



# A Glimpse of the Labour Codes



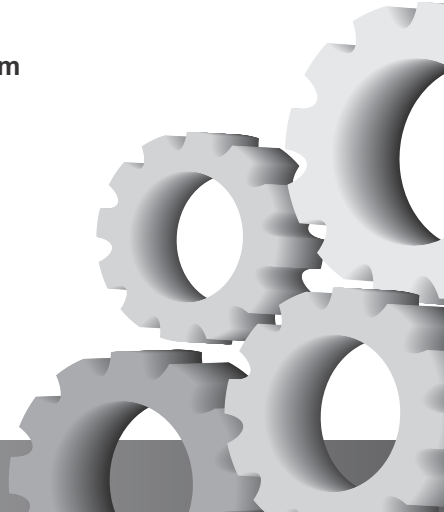
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## Introduction :

This document is intended to provide HR Professionals, Line Managers, Business Leaders, Union Leaders and Students of HR, a glimpse into the salient features of the Four Labour Codes which are on the anvil of becoming enactments in 2020. In a simple and brief manner this document reveals to the readers, basics on the definitions and provisions of each code with a focus on the ones which are different from the provisions of the existing regulations. It does not mention every provision in the Codes, hence to get a full understanding, one should read through the actual codes.

This is not a document which gives any critical view about the codes or their impact on the future of Industrial Relations in India.

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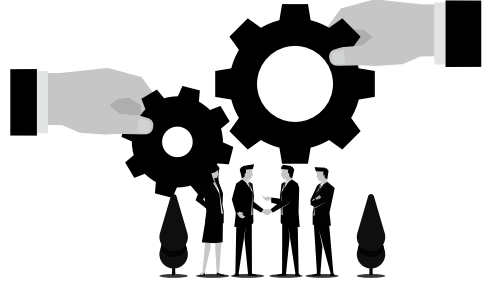
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## Objective of the Codes :

- Amalgamation of 28 legislations on Industrial Relations, Social Security, Wages, Safety , Health and Working Conditions
- Create Ease of Compliance by removing duplication of Records and Returns
- Provide uniformity in definitions for ease of compliance
- Use of technology for ease of filing returns and maintenance of records
- Bring about ease of changes without Parliament approvals by giving powers to Government
- Rationalization of enforcement authorities and web based inspection process.
- Enhancement of Penalties for Offences to drive compliance
- Rationalization of Definitions and increase coverage of the Codes
- Improve Ease of Doing Business and generate Employment in India



### **Code on Wages 2019 – Amalgamation of Four Acts**

Minimum Wages Act 1948, Payment of Wages Act 1936, Payment of Bonus Act 1965, Equal Remuneration Act 1970

### **The Code on Social Security, 2019 – Amalgamation of Eight Acts**

The Employees' Compensation Act, 1923; The Employees' State Insurance Act, 1948; The Employees' Provident Fund and Miscellaneous Provisions Act, 1952; The Maternity Benefit Act, 1961; The Payment of Gratuity Act, 1972; The Cine Workers Welfare Fund Act, 1981; The Building and Other Construction Workers Cess Act, 1996 and The Un-organised Workers' Social Security Act, 2008.

### **The Industrial Relations Code 2019 –Amalgamation of Three Acts**

The Industrial Disputes Act, 1947, The Trade Unions Act, 1926, and The Industrial Employment (Standing Orders) Act, 1946.

### **The Occupational Safety, Health and Working Conditions Code 2019 – Amalgamation of Thirteen Acts**

The Factories Act, 1948;The Mines Act, 1952;The Dock Workers (Safety, Health and Welfare) Act, 1986 ;The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 -,The Plantations Labour Act, 1951; The Contract Labour (Regulation and Abolition) Act, 1970; The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979; The Working Journalist and other News Paper Employees (Conditions of Service and Misc. Provision) Act, 1955; The Working Journalist (Fixation of rates of wages) Act, 1958; The Motor Transport Workers Act, 1961; Sales Promotion Employees (Condition of Service) Act, 1976; The Beedi and Cigar Workers (Conditions of Employment)Act, 1966 and The Cine Workers and Cinema Theatre Workers Act, 1981.

### **Salient Features - Code on Wages 2019**

- Applicability of Minimum Wages and Payment of wages not related to a ceiling in wages and scheduled employment. It is applicable to all employees and all employment which includes unorganized sector
- Gender equality – No discrimination on wages, recruitment based on gender allowed except where prohibition of women exists under any law.
- **Important Definitions :**
  - **Contract labour** : does not include person who is regularly employed by a contractor through mutually accepted conditions of employment and who gets periodical pay increments, social security and other legal welfare benefits. Such persons are permanent employees of the Contractor.

- **Employee** : includes any person doing clerical, manual , operational , supervisory, managerial , technical , administrative work except Apprentices under the Act and members of the Armed Forces. Ceiling of monthly wages of 24K removed.
  - **Wages** : includes Basic, DA and Retaining Allowance. All other allowances and payments are excluded. Payments made under an agreement and award is also excluded. If the excluded items are more than 50% of the total remuneration, such excess shall be added in the wages as defined.
  - **Worker** : includes any person doing manual, skilled, semiskilled, clerical operational, supervisory, technical work except Apprentices under the Act and members of the Armed Forces, Police services , those employed in managerial or administrative capacity or supervisory capacity drawing wages above rupees 15K per month.
- **Minimum Wages :**
- Appropriate govt can fix Min wages under categories of unskilled, semi skilled, highly skilled or geographical areas and may in addition consider the arduousness of work, hazardousness of work or processes
  - Central Govt shall fix Floor Wage taking into account minimum living standards of a worker. Different floor wages may be fixed for different geographical areas.
  - Minimum wages fixed by appropriate government shall not be less than the floor wages .
- **Payment of Wages :**
- Where an employee has been removed, dismissed , retrenched , resigned or become unemployed because of closure of the establishment , wages payable to him to be paid within two working days
  - No deductions from wages are allowed except those allowed under the Code – however any loss of wages resulting from withholding increment or promotion, reduction to lower post or suspension shall not be



deemed as deduction if provisions made by employer is as per requirement specifically notified by appropriate govt.

- Deductions if exceeds 50% of wages, the deductions should be done as prescribed in Code
- No fine can be imposed unless an opportunity for hearing has been given to employee and also it can be done for the prescribed reasons only
- If ten or more person acting in concert absent themselves without notice and without reasonable cause – wages not exceeding eight days can be deducted even incase of strike or refusal of work

➤ **Payment of Bonus :**

- Chapter on applicable to establishments where twenty or more employees are or were employed in an accounting year
- Bonus to paid to every employee who draws wages not exceeding such amount as prescribed by Central Govt provided he has worked for minimum 30 days in an accounting year.
- Provision of set on, set off, calculating profit, available surplus, allocable remains unchanged.
- Annual minimum bonus 8.33 % of wages whether employer has allocable surplus or not and incase allocable surplus is available then the percentage of bonus can be maximum 20%.
- Calculation of bonus is based on a limit prescribed or applicable minimum wages , whichever is higher
- Employees cannot demand for bonus higher than 20% even through an agreement based on productivity and production
- Disqualification for bonus possible if employee is dismissed for conviction for sexual harassment
- Bonus to be credited in the bank of the employee within eight months of close of any accounting year.

➤ **Advisory Boards :**

- Central and State Advisory boards to be set up for deciding on Minimum Wages and related matters.
- Women representation in the Boards made statutory

➤ **Offences and Penalties :**

- No court shall take cognizance of any offence under the code unless there is a formal complaint raised by any authorized authority of the appropriate govt , employee , trade union or Inspector cum facilitator.
- Enhanced Punishment for non compliance of the provisions of the Code range from fine of ten thousand to one lakh and may include imprisonment of three months.
- Complaints can generally be raised under the Code within five years from commission of the offence.

Provisions of this Code shall not apply to provisions of the Mahatma Gandhi National Rural Employment Guarantee Act 2005 and Coal Mines Provident Fund & Misc Provisions Act 1948 .

### **Salient Features : The Code on Social Security, 2019**

- PF , ESIC and Gratuity applicability to establishments with minimum number of employees remains unchanged
- One single registration under the code for PF, ESIC in future .

➤ **Definitions :**

- Commissioning mother concept introduced
- Contract worker defined as in Code on Wages
- Dependent : 1) age limit of 18 yrs for son or daughter wholly dependent on employee , except for ESIC where it is 25 yrs as earlier 2) both grandparents included incase if no parent of employee is alive
- Central government can declare the ceiling limit of wages for exemption of employee from PF and ESIC

- In-laws of a woman employee is included in her family along with her parents in case they have lesser income than stipulated by Central Govt.
  - Fixed Term Employment concept is included. The wages and benefits to be not lesser than permanent and also eligibility of statutory benefits with no limitation of length of service
  - Concept of Gig Worker, Platform worker (working online) and Home based worker included in the Code
  - Development of Software included in definition of manufacturing process
  - A wide definition introduced for wage worker in unorganized sector which includes domestic workers within certain wage limit.
- **Social Security Organizations :**
- Board of Trustees for administration of PF and Corporation for administration of ESIC
  - National Social Security Board and State Unorganized Workers' Board for Unorganized workers
  - State Building and Other Construction Workers Welfare Board
  - Central and State Advisory Committee for Unorganized workers
- **Employees Provident Fund :**
- All provisions in the earlier Act is retained , with respect to contribution to PF, Pension and Deposit Linked Insurance
  - New provision is that Govt can allow employee or class of employees to join National Pension scheme after exiting from PF
  - Employee who opted for NPS can rejoin the PF Scheme at later stage
- **Employees State Insurance Corporation :**
- All provisions in the ESIC Act is retained with respect to contributions and benefits
  - Corporation can receive grants , donations, CSR Fund and gifts from individuals or body whether incorporated or not



- Notional extension of place and time of work while travelling from and to work in case of accidents is included except if travelling public transport
  - Provision for retired employee under VRS or Premature retirement and spouse can get benefit under ESI subject to payment of contributions and other conditions
  - Corporation can establish medical colleges , dental colleges, nursing colleges and training institutes for its staff to improve quality of services
  - Employee can opt out of medical and sickness benefit – employees’ contribution to be terminated. Can opt in later
  - Liability of owner, occupier of factory or establishment in case of insanitary working conditions has been provided to ensure accountability in excess of working conditions.
  - Liability of insanitary conditions in lodgings or tenements where insured persons are staying
  - Central Govt can allow facilities at under utilized ESIC hospitals to be used by uninsured persons for better utilization of facilities and generate revenue.
- **Gratuity :**
- Earlier limit of 5 years for eligibility continued except in case of termination of employment on death , disablement or fixed term contract
  - Computation @ 15 days for each year of continuous service but Govt can revise this and the limit of gratuity. Method of calculation remains unchanged
- **Maternity Benefit :**
- The provisions of the Maternity Benefit Act in relation to eligibility , applicability and benefits have been maintained without any change
  - Adopting mother and commissioning woman eligible for 12 weeks benefit
  - Rs 3500 medical bonus to those entitled for maternity benefit and Leave for tubectomy and miscarriage
  - All Establishment with 50 or more employees to have creche facility
  - No discharge or dismissal from service to deprive of maternity benefit

**➤ Employee Compensation**

- Compensation for injury from accident arising out of and in course of employment
- Accident while commuting to or from place of work shall be considered to have arisen out of and in course of employment
- No change in the compensation percentage but the minimum amount has been kept open to be declared by Govt and also the relevant factor to be used for the calculation of compensation is unchanged
- There is a provision for compensation in case of accident outside India
- Funeral expenses in case of death of employee has been hiked from Rs 5 K to Rs 15K.
- Claim for compensation in case of death to be made within 2 yrs of the date of death
- In case injured employee fails to appear for medical examination as expected or refuses or obstructs his right to compensation can be suspended.

**➤ Building and Construction Workers Welfare Cess**

- Minimum 1% and maximum 2% of the construction cost incurred by employer to be paid to concerned authority for the welfare of the workers

**➤ Social Security for Un-organized Workers**

- Central govt to formulate schemes for disability, health, maternity, old age protection, PF, housing, employment injury, children education, skill upgradation etc
- Funds by Central, State Govt or even CSR Fund
- Set up workers facilitation centre for registration and information dissemination

**➤ Authorities, Assessment, Compliance and Recovery**

- Inspector-cum-facilitators to drive compliance with a proactive and supportive approach
- Provision for Electronic wage slips and returns. Also web based Inspection and electronic data uploading

- Assignment of unique number to each establishment , Inspector and each Inspection and specific parameter based Inspection for PF and ESIC

➤ **Offenses and Penalties**

- Imprisonment ranging from 6 months to 3 yrs and fine ranging from 50K to 1 lac.
- For repeat offence imprisonment of 2 years and fine of 2 lacs allowed.
- Before any action , opportunity to settle to be given but if same offence repeated within 5 yrs , no opportunity to be given
- Compounding of imprisonment possible but not incase of repeat offence within 5 years

➤ **Miscellaneous**

- Adhaar Card to be essential for Registration as Beneficiary for Social Security
- Exemption from the code can be allowed by appropriate government if better facilities are given by an employer

## **Salient Features : The Industrial Relations Code 2019**

➤ **Definitions**

- “Employee” defined to include everyone employed in employment .
- “Workmen “ as in the ID Act not used in the code
- “Worker” all person employed except doing managerial / administrative work and supervisory work earning wages more than 15K per month
- “Worker “ for Chapter III , related to Trade unions, means all who are employed in an industry
- Wages – same as in Wage Code
- Strike – includes concerted casual leave by 50% or more workers in an industry
- Wider definition of Industry – exception is only charitable , social or philanthropic services , sovereign functions of the govt, domestic services, any other activity notified by Govt

➤ **Bi Partite Forums for Prevention of Disputes**

- Where more than 100 workers employed Works Committee
- Where more than 20 workers, Grievance Committee
- Women representation in Works and Grievance Committee is mandatory

➤ **Trade Unions**

- Seven or more persons can form Union but unless it has at least 10% of total workers in establishment or 100 members whichever is less it cannot be registered
- Registered union should always have at least 10% of total workers in establishment or 100 members whichever is less
- Recognition : a) Where one union exists employer can recognize it as Sole Negotiating Agent b) if multiple unions exist then the one having 75% or more workers as members, verified by prescribed manner shall be Sole Negotiating Agent c) If no union has 75% or more membership on verification, then a Negotiating Council consisting of representatives from each union having not less than 10% membership.

➤ **Standing Orders**

- Applicable to any industrial establishment having 100 or more workers
- Joint Standing orders can be submitted for certification by a number of employers
- A copy of certified standing order to be filed by the certifying officer in a register, electronically

➤ **Mechanism for Resolution of Disputes**

- National Industrial Tribunal and Industrial Tribunals
- A bench Tribunal to consist of a Judicial Member and Administrative Member or single Judicial Member or single Administrative Member
- Qualification for Judicial Member – should have been Judge of High Court or min three years as District Judge / Additional District Judge. For National Tribunal – has be a High court Judge

- Qualification for Administrative Member – professional experience of not less than 20yrs in economics, business, commerce, law, finance, management , industry , public affairs . labour relations. For National Tribunal – must have served as Secretary or equivalent in Central or State govt.
- Tribunal to decide on cases relating to :
  1. Application and interpretation of standing orders
  2. Discharge or dismissal of worker
  3. Legality of strike or lock out
  4. Retrenchment of workers and closure of establishment
- Cases currently in Labour Courts , Industrial Tribunal under the ID Act shall be transferred to the Tribunal . Those in National Industrial Tribunal shall be transferred to National Tribunal. Presiding officers under ID Act if suitable shall be appointed as Judicial Member
- Conciliation officer to send report within 45 days of starting the process. Incase of strikes / lock-outs related cases , with 14 days
- **Strikes and Lock outs - Prohibitions are same as ID act**
- **Lay Off , Retrenchment and Closure**
  - If the number of workers in an industrial establishment is less than 50 on an average, then clauses related to Layoff, Retrenchment, closure compensation and process not to apply
  - Permission of appropriate Govt needed for Layoff, Retrenchment , closure in case number of workers is more than 100 on an average . If in any state there is currently higher threshold than 100, it will remain unchanged unless amended by law
  - Provisions on Notice period , compensation remains same as ID Act
- **Worker Reskilling Fund**
  - Appropriate Govt to set up Worker Reskilling Fund for crediting 15 days wages within 45 days to retrenched workers



- Contribution to the fund to be from employer who intends to retrench and any other source

#### ➤ **Offences and Penalties**

- Enhanced Penalties which includes fines and imprisonment for various Offences
- Offences related to lay off and retrenchment under section 78 & 79 has highest impact . Fine ranging from 1 lac to 10 lac and incase of repeat conviction not less than 5 lac to 20 lacs with imprisonment provided

### **Salient Feature : Occupational Safety, Health and Working Conditions Code 2019**

This code shall not apply to any offices of the Central & State Government as also any ships of war of any Nationality

#### ➤ **Definitions**

- **“employee”** means, in respect of an establishment, a person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied; and (ii) a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:
- **“inter-State migrant worker”** means any person who is recruited by—(i) an employer in one State for employment in his establishments situated in another State; or (ii) through a contractor in one State for employment in an establishment in another State, under an agreement or other arrangement for such employment and draws wages
- **“worker”** means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees, but does not include any such person—

(i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or (iv) who is employed in a supervisory capacity drawing wage of exceeding fifteen thousand rupees per month or an amount as may be notified by the Central Government from time to time;

- Other definitions are unchanged as in the existing Acts

#### ➤ **Registration**

- Single Registration applicable under the Code for Factory and Contract Labour engagement . Any change in the ownership or management or in any particulars which occurs after the registration of an establishment under this Code
- In case of Closing of an establishment , shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed by the Central Government.
- Employer to send notice of commencement of operations or cessation of operation to prescribed authority.

#### ➤ **Duties of Employer and Employees**

- Code elaborately lays down the responsibilities of the employer, persons who designs / manufactures / supplies plant and machinery ( including importing), architects / project engineer / designer of buildings , agencies that are involved in erection of plant & machinery or construction of buildings with respect to ensuring that plant, machinery, buildings are safe for the workers
- Employer to provide free annual health examination, ensure disposal of toxic waste, provide adequate training and supervision for safety at work, mitigate safety risks
- Employer must issue appointment letter to every employee

- Responsibility of employee to ensure his own safety and that of other persons is spelt out in details which includes following of safety rules, reporting safety related issues, do anything that endangers himself or others
- Employee has the right to seek for or provide safety related information from or to the employer, safety committee, Inspector -cum- Facilitator
- No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health, safety or welfare under this Code.

#### ➤ **Occupational Safety and Health**

- To drive the provisions of the Code , Central Govt to constitute a National Occupation Safety and Health Advisory Board ( National Advisory Board) while State Govt to constitute the State Occupation Safety and Health Advisory Board ( State Advisory Board)
- The Central Government shall declare, by notification, standards on occupational safety and health for work places relating to factories, mines, dock work, building and other construction work and other establishments.
- After giving suitable notice, authorities specified in the Code and members of the Advisory Boards can conduct survey of any factory , mine or other establishment and the employer shall make all necessary arrangements for the same
- Appropriate Govt can prescribe for the constitution of Safety Committee in any factory , mine or establishment
- All factories and constructions sites where 500 or more workers are employed and mines where 100 or more workers are employed shall appoint Safety Officers

#### ➤ **Health and Working Conditions**

- Central Govt shall prescribe the requirements to be ensured by employer with respect to Health and Working conditions in the factory, mine or other establishment.
- The provisions of the Central Govt , in addition to anything related to Health and working conditions including lighting, cleanliness and hygiene; ventilation,



temperature and humidity, environment free from dust, noxious gas, fumes and other impurities; adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work rooms; potable drinking water; adequate standards to prevent overcrowding and to provide sufficient space.

- Provisions for latrines and urinals for Transgenders

➤ **Welfare Provisions**

- The employer shall be responsible to provide and maintain in his establishment such welfare facilities for the workers as may be prescribed by the Central Government, including the below:
  - (i) adequate and suitable facilities for washing , bathing , rest rooms , locker rooms to workers for male, female and transgender separately;
  - (ii) sitting arrangements for all workers obliged to work in a standing position;
  - (iii)adequate standard of canteen employing one hundred or more workers including contract labour ordinarily employed;
  - (iv)adequate first-aid boxes or cupboards with contents readily accessible during all working hours
  - (v)medical facilities at the operating centres and halting stations, uniforms, raincoats and other like amenities for protection from rain or cold for motor transport workers;
  - (vi)any other welfare measures which the Central Government considers, under the set of circumstances, as required for decent life of the workers.
- Ambulance room in every factory, mine and other construction work wherein more than five hundred workers are ordinarily employed;
- Lunch-room in every factory and mine wherein more than fifty workers are ordinarily employed and rest room in motor transport undertaking wherein worker is required to halt at night;
- Appointment of welfare officer in every factory, mine or plantation wherein two hundred and fifty or more workers are ordinarily employed

- Provide temporary living accommodation, free of charges and within the work site or as near to it as may be possible by the employer to all building workers employed
  - Payment by the principal employer, the expenses incurred on providing the accommodation to the contractor, where the building and other construction work is done through the contractor;
  - Creche having suitable room or rooms for the use of children under the age of six years of the employees at suitable location and distance either separately or along with common facilities in establishments wherein more than fifty workers are ordinarily employed.
  - Every employer of plantation shall be responsible, to provide and maintain welfare facilities relating to drinking water, housing, medical, education and toilet to the workers in the plantation through his resources or Govt Schemes.
- **Hours of Work and Annual Leave with Wages**
- Appropriate Govt to fix the hours of work, interval, spread over ,running time & subsidiary work time in case of transport workers , number of working days for any establishment or class of establishment.
  - The hours of work for working journalist shall, subject to a maximum of one hundred and forty-four hours of work during any period of four consecutive weeks and a period of not less than twenty-four consecutive hours of rest during any period of seven consecutive days, be such as may be prescribed by the Central Government.
  - Provision made for Sales Promotion workers to avail special leave in case of certain conditions
  - No worker can be made to work overtime unless he gives consent in writing
  - Where a worker is discharged or dismissed or quits employment dues to be settled before the expiry of the second working day and where such worker is superannuated or dies while in service, before the expiry of two months.
  - Accumulated leave above thirty days to be encashed.
- **Maintenance of Registers, Records and Returns**

- Register to maintained electronically or otherwise related to period work, hours of work, rest hours, leave with wages, overtime work, dangerous occurrence.
- Electronic wage slips may to be issued to workers and Returns as prescribed may be filed electronically

➤ **SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN**

- Women workers may, with her consent, be employed in an establishment before 6 a.m. and beyond 7 p.m.
- Appropriate govt may prohibit the employment of women workers in certain operation if it is dangerous to their health and safety.

**SPECIAL PROVISIONS FOR CONTRACT LABOUR AND INTER-STATE MIGRANT WORKER, ETC.**

➤ **Part 1- CONTRACT LABOUR AND INTER-STATE MIGRANT WORKER**

- Applies to every establishment and contractor which employs 20 or more workers
- In any state if currently the threshold is lesser than 20 workers , then the same would continue to be applicable till changed by the legislature
- Any contractor to whom this code applies shall apply for license, which shall be different for different establishments
- A License once issued shall be valid for a period of five years, provided the number of workers does not increase .
- Where any establishment is employing contract labour through a contractor who is required to obtain a licence under this Part, but he has not obtained such licence, the contract labour so engaged through such contractor, shall be deemed to be employed by the principal employer.
- Every contractor shall, make the disbursement of wages through bank transfer or electronic mode and inform the principal employer. However if it is impossible to make wage payment through bank, it shall be paid in cash in presence of representative of the principal employer

- Contract labour to be issued experience certificate annually or when demanded, by Contractor or Principal
- Provision for prohibition can be made for use of contract labour in any process or activity of an establishment maintained
- Duty of every employer employing inter-State migrant worker—
  - (i) to ensure suitable conditions of work to such worker
  - (ii) in case of fatal accident or serious bodily injury to any such worker, to report to the specified authorities of both the States and also the next of kin of the worker;
  - (iii) to provide and maintain suitable residential accommodation to such worker during the period of their employment;
  - (iv) to provide the prescribed medical facilities and periodical medical examination to the such worker, free of charge.
- At the time of recruitment, the contractor shall pay a displacement allowance equal to fifty per cent. of the monthly wages payable to every interstate migrant worker
- A journey allowance equivalent to the to and fro fare from residence must be paid at the time of recruitment of inter sate migrant worker , by the contractor

#### ➤ **Part II – AUDIO VISUAL WORKERS**

- No person is to be employed as Audio visual worker unless he has signed an agreement with the producer and same is sent to Competent Authority

#### ➤ **Part III – MINES**

- Except for Sec sections 35, 38, 40, 41 and 44, code shall not apply to any excavation which is being done for prospecting
- No person below the age of 18 shall be allowed to work in a mine. Trainees and Apprentices no below the age of 16 may be allowed with permission of the Inspector cum Facilitator.

#### ➤ **Part IV – BEEDI AND CIGAR WORKERS**

- No premises can be used for industrial purpose to manufacture beedi or cigar or both unless there is a valid license. Such license is valid for three years

- The State Government may permit, the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees, as may be prescribed.
- Except as mentioned above no activity can be carried on outside the industrial unit
- Provisions of the code does not apply to any person who manufactures beedi or cigar in his residence with the help of his family members
- **Part V - BUILDING AND OTHER CONSTRUCTION WORKERS**
- No person who is deaf or he has a defective vision or he has a tendency to giddiness shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.
- **Part VI – FACTORIES**
- Every factory to have approved plans, site approval, registration and liscence as per provisions laid down by Appropriate Govt
- Where any premises or separate buildings are leased to different occupiers for use as separate factories, the owner of the premises and occupiers of the factories utilising such common facilities which include safety and fire prevention and protection, access, hygiene, occupational health, ventilation, temperature, emergency preparedness and response, canteens, shelter, rest rooms and crèches shall jointly and severally be responsible for providing maintenance of such common facilities and services as may be prescribed by the appropriate Government.
- Appropriate Govt can make rules to declare any operation or dangerous in a manufacturing process, prohibit women or pregnant women in manufacturing , welfare amenities , sanitary requirements, protective equipment, clothing etc
- Occupier of every factory which has hazardous process compulsorily must share all information , on site emergency plan , health and safety policy , quantity of such material , disposal plan with the Inspector cum Facilitator thirty days before commencement of manufacturing

- Occupier of factory having hazardous process shall keep medical records of all workers , ensure medical examination , employ persons with required qualification who can handle such material
- The appropriate govt can make provisions to exempt any person or persons who have supervisory or managerial position or hold confidential position from the provisions of the Code

➤ **Offences and Penalties**

- Provision for fine of Rs 2 lacs to 3 lacs with a further increased penalty of Rs 2000 per day if contravention continues even after conviction
- Minimum fine has been raised to Rs 50K and imprisonment is of 3 months
- In case of death of worker due to failure to fulfill duties under the Code – punishment may be imprisonment of 2 yrs or minimum Rs 5 lac fine or both
- In case of serious injury to worker due to failure to fulfill duties under the Code – punishment may be imprisonment of 1 yrs or minimum Rs 2 lac fine with max of Rs 4 lacs or both
- If an employee contravenes with provisions of the code then punishment can be fine upto Rs 10K
- Additional fine of 20percent can be imposed for delay in payment of fines after conviction

➤ **Miscellaneous**

- Common Licence to be acquired by a Factory for engaging contract labour and use of industrial premises for beedi / cigar manufacturing
- Adhaar to be one of the documents for determining age related issues under the Code
- The aspects on which the Central and State Governments can make rules is listed out in detail.

## **Inspector -cum Facilitator**

- Appropriate government shall appoint Inspector cum Facilitator in a geographical area and for certain establishment for enforcement of the provisions of the four Codes.
- These authorities to play an advisory role to facilitate Compliance of the code
- There is provisions for web-based inspection and filing of returns
- They have the powers to inspect , check records, advice , issue show cause, conduct enquiry , act to prosecute in case of non compliances .
- The inspector -cum- facilitator under Code of Safety has special powers to act incase of any imminent danger to the workers of public in general for factories, mines and other establishment. In case of mines he can order the closing down of the mines and prohibit operations unless the dangers are removed.
- The inspector -cum- facilitator shall have powers under the Code of Criminal Procedure for search and seizure

## **Conclusion :**

The amalgamation of the multiple legislations is a major step forward towards ease of compliance. Rationalization of definitions and broadening of coverage to include the unorganized sector will ensure that the benefits of the law is applicable to a larger workforce. The change has begun after decades but it should set the wheels rolling for bigger changes in the years to come , thus improving the ease of doing business in India, generating employment and driving the future of industrial relations in India.

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## About the Book

The Government of India has taken a very progressive step to convert 44 Labour Laws into 4 Labour Codes. This will greatly simplify the Ease of Doing Business in India. This booklet is an initiative of MCCIA HR & ER Committee to create a ready reckoner on some key facets of the Labour Codes. I am confident that HR & ER professionals will find this booklet of value.

**- Ms Anjali Byce**

Chairperson,

MCCIA HR and ER Committee,  
and CHRO Sterlite Technologies Ltd.

## MCCIA HR & ER Committee

The HR-ER committee interacts with government agencies, industry professionals, and academia with a goal to build socially responsible businesses. Through its forum and programs, the committee creates awareness and spreads knowledge about a variety of HR and ER practices, including future skills and capabilities, inclusion, and labour law reforms to name a few. The committee strives to enable implementation of best HR and ER practices across the industry.



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