

written by Suma RV | February 2, 2023

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The new labour codes seek to consolidate 29 existing statutes on labour that require a critical reformation since decades. With all the speculation for the implementation of the labour codes, understanding the implications of the new codes is essential, regardless of whether one falls on the employer or employee side of the spectrum.

The ease of doing business being one of the top priorities in a rapidly growing economy with one of the largest workforces in the world, these new codes may form an essential tool in facilitating the pursuit of this priority.

While a few inconsistencies remain, one can be prepared to witness the new labour codes comes into force this year. Various states and union territories have come up with draft rules under each labour code and pre-published them for public consultations.

*The Four Codes are:*

1. The Code on Wages, 2019 (the “Wage Code”);
2. The Occupational Safety, Health and Working Conditions Code, 2020 (the “OSH Code”);
3. The Code on Social Security, 2020 (the “SS Code”); and
4. The Industrial Relations Code, 2020 (the “IR Code”).

- The Wage Code:
- The OSH Code:
- The SS Code:
- The IR Code:

- Conclusion

- Contributed by Shrivar

#### The Wage Code:

The new wage code consolidates laws on wages, bonus and related matters. The code contains a uniform definition of 'wages'; and calls for an employee's basic pay, dearness allowance, and retaining allowance (if any) to be a minimum of 50% of the total cost to the company. This may result in lower take-home salary in certain cases as there may be a positive impact on the provident fund contributions and other social security benefits as these are calculated on the basicpay/wages of an employee.

There will further be established a minimum floor wage at the central level which will be the base rate for fixing the minimum wages by states. The new methodology for fixing the minimum wages may result in an additional financial burden on employers.

#### The OSH Code:

The OSH Code applies to workers, i.e., persons not engaged in managerial or administrative role, or supervisory role with a monthly wage exceeding INR 18,000. However, the provisions relating to health and working conditions apply to all employees.

The Code provides a national database for interstate migrant workers to collect, compile and analyse occupational safety and health statistics. The OSH Code also requires mandatory health checkups in establishments. Further, consent is required from the workers for overtime work for which they shall be remunerated twice the wages.

The Code also restricts the engagement of contract labour/third party employees in certain core activities, which will require the organizations to review their arrangements for the engagement of the workforce.

#### The SS Code:

The SS code provides for a separate social security fund for the unorganised, gig and platform workers. Aggregators, who are digital intermediaries or marketplaces for buyers or users of any services to connect with the sellers or the service providers, will be required to contribute 1-2% of their annual turnover to the social security fund for gig and platform workers. Further, creation of a national database of unorganised, gig and platform workers are envisaged under the code to seamlessly extend social security benefits to such workers.

Under the SS Code, the Employees' State Insurance benefits shall be extended to all industries involved in hazardous processes, i.e., irrespective of the number of employees engaged by such industries. Also, the gratuity will have to be paid on a proportionate basis to the employees employed on fixed-term contracts.

The increased focus on the social security provisions for workers will ensure the optimisation of the labour force and the availability of skilled labour for employers.

#### The IR Code:

The IR Code looks to optimise the ease of doing business with various changes such as:

- The increase in threshold limit from 100 to 300 workers for the applicability of standing orders to industrial establishments.
- The threshold of workers for permission for layoff, retrenchment and closure in industrial establishments is increased to 300 workers.
- Workers' disputes are to be resolved within 1 year by the Industrial Tribunals which will have 2 members to facilitate faster disposal of cases.

- Mass casual leave by more than 50% of workers on a day and strikes can be done only after adhering to certain requirements such as notice, etc.
- The code emphasises on recognition of trade unions in industrial establishments for collective bargaining. Under the IR Code, where only one trade union of workers is functioning in an industrial establishment, then the employer shall, subject to such criteria as may be prescribed, recognise such trade union as the sole negotiating union of the workers. If more than one trade union of workers functioning in an industrial establishment, then the trade union having support of 51% or more workers shall be recognised by the employer as the sole negotiating union of the workers. However, in industrial establishments in which no trade union has a membership of more than 51%, a negotiating council of trade unions shall be constituted for the purpose of collective bargaining.

Further, as per the IR Code, at the time of retrenchment of workers, the employer should contribute to the reskilling fund set up for the reskilling of retrenched workers.

#### Conclusion

The new codes aim to balance the welfare of employees and ease of doing business in India. However, the transition to the new regime requires a thorough understanding of the laws applicable and their implications. Considering the implications of implementing the new labour codes, the government must consider implementing them in a phased manner. The impact that the new labour codes shall have on implementation shall vary from one industry to another, or from one employer to another, as the variation will depend on the present salary and organisational structure of the concerned industry/establishment.

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