

Webinar on Labour Laws



Banking, Financial Services and Insurance
Committee

ICAI



"New Labour Laws- Impact on Business, Financial Services & Relevance for CAs"

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CA Practice



The Business Vehicles

Last Century	Sole Proprietary
	Partnership
	Private Company
	Co-Operative Society

Present Days	Old Formats
	LLP
	MNC
<i>Location</i>	<i>Mega Organisations</i>
	<i>Mono V/c Multi - International</i>



The Last Century

AREA FOR PRACTICE		FORM FOR PRACTICE
□ Accountancy		□ Individual
□ Auditing		□ Sole Proprietary
□ Income tax		□ Small Firms



The Current Century

AREA FOR PRACTICE	FORM FOR PRACTICE
□ Accountancy	□ Individual
□ Auditing	□ Sole Proprietary
□ Tax – Direct & Indirect	□ Small Firms
□ <i>Management Services</i>	□ <i>Large Firms</i>
□ <i>Information Technology</i>	□ <i>Corporate Practice</i>
□ <i>Valuation, IBC, etc.</i>	□ <i>MNC firms</i>

New Horizon

- *Information Technology indispensable*
- *Practice tools*
- *Networking & MDP*

- *Valuation, IBC*
- *RERA, Benami, Money Laundering*
- **Labour Laws**



LABOUR LAWS



Present Labour Laws

Industry has been clamoring for core labour law reforms. Demand is for flexibility in terms of freedom to hire contract labour, freedom to retrench workers and close down undertakings without prior government endorsement, and the freedom to introduce technological changes involving loss of employment. Further, a liberal labour inspection system and a rational and modern system of records compliance required.



Proposed Labour Laws

- Labour codes passed in the Lok Sabha are the latest in a long line of labour law reforms that have been enacted and will almost certainly be followed by more in the future. All these ‘reforms’ have one objective in mind – to dismantle labour rights and protections of the past, to make the labour market more ‘efficient’, or more accurately, flexible.



Proposed Labour Laws

- India's labour laws are remnants of an archaic past – ineffective for workers and unnecessarily burdensome on the employer – and therefore, are best dismantled.
- Central government to replace 29 existing labour laws with four Codes. The objective is to simplify and modernise labour regulation.
- Major challenge in labour reforms is to facilitate employment growth while protecting workers' rights.



Proposed Labour Laws

- Coverage of small firms, thresholds for prior permission for retrenchment, strengthening labour enforcement, allowing flexible labour forms and promoting collective bargaining.
- With the passage of time, labour laws need an overhaul to ensure simplification and updating, along with provisions which can capture the needs of emerging forms of labour (e.g., gig work).



The Labour Code

Parliament, in the Monsoon Session last year, passed three labour code bills—the Industrial Relations Code, Social Security Code and the Occupational Safety, Health and Working Conditions Code.

Meanwhile, the Wage Code Bill, 2019 had been passed by the Parliament in 2019.



The Labour Code

- **Delegated Legislation:** The Codes leave several key aspects, such as the applicability of social security schemes, and health and safety standards, to rule-making. The question is whether these questions should be determined by the legislature or be delegated to the government.
- 'Labour' falls under the Concurrent List of the Constitution. Both Parliament and state legislatures can make laws regulating labour. Central government has stated that there are over 100 state and 40 central laws regulating various aspects of labour



The Labour Code

- **Labour enforcement:** Multiplicity of labour laws has resulted in distinct compliances, increasing the compliance burden on firms. On the other hand, the labour enforcement machinery has been ineffective because of poor enforcement, inadequate penalties and rent-seeking behaviour of inspectors. The Codes address some of these aspects.



The Labour Code

- . **Contract labour:** Labour compliances and economic considerations have resulted in increased use of contract labour. However, contract labour have been denied basic protections such as assured wages. The Codes do not address these concerns fully. However, the Industrial Relations Code introduces a new form of short-term labour – fixed term employment.



Employees' Provident Fund Act, 1952
Employees' State Insurance Act, 1948
Payment of Gratuity Act, 1972
Labour Welfare Fund Act, 1945



Code on Wages, 2019 - Which covers,
Payment of Wages Act, 1936, Minimum
Wages Act, 1948, Payment of Bonus Act,
1965 and Equal Remuneration Act, 1976

Industrial Disputes Act, 1947
Industrial Employment (Standing
Orders) Act, 1946
Trade Unions Act, 1926
Factories Act, 1948
Shops and Establishment Act

Equal Remuneration Act, 1976
Maternity Benefit Act, 1961
Sexual Harassment of Women at
Workplace (Prevention, Prohibition
and Redressal) Act, 2003



The Four Labour Codes

- ❑ Code on Wages 2019,
- ❑ Code on Social Security 2020,
- ❑ Industrial Relations Code 2020 and
- ❑ Occupational Safety, Health and Working Conditions Code 2020.

Received the Presidential assent
between 2019 and 2020.



The Code on Wages 2019

- The Code on Wages, 2019 Bill has been passed by both the Houses of Parliament and received the assent of the President on 8.8.2019.
- Now it has been enacted as:

The Code on Wages 2019 (No. 29 of 2019).



The Code on Wages 2019

- **Legislations Subsumed:**
 1. the Payment of Wages Act, 1936;
 2. the Minimum Wages Act, 1948;
 3. the Payment of Bonus Act, 1965; and
 4. the Equal Remuneration Act, 1976.



The Code on Wages 2019

- Statutory right for minimum & timely wages for ALL workers – organised and unorganized
- 542 different classifications of minimum wages standardized to just 12
- Skill to be a determinant in fixing wage.



The Code on Wages 2019

- **Salient features of the Code on Wages, 2019:**
 - * It provides for all essential elements relating to wages, equal remuneration, its payment and bonus;
 - * The provisions relating to wages shall be applicable to all employments covering both organised as well as un-organised sectors; the power to fix minimum wages continues to be vested in the Central Government as well as the State Government in their respective spheres;



The Code on Wages 2019

- * It enables the appropriate Government to determine the factors by which the minimum wages shall be fixed for different category of employees. The factors shall be determined taking into account the skills required, the arduousness of the work assigned, geographical location of the workplace and the other aspects which the appropriate Government considers necessary;



The Code on Wages 2019

- * The provisions relating to timely payment of wages and authorised deductions from wages, which are presently applicable only in respect of employees drawing wages of twenty-four thousand rupees per month, shall be made applicable to all employees irrespective of wage ceiling. The appropriate Government may extend the coverage of such provisions to the Government establishments also;



The Code on Wages 2019

- * It provides that the wages to employees may also be paid by cheque or through digital or electronic mode or by crediting it in the bank account of the employee. However, the appropriate Government may specify the industrial or other establishment, where the wages are to be paid only by cheque or through digital or electronic mode or by crediting the wages in the bank account of the employee;



The Code on Wages 2019

- * It provides for floor wage for different geographical areas so as to ensure that no State Government fixes the minimum wage below the floor wage notified for that area by the Central Government; in order to remove the arbitrariness and malpractices in inspection, it empowers the appropriate Government to appoint Inspectors-cum-Facilitators in the place of Inspectors, who would supply information and advice the employers and workers;



The Code on Wages 2019

- * It empowers the appropriate Government to determine the ceiling of wage limit for the purpose of eligibility of bonus and calculation of bonus;
- * In the place of number of authorities at multiple levels, it empowers the appropriate Government to appoint one or more authorities to hear and decide the claims under the proposed legislation:



The Code on Wages 2019

- * It enables the appropriate Government to establish an appellate authority to hear appeals for speedy, cheaper and efficient redressal of grievances and settlement of claims;
- * It provides for graded penalty for different types of contraventions of the provisions of the proposed legislation;



The Code on Wages 2019

- * It provides that the Inspector-cum-Facilitator shall give an opportunity to the employer before initiation of prosecution proceedings in cases of contravention, so as to comply with the provisions of the proposed legislation. However, in case of repetition of the contravention within a period of five years such opportunity shall not be provided;



The Code on Wages 2019

- * It provides for the appointment of officers not below the rank of Under Secretary to the Government of India or an officer of equivalent level in the State Government to dispose of cases punishable only with fine up to fifty thousand rupees, so as to reduce the burden on subordinate judiciary:



The Code on Wages 2019

- * It provides for compounding of those offences which are not punishable with imprisonment;
- * It provides that where a claim has been filed for non-payment of remuneration or bonus or less payment of wages or bonus or on account of making deduction not authorised by the proposed legislation, the burden shall be on the employer to prove that the said dues have been paid to the employee;



The Code on Wages 2019

- * It enables the appropriate Government to constitute Advisory Boards at Central and State level to advise the Central Government and the State Governments, respectively, on matters relating to wages, women employment, etc.;
- * The period of limitation for filing of claims by a worker has been enhanced to three years, as against the existing time period varying from six months to two years, to provide a worker more time to settle his claims.



The Code on Social Security 2020

- The Code on Social Security, 2020 has now been passed by both the Houses of Parliament. The President assented to it on 28-9-2020. Now this legislation has been enacted as:

the Code on Social Security, 2020

(No. 36 of 2020), dated 29-9-2020

Along with Draft Rules, 2020.



The Code on Social Security 2020

- **Legislations Subsumed:**

1. The Employees' Compensation Act, 1923;
2. The Employees' State Insurance Act, 1948;
3. The Employees' Provident Funds
Miscellaneous Provisions Act, 1952;
4. The Employment Exchanges (Compulsory
Notification of Vacancies) Act, 1959;
5. The Maternity Benefit Act, 1961;



The Code on Social Security 2020

- Legislations Subsumed:
 6. The Payment of Gratuity Act, 1972;
 7. The Cine Workers Welfare Fund Act, 1981;
 8. The Building and Other Construction Workers Welfare Cess Act, 1996; and
 9. The Unorganised Workers' Social Security Act, 2008.



The Code on Social Security 2020

- Applicability of ESIC extended to all districts of India
- Social security extended to gig, platform and all such other workers
- Social security and welfare fund for unorganized sector workers



The Code on Social Security 2020

- **The salient features of the Code on Social Security, 2020, inter alia, are –**
- to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors;
- to provide for an establishment to be covered under Chapter III relating to Employees' Provident Fund (EPF) and under Chapter IV relating to Employees' State Insurance Corporation (ESIC) on voluntary basis even if the number of employees in that establishment is less than the threshold. It further seeks to make those Chapters inapplicable to such establishments on fulfilment of certain conditions;



The Code on Social Security 2020

- to define various expressions used in the Bill such as, "career centre", "aggregator", "gig worker", "platform worker", "wage ceiling", etc. Further, the definition of "employee" has been comprehensively elaborated to cover maximum number of employees and workers;
- to provide for registration, electronically or otherwise, of every establishment to which the Bill applies, within such time and in such manner as the Central Government may by rules determine. It further provides for an option for cancellation of registration by any establishment whose business activities are in the process of closure, subject to the conditions as may be prescribed by the Central Government;



The Code on Social Security 2020

- constitution of various social security organisations for the administration of the Bill, namely, (a) the Central Board of Trustees of the Employees' Provident Fund (Central Board), (b) the Employees' State Insurance Corporation (Corporation), (c) the National Social Security Board for Unorganised Workers (National Social Security Board), (d) the State Unorganised Workers' Social Security Board and (e) the State Building Workers Welfare Boards;



The Code on Social Security 2020

- to provide that the medical education institutions and training institutes of the Employees' State Insurance Corporation may be run by the Corporation itself or on the request of the Corporation, by the Central Government, any State Government, any Public Sector Undertaking of the Central Government or the State Government or any other body notified by the Central Government;



The Code on Social Security 2020

- to empower the Central Government to frame schemes for unorganised workers, gig workers and platform workers and the members of their families for providing benefits relating to Employees' State Insurance Corporation;
- provisions for maternity benefits such as prohibition from work during certain periods, provision of nursing breaks, crèche facility, claim for maternity benefits, etc.;



The Code on Social Security 2020

- to empower the Central Government, by notification, to assign additional work, including administration of any other enactment or scheme relating to social security, to any of the social security organisations and the expenses towards such additional work shall be borne by the Central Government;
- to empower the Central Government to frame schemes for the purposes of providing social security benefits to self-employed workers or any other class of persons;



The Code on Social Security 2020

- to empower the Central Government to specify by notification, rates of employees' contributions to the Employees' Provident Fund Scheme and the period for which such rates shall apply for any class of employees;
- to provide for appeal against an order passed by any authority in regard to determination and assessment of dues and levy of damages relating to Employees' Provident Fund by an employer only after depositing with Social Security Organisation concerned, twenty-five per cent. of the amount due from him as determined by the authority against whose order the appeal has been preferred;



The Code on Social Security 2020

- to provide that in the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on pro rata basis and not on the basis of continuous service of five years;
- to make provision for payment of cess by employer in case of building and other construction work, payable under Chapter VIII on the basis of his self-assessment;



The Code on Social Security 2020

- to provide for registration of every unorganised worker, gig worker or platform worker on the basis of self-declaration electronically or otherwise, along with such documents including Aadhaar number, in such form and in such manner, containing such information as may be prescribed by the Central Government;



The Code on Social Security 2020

- to empower the Central Government by order, to defer or reduce employer's contribution, or employee's contribution, or both, payable under Chapter III or Chapter IV, as the case may be, for a period up to three months at a time, in respect of establishment to which Chapter III or Chapter IV, as the case may be, applies, for whole of India or part thereof in the event of pandemic, endemic or national disaster;
- to provide for establishment and maintenance of separate accounts under social security fund, for the welfare of unorganised workers, gig workers and platform workers; and a separate account for the amount received from the composition of offences under the Bill or under any other central labour laws.



The Industrial Relations Code 2020

- The Bill on the Industrial Relations Code, 2020 has been passed by both the Houses of Parliament and assented by the President on 28-9-2020 and a new legislation enacted as:

the Industrial Relations Code, 2020

(No. 35 of 2020)", dated 29-9-2020.



The Industrial Relations Code 2020

- **Legislations Subsumed:**
 1. the Trade Unions Act, 1926;
 2. the Industrial Employment (Standing Orders) Act, 1946; and
 3. the Industrial Disputes Act, 1947



The Industrial Relations Code 2020

- No prior permission needed for up to 300 workers for retrenchment (earlier limit 100)
- Fixed term employment. Workers can now be directly hired with all benefits without middlemen contractors.
- payment of 15 days wages per completed year of service if retrenched
- Re-skilling fund for all retrenched workers
- **14 days mandatory notice period before strike (thus avoiding flash strikes)**



The Industrial Relations Code 2020

- **Salient features of the proposed Bill are as under:-**
- Seven or more members of a trade union can apply to register trade union under the Code. Trade unions having a membership of at least 10% of the workers or 100 workers, whichever is less, will be registered.
- The Code provides for a negotiation union in an industrial establishment for negotiating with the employer. The employer is required to recognize such trade union as the negotiating union of the workers.



The Industrial Relations Code 2020

- The Code prohibits employers, workers and trade unions from committing any unfair labour practices listed in Schedule to the Code, such as restricting workers from forming trade unions; establishing employer sponsored trade union of workers; causing damage to employer's property and preventing any worker from attending work. The Code provides for the punishment if any person commits unfair labour practices.



The Industrial Relations Code 2020

- Under the Code all industrial establishments with at least 300 workers must prepare standing orders, on classification of workers, manner of informing workers about hours of work, holidays, paydays and rates of wages, termination of employment, suspension for misconduct, etc. The industrial establishments will prepare their standing orders as per the model standing orders prepared by the Central Government.



The Industrial Relations Code 2020

- Employers are restricted to change the conditions of service without giving notice of the proposed change to the workers within stipulated time.
- The Code provides provisions for lay-off and retrenchment. Any person who contravenes these provisions shall be punishable with fine as prescribed.
- If an employer seeks to re-employ a person, he must prefer retrenched workers over other workers within one year of retrenchment of workers.



The Industrial Relations Code 2020

- There is a provision of voluntary arbitration in the Code. The Code provides for industrial disputes to be voluntarily referred to arbitration by the employer and workers through a written agreement.
- The Code provides for resolution of industrial disputes. The Central Government or State Governments may appoint conciliation officers to mediate and promote settlement of Industrial disputes. The Code provides that if no settlement is arrived at, either party to the dispute can make an application to the Industrial Tribunal/National Industrial Tribunals.



The Industrial Relations Code 2020

- The Code prohibits strikes and lock-outs in all industrial establishments without giving notice of fourteen days.
- The Code provides for setting up a re-skilling fund for training of retrenched workers. The fund shall be utilised by crediting fifteen days wages last drawn by the workers to his account who is retrenched.
- The Central Government is empowered to exempt any industrial establishment from any of the provisions contained in the Code.



The Occupational Safety, Health and Working Conditions Code 2020

- This Bill on the Occupational Safety, Health and Working Conditions Code, 2020 has been passed by both the Houses of Parliament. The President assented to it on 28-9-2020. Now this legislation has been enacted as:

The Occupational Safety, Health and Working Conditions Code, 2020

(No. 37 of 2020), dated 29-9-2020.



The Occupational Safety, Health and Working Conditions Code 2020

- **Legislations Subsumed:**

1. The Factories Act, 1948;
2. The Plantations Labour Act, 1951;
3. The Mines Act, 1952;
4. The Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955;



The Occupational Safety, Health and Working Conditions Code 2020

- **Legislations Subsumed:**

5. The Working Journalists (Fixation of Rates of Wages) Act, 1958;
6. The Motor Transport Workers Act, 1961;
7. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
8. The Contract Labour (Regulation and Abolition) Act, 1970;



The Occupational Safety, Health and Working Conditions Code 2020

- **Legislations Subsumed:**

9. The Sales Promotion Employees (Condition of Service) Act, 1976;

10. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;

11. The Cine Workers and Cinema Theatre Workers Act, 1981;



The Occupational Safety, Health and Working Conditions Code 2020

- **Legislations Subsumed:**

12. The Dock Workers (Safety, Health and Welfare) Act, 1986; and

13. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.



The Occupational Safety, Health and Working Conditions Code 2020

- 1 registration instead of 6
- 1 license instead of 4
- 1 return instead of 21
- Single, all India 5 years valid license for hiring contract workers (now license needed per work order)



The Occupational Safety, Health and Working Conditions Code 2020

- **The salient features of the proposed Code are as under:**
- to impart flexibility in adapting technological changes and dynamic factors, in the matters relating to health, safety, welfare and working conditions of workers;
- to apply the provisions of the proposed Code for all establishments having ten or more workers, other than the establishments relating to mines and docks;



The Occupational Safety, Health and Working Conditions Code 2020

- to provide the concept of "one registration" for all establishments having ten or more employees. However, for the applicability of all other provisions of the Code in respect of factories, except registration, the threshold has been fixed twenty workers in a factory (with power) and forty workers (without power);
- to include the journalist working in electronic media such as in or in radio or in other media in the definition of "working journalists";



The Occupational Safety, Health and Working Conditions Code 2020

- to provide for issuing of appointment letter mandatorily by the employer of an establishment to promote formalisation in employment;
- to provide free of cost annual health check-ups for employees above the specified age in all or certain class of establishments by which it would be possible to detect diseases at an early stage for effective and proper treatment of the employees;



The Occupational Safety, Health and Working Conditions Code 2020

- to make the provisions relating to Inter-State Migrant Workers applicable on the establishment in which ten or more migrant workers are employed or were employed on any day of the preceding twelve months and also provide that an Inter-State Migrant may register himself as an Inter-State Migrant Worker on the portal on the basis of self-declaration and Aadhaar;
- an Inter-State Migrant Worker has been provided with the portability to avail benefits in the destination State in respect of ration and availing benefits of building and other construction worker cess;



The Occupational Safety, Health and Working Conditions Code 2020

- to constitute the National Occupational Safety and Health Advisory Board to give recommendations to the Central Government on policy matters, relating to occupational safety, health and working conditions of workers;
- to constitute the State Occupational Safety and Health Advisory Board at the State level to advice the State Government on such matters arising out of the administration of the proposed Code;
- to make a provision for the constitution of Safety Committee by the appropriate Government in any establishment or class of establishments;



The Occupational Safety, Health and Working Conditions Code 2020

- to employ women in all establishments for all types of work. They can also work at night, that is, beyond 7 PM and before 6 AM subject to the conditions relating to safety, holiday, working hours and their consent;
- to make provision of "common license" for factory, contract labour and beedi and cigar establishments and to introduce the concept of a single all India license for a period of five years to engage the contract labour;
- to enable the courts to give a portion of monetary penalties up to fifty per cent. to the worker who is a victim of accident or to the legal heirs of such victim in the case of his death;



The Occupational Safety, Health and Working Conditions Code 2020

- to provide overriding powers to the Central Government to regulate general safety and health of persons residing in whole or part of India in the event of declaration of epidemic or pandemic or disaster;
- to make provision for Social Security Fund for the welfare of unorganized workers; and
- to make provision for adjudging the penalties imposed under the Code.



- **Audit**



CARO

- ❑ Whether Company is regular in depositing un-disputed statutory dues (e.g. PF, ESI, etc.)
- ❑ Extent of the arrears of outstanding statutory dues for more than 6 months



3 CD

- Details of contributions received from employees for various funds
- Provision for payment of gratuity not allowable under section 40A(7)



AS

- AS -15: **Employee Benefits**

Reporting of one time impact

- IND AS 19: **Employee Benefits**

Reporting of one time impact



□ *Thank You*





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