the workers.
3. The total number of members must not exceed 10.
4. The Chairperson shall be selected alternately from employer and worker representatives on a rotational basis every year.

5. The Committee must ensure adequate representation of women workers, which shall be at least proportionate to their share in the total workforce.
6. Any aggrieved worker can submit application within one year from the date on which the cause of action of such dispute arises before GRC.
7. GRC should complete its proceedings within 30 days from the date of receipt of the application.

B. TIRC, 2020 | COMPLIANCE 3 OF 8

STANDING ORDERS

1. The provisions on Standing Orders apply to industrial establishments employing 300 or more workers.
2. The Central Government will notify Model Standing Orders for uniform application.
3. Employers may adopt the Model Standing Orders and only need to intimate the Certifying Officer.
4. If the Model Standing Orders is not adopted, employers must prepare draft Standing Orders within six months of commencement of the Code, based on the notified Model Standing Orders.
5. Employers must consult the Trade Unions, the recognised negotiating union, or the members of the negotiating council before finalising the draft of the Standing Order.
6. The draft Standing Orders must be submitted to the Certifying Officer (electronically or otherwise) for certification.
7. The Certifying Officer must certify the Standing Orders or modifications within 60 days, failing which the draft Standing Orders or modifications in the Standing order shall be deemed to be certified.

B. TIRC, 2020 | COMPLIANCE 4 OF 8

RECOGNITION OF NEGOTIATING UNION OR NEGOTIATING COUNCIL

1. If only one registered trade union is functioning in an industrial establishment, the employer must, subject to prescribed criteria, recognise that union as the sole negotiating union for the workers.
2. If more than one registered trade union operates in an industrial establishment, the employer must recognise the trade union, that has the support of 51% or more of the total workers on the muster roll as the negotiating union.
3. If multiple registered trade unions exist and none has the support of 51% or more of total workers, then the employer must constitute a Negotiating Council. The Council will include representatives from registered trade unions, that have the support of at least 20% of the total workers, with one representative for each 20% of membership (and proportionate representation for any remaining fraction).
4. Any recognition of the Negotiating Council will be valid for three years from the date of its constitution. This period may be extended by mutual agreement between the employer and the trade union, up to a maximum of five years in total.

B. TIRC, 2020 | COMPLIANCE 5 OF 8

NOTICE FOR CHANGE OF SERVICE CONDITIONS

1. If an employer intends to change any service condition listed in the Third Schedule (Annexure 3), the employer must give a prescribed notice to the affected workers. The change can take effect only after 21 days from the date of the notice.

B. TIRC, 2020 | COMPLIANCE 6 OF 8

LAY OFF, RETRENCHMENT & CLOSURE PROVISION (CHAPTER 9)

1. Industrial establishments such as factories, mines, and plantations employing 50 to 299 workers must serve notice on appropriate government or such authority as specified by the appropriate government before carrying out any lay-off, retrenchment, or closure.
2. If a worker is laid off, the employer must pay compensation equal to 50% of the basic wages plus dearness allowance that the worker would have received if she/he had not been laid off.
3. Employers must give one month's prior notice to a worker before retrenchment.
4. Retrenchment compensation must be paid at the rate of 15 days' average pay for each completed year of continuous service.
5. Employers must also contribute an amount equal to 15 days' wages for each retrenched employee to the Workers' Re-Skilling Fund.
6. An employer planning to close an industrial establishment must serve prior notice on the appropriate government at least 60 days in advance, clearly stating the reasons for closure, and must simultaneously serve a copy of the application to the workers' representatives.
7. When ownership or management of an establishment is transferred, workers with at least one year of continuous service are entitled to notice and retrenchment compensation.

B. TIRC, 2020 | COMPLIANCE 7 OF 8

LAY OFF, RETRENCHMENT & CLOSURE PROVISIONS (CHAPTER 10)

1. Industrial establishments such as factories, mines, and plantations employing 300 or more workers must obtain prior permission from the appropriate Government before any lay-off, retrenchment, or closure.

2. If a worker is laid off, the employer must pay compensation equal to 50% of the basic wages plus dearness allowance that the worker would have received if they had not been laid off.
3. Employers must give three months' prior notice before retrenchment.
4. Retrenchment compensation must be paid at the rate of 15 days' average pay for each completed year of continuous service.
5. Employers must contribute an amount equal to 15 days' wages per retrenched employee to the Workers' Re-Skilling Fund.
6. An employer intending to close an industrial establishment must apply for prior permission at least 90 days in advance, clearly stating the reasons for closure, and must simultaneously serve a copy of the application on the workers' representatives.
7. In case of transfer of ownership or management, workers with at least one year of continuous service are entitled to notice and retrenchment compensation.

B. TIRC, 2020 | COMPLIANCE 8 OF 8

MANDATORY NOTICE OF STRIKE OR LOCKOUT

1. If an employer receives a strike notice from persons employed in industrial establishment, the employer must report the same within five days to the appropriate Government or the prescribed authority, and to the Conciliation Officer.
2. If the employer issues a lockout notice, the same must be reported within five days to the appropriate Government or the prescribed authority, and to the Conciliation Officer.
3. A conciliation proceeding shall be deemed to have commenced on the date on which the first meeting is held by the Conciliation Officer in an industrial dispute after the receipt of the notice of strike or lock-out by the conciliation officer. (Section 60)

4. If a strike or lock-out is already in existence, the employer must inform the Conciliation Officer on the same day the strike or lock-out is declared, in the manner specified by the appropriate Government.

IMPORTANT COMPLIANCES UNDER THE OCCUPATIONAL SAFETY, HEALTH & WORKING CONDITIONS CODE OF 2020

C. OSHWCC, 2020 | COMPLIANCE 1 OF 14

REGISTRATION

1. Every establishment employing 10 or more employees, must apply for registration, within 60 days of its existence.
2. The application will be made electronically on the portal prescribed by the appropriate Government.
3. Establishments already registered under any Central Act, do not need to register again, but must intimate their registration details to the Registering Officer.
4. For a registered establishment, the employer must intimate any change in particulars of establishment, electronically, within 30 days of such change, to the Registering Officer.

C. OSHWCC, 2020 | COMPLIANCE 2 OF 14

NOTICE OF COMMENCEMENT AND CESSATION OF OPERATION

1. Employers must send an electronic notice towards commencement of operations in a establishments i.e. factory, or mine, or contract labour establishment, or building or other construction work.
2. Employers must send an electronic notice towards cessation of operations in a establishments i.e. factory, or mine, or contract labour establishment, or building or other construction work.

C. OSHWCC, 2020 | COMPLIANCE 3 OF 14

DUTIES OF EMPLOYER

Every employer shall comply, inter-alia, with the following duties:

- i. Issuance of appointment letter to all employees.

- ii. Provide annual health check-ups, free of cost.
- iii. Ensure workplace is free from hazard, likely to cause injury or disease.

C. OSHWCC, 2020 | COMPLIANCE 4 OF 14
SAFETY COMMITTEE & SAFETY OFFICER

- i. As prescribed by the appropriate Government by general or special order, every establishment, must constitute a Safety Committee, consisting of representatives of both the employer and the workers.
- ii. In establishments carrying out building and other construction works employing 250 or more workers, and mines employing 100 or more workers, the employer shall appoint the prescribed number of safety officers.
- iii. Such safety officers shall possess the qualifications and shall perform duties as may be prescribed and specified by the appropriate Government.

C. OSHWCC, 2020 | COMPLIANCE 5 OF 14
SAFETY, HEALTH & WELFARE FACILITIES

- i. Employers are responsible for maintaining safe, healthy, and suitable working conditions in the establishment, including cleanliness and hygiene; proper ventilation and lighting; safe drinking water; separate toilet facilities for male, female, and transgender workers; adequate space; and effective arrangement for waste disposal, as prescribed. (Section 23)
- ii. Employers must provide welfare facilities in the establishment. (Section 24)
- iii. A canteen is required, if 100 or more workers are employed. (Section 24)

- iv. Establishments must provide an ambulance room in every mine and building or other construction work wherein more than 500 workers are ordinarily employed, as prescribed. (Section 24)
- v. Adequate, suitable, and separate shelters or rest rooms for male, female, and transgender employees, along with a lunchroom, must be provided in every mine wherein more than 50 workers are ordinarily employed. (Section 24)
- vi. Establishments employing more than 50 workers must provide a crèche for children below six years, of the employees, either on their own or through shared/common facilities, including those run by government, private entities, NGOs, or a group of establishments. (Section 24)

C. OSHWCC, 2020 | COMPLIANCE 6 OF 14

REGISTER, RECORDS & RETURNS

- i. Employers must maintain Registers
 - Register of Employees,
 - Register of Attendance -cum-muster roll,
 - Register of wages, overtime, deduction and dangerous occurrences as prescribed.]
- ii. Employers must issue wage slips in prescribed form to all workers.
- iii. File annual return electronically as prescribed by appropriate government.
- iv. The registered must be maintained electronically or as prescribed.

C. OSHWCC, 2020 | COMPLIANCE 7 OF 14

NOTICE OF CERTAIN ACCIDENTS, DANGEROUS OCCURRENCES AND CERTAIN DISEASES.

- i. The employer must notify the prescribed authorities of any accident occurring in an establishment that results in death, serious injury preventing work for 48 hours or more, or is of a prescribed nature. (Section 10)
- ii. Where any dangerous occurrence takes place in an establishment, whether or not it causes injury or disability, the employer must notify the prescribed authorities in the prescribed form and within the time specified by the appropriate Government. (Section 11)
- iii. Where any worker in an establishment contracts a disease specified in the Third Schedule, the employer must notify the prescribed authorities in the prescribed form and within the time specified by the appropriate Government. (Section 12)

C. OSHWCC, 2020 | COMPLIANCE 8 OF 14

WOMEN WORKING AT NIGHT & SAFETY OF EMPLOYMENT OF WOMEN IN DANGEROUS OPERATION

- i. Where women are employed before 6:00 a.m. or after 7:00 p.m., employers must obtain their consent and ensure compliance with prescribed safety measures, holidays, working hours, and other conditions as prescribed by the appropriate Government. (Section 43)
- ii. The employer must provide adequate safety safeguards prior to employment of women in certain establishments, which are dangerous for the health and safety of women or in any operations that may be considered hazardous or dangerous as prescribed by the appropriate Government. (Section 44)

- iii. The employment of pregnant women in manufacturing processes or operations involving serious risk of bodily injury, poisoning, or disease may be prohibited or restricted, as prescribed. (Section 82)

C. OSHWCC, 2020 | COMPLIANCE 9 OF 14

COMMON LICENSE FOR CERTAIN CATEGORIES OF ESTABLISHMENTS

1. The provision for common license is applicable for:
 - Contract Labor
 - Factories
 - Beedi & Cigar Workers
2. Any person seeking a common licence for a factory or industrial premises, must apply electronically, in the manner prescribed by the appropriate Government.

C. OSHWCC, 2020 | COMPLIANCE 10 OF 14

PROVISION FOR CONTRACT LABOR

- i. Every contractor employing 50 or more contract workers, on any day of preceding 12 months, must obtain a licence, which shall be valid for 5 years. (Section 47)
- ii. 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 Central Government. (Section 47)
- iii. The Principal Employer will be responsible for providing welfare facilities as prescribed under Section 23 and Section 24 of the Code. (Section 53)
- iv. 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)

C. OSHWCC, 2020 | COMPLIANCE 11 OF 14

SPECIAL PROVISION FOR INTER STATE MIGRANT WORKERS

- i. Employers, who engage 10 or more inter-state migrant workers in their establishment or factory, must pay them 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)

C. OSHWCC, 2020 | COMPLIANCE 12 OF 14

ADDITIONAL PROVISIONS FOR MINES

- i. Employers must ensure a safe and healthy workplace. This includes providing and maintaining safe plant and systems of work; ensuring safety in the use, handling, storage, and transport of materials; providing necessary information, training, and supervision; maintaining safe workplaces with secure entry and exit; and ensuring a safe working environment with adequate welfare facilities. (Section 6)
- ii. Employer must comply with occupational safety and health standards to be notified for mines by Central Government. (Section 18)
- iii. Employer must ensure the appointment of a Welfare Officer in every mine, employing 250 or more workers, with qualifications, conditions of service, and duties as prescribed. (Section 24)
- iv. Employers must undertake medical examinations of workers before employment and at periodic intervals thereafter, as prescribed. (Section 24)
- v. Employer must ensure that every mine is under the control of a sole manager who possesses the prescribed qualifications. (Section 67)
- vi. Employer must comply to Regulations related to mines notified by Central Government. (Section 136)

C. OSHWCC, 2020 | COMPLIANCE 13 OF 14

ADDITIONAL PROVISIONS FOR MAJOR DOCKS

- i. Employer must comply with occupational safety and health standards notified for docks by the Central Government. (Section 18)
- ii. Employer must comply to Regulations related to major docks notified by the Central Government. (Section 136)

C. OSHWCC, 2020 | COMPLIANCE 14 OF 14

ADDITIONAL PROVISION FOR BUILDING OR OTHER CONSTRUCTION WORKERS

- i. 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)
- ii. 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)
- iii. Employer must not employ any person who is known, or reasonably believed, to have hearing impairment, defective vision, or a tendency to dizziness in building or construction operations that may pose a risk of accident to themselves or others. (Section 78)
- iv. Employer must comply with occupational safety and health standards notified for BoCW by the Central Government. (Section 18)

IMPORTANT COMPLIANCES UNDER THE SOCIAL SECURITY CODE OF 2020

D. SSC, 2020 | COMPLIANCE 1 OF 9 REGISTRATION OF ESTABLISHMENT

1. Every establishment employing 10 or more employees, must apply for registration, within 60 days of its existence. The application will be made electronically on the portal prescribed by the appropriate Government.
2. Establishments already registered under any Central Act, do not need to register again, but must intimate their registration details to the Registering Officer.
3. For a registered establishment, the employer must intimate any change in particulars of establishment, electronically, within 30 days to the Registering Officer.

D. SSC, 2020 | COMPLIANCE 2 OF 9 EMPLOYEES' PROVIDENT FUND

- i. The provisions apply to all establishments employing 20 or more employees.
- ii. The employer must contribute 10% of the employee's wages towards the Provident Fund scheme. (Section 16)
- iii. The employee's "*Provident Fund*" contribution, must be equal to the employer's contribution.
- iv. If an employee opts to contribute more than 10% of wages, the employer is not required to contribute beyond its prescribed share. (Section 16)

D. SSC, 2020 | COMPLIANCE 3 OF 9
EMPLOYEES' STATE INSURANCE

- i. The provisions apply to every establishment employing 10 or more persons, except seasonal factories. The provisions also apply to establishments engaged in hazardous or life-threatening activities, even if only one employee is employed. (The First Schedule)
- ii. It also applies to mines, port or vicinity of port where dock work is carried out.
- iii. The employer must pay both the employer's and the employee's contributions in respect of every employee. (Section 31)
- iv. In the case of female employees, the definition of family also covers dependent parents, including father-in-law and mother-in-law, whose income from all sources does not exceed the limit prescribed by the Central Government. (Section 2(33))
- v. Different type of benefits to which an insured person is entitled are (Section 32):
 - **Sickness benefit:** Periodical payment to insured person in case of sickness known as sickness benefit
 - **Maternity benefit:** Periodical payments to an insured person being a woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage.
 - **Disablement benefit:** Periodical payments to insured person suffering from disablement as a result of employment injury sustained by him.
 - **Dependent's benefit:** Periodical payments to dependents of an employee who died as a result of employment injury.

- **Family Medical Benefit:** For medical treatment of the insured person and insured person's family for which contribution are paid or payable or in which insured person is qualified to claim sickness benefit or maternity benefit.
- **Funeral expenses:** Payment of funeral expense to a family member or a person who actually incurs the expenditure on the funeral of the deceased insured person.

D. SSC, 2020 | COMPLIANCE 4 OF 9

GRATUITY

- i. Gratuity must be paid to an employee on termination of his employment, after completing at least five years of continuous service. The termination must be due to superannuation, retirement or resignation, death or disablement due to accident or disease, or any other event notified by the Central Government. (Section 53)
- ii. An employer shall pay gratuity to a Fixed Term Employee, on termination of their contract period, after completion of one year service. (Section 53)
- iii. Gratuity must be paid at the rate of 15 days' wages for each completed year of service, subject to the maximum limit notified by the Central Government. (Section 53)
- iv. The employer shall pay the amount of gratuity within 30 days from the date it becomes payable. (Section 56)
- v. All employees who have completed one year of service are required to make a nomination within the time and in the manner prescribed by the appropriate Government. (Section 55)

D. SSC, 2020 | COMPLIANCE 5 OF 9

MATERNITY BENEFITS

- i. A woman employee is eligible for maternity benefit - if she has worked for at least 80 days in the preceding 12 months.

- ii. Employers must grant 26 weeks of maternity benefit, to eligible women employees working in their establishment.
- iii. An employer shall not dismiss or discharge a woman employee, who absents herself from work, in accordance with law, on account of maternity leave.
- iv. Employers are required to pay a medical bonus of INR 3,500/- to every woman employee, entitled to maternity benefit.
- v. A woman employee is entitled to six weeks of maternity benefit in case of miscarriage or medical termination of pregnancy and two weeks in case of tubectomy operation.
- vi. Employers must provide two nursing breaks, in addition to regular rest intervals allowed to every woman employee who has returned to work after delivery, until the child attains 15 months of age.
- vii. Employers must provide a crèche facility in every establishment employing 50 or more employees. An establishment may also avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation or group of establishments who may pool their resources for setting up of common crèche.

D. SSC, 2020 | COMPLIANCE 6 OF 9

EMPLOYEE COMPENSATION AGAINST MISHAP

- i. Every employer must pay compensation, if an employee suffers injury or death, due to an accident arising out of and in the course of his employment. (Section 74)
- ii. An accident occurring to an employee while travelling between place of residence and the workplace and vice-versa, will be treated as having arisen out of and in the course of his employment. (Section 74)
- iii. In case of an employee's death, or where the dependents are minors, the employer must deposit the compensation with the competent authority. (Section 81)

D. SSC, 2020 | COMPLIANCE 7 OF 9

SOCIAL SECURITY FOR UNORGANIZED, GIG AND PLATFORM WORKERS

- i. Aggregators are required to contribute an amount towards the social security schemes.
- ii. The amount of contribution shall be less than 2% of annual turnover of aggregators,
- iii. The amount paid towards social security schemes shall be, subject to a cap of 5% of the total amount paid or payable to, gig and platform workers. (Section 114)

D. SSC, 2020 | COMPLIANCE 8 OF 9

BUILDING & OTHER CONSTRUCTION WORKERS

- i. Under this Code, building and other construction work does not include any BoC work related to a factory, mine or a work employing less than ten workers in the preceding twelve months, or construction carried out for the personal residential use of an individual or a group of individuals where the total cost does not exceed Rs 50 lakh (or such higher amount as may be notified) and the number of workers employed is within the limit notified by the appropriate Government. [Section 2(6)]
- ii. Employers must pay a cess ranging from 1% to 2% of the total construction cost for building and other construction work, to fund social security and welfare benefits for construction workers. (Section 100)
- iii. The employer must within 60 days (or any other period notified by the Central Government) after completing each building or other construction work, pay the cess due based on self-assessment of construction cost, after adjusting any advance cess already paid, in a manner prescribed by the Central Government. (Section 103)
- iv. Employers must also ensure that, construction workers are registered with the Building Workers' Welfare Board. (Section 106)

D. SSC, 2020 | COMPLIANCE 9 OF 9
EMPLOYMENT EXCHANGE / CAREER CENTRE

- i. The appropriate Government may, by notification, require employers to report vacancies to a specified career centre before filling them.
- ii. The appropriate Government may prescribe the manner (electronically or otherwise) and form for reporting vacancies and filing returns with career centres. Reporting of vacancy/s does not oblige the employer to recruit through the career centre.

KEY CONNECT



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