



Labour Codes

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Introduction - new Labour Codes



Table 1:

- Labour laws in India are traditionally governed by multiple legislations
- With a view to harmonise and consolidate multiple labour legislations, 29 central laws have been amalgamated into four labour codes
- Labour Codes have been passed by the Parliament and have received Presidential assent. However, they will come into force on the date notified by Central government
- The schemes, rules and regulations under the above labour codes are yet to be notified.

Table 2:

New Labour Codes

- The Code on Wages, 2019 (received Presidential assent in August 2019)
- The Code on Social Security, 2020 (SS Code) (received Presidential assent in September 2020)
- The Occupational safety, health and working conditions, Code 2020 (OSW Code) (received Presidential assent in September 2020); and
- The Industrial Relations Code 2020 (IR Code) (received Presidential assent in September 2020).

Overview of the Labour Codes:

1

Replaced/merged 29 existing central labour laws

5

New beneficial provisions for employees and employer

2

One standard comprehensive definition of wages for all 4 codes

6

More stringent penalty provisions have been introduced. Certain offences are compoundable.

3

Rationalisation of compliances and introduction of electronic filing of returns

4

Introduction of new category of employees - platform workers, fixed-term, gig workers, etc.



Impact on employers - key aspects



1



Gratuity shall be payable to the contract labourers too (subject to the fulfilment of the eligibility criteria as set out in the SS Code)

2



Introduction of the concept of holding the 'officer in charge' (under SS Code) to be directly liable in case of a company defaulting in relation to payment of gratuity and contributions towards ESI

3



Concept of 'negotiating union' introduced (in the IR Code) which shall act as the body for undertaking negotiations with the employer

4



Concept of 'core activity of business' restricts employers freedom to engage contract labour for all activities (concept introduced in the OSW Code)

5



A specific and separate penalty for non-maintenance for registers and records has been introduced in the Wages Code

6



The definition of employer, by virtue of the Wages Code includes 'contractor' and 'legal representative of deceased employer'.

Impact on employees - key aspects



Increase in coverage and liability of employees under ESI and PF

1

Opting in and opting out of voluntary coverage in social security schemes

2

Payment of wages (on removal/retracement/dismissal/resignation) to be made within two working days.

6

Increase in quantum of Gratuity payment

3

Free of cost annual health check-ups for specified employees of specified establishments

5

Canteen/creche facilities mandated for specified establishments

4

Areas for consideration



Potential Impact on employee Compensation:



- Review the following current aspects for various categories of employees:
 - Terms of employment/engagement;
 - Retiral/ social security benefits (Provident Fund, Gratuity and Leave encashment);
 - Salary structure;
 - Maternity benefit;
 - Employees' compensation; and
 - Statutory bonus
- Analyse the impact of the cost to the company
- Review the estimated financial impact (prepared on a sample/principal basis) from an employer and employee perspective; and
- Identifying the potential solution /revised action items at company's end.
- An analysis of the payroll policy(s) as well as HR policies (including benefits, leaves, maternity benefits) etc. that shall be required to be changed/amended.



Potential Impact on Contractual arrangements for manpower:



Revisiting of contractual aspects relating to:

- working hours
- benefits (provident fund, bonus, gratuity, employees state insurance, maternity benefits); and
- nature of work.

for different types of workers/employees engaged, depending upon the nature of their duties (such as permanent employees, on-roll regular employees, temporary employees, contract labourers/third party employees, gig workers, platform workers, fixed term employees; consultants/retainers, other employer-employee relationships.

Further, contract labour/manpower supply contractual arrangement will also need to be relooked into to assess the impact of the Labour Codes.

Further, the policy framework for newer concepts such as gig workers, platform workers would also need to be prepared in light of the recognition given to these under the Labour Codes.



How we can help



1. Advising on changes in the new legislation.
2. Initial Impact assessment (Financial and Non- financial) on a sample basis including changes in Compliance.
3. Identify areas which require representation/ advocacy to government. Assist in representation/Advocacy as necessary.
4. Finalization of Impact assessment post rules and effective date notified including assistance in preparing a roadmap.
5. Implementation and Compliance assistance.



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