

COMPARISON

(BETWEEN)

NEW CODES AND EARLIER LABOUR LAWS



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NEW CODES AND EARLIER LABOUR LAWS

Labour reforms when implemented would make Indian economy more productive and competitive. Now the 14 Central Acts which had 1458 sections, requiring 937 compliances have been consolidated into four Codes with just 480 sections. Also when implemented, the industries would need to file just one return for all four Codes. The ultimate goal of the government is to see India figure in top 10 nations in ease of doing business index of World Bank with completion of long-pending labour reforms. These reforms could start a chain-reaction in the economy. With ease of compliance would come increased formality, which will lead to proliferation of larger enterprises and more organised jobs, which, in turn, will ensure that more firms and workers pay taxes, increasing government revenues.

COMMON FEATURES IN ALL THE 4 CODES

➤ WAGES

In order to bring in consistency, the Codes have provided for a definition of the term 'wages' and includes all remuneration including house rent allowance, conveyance and other allowances capable of being expressed in monetary terms. In order to bring in consistency, the Codes have provided for a uniform definition of the term 'wages' and include all remuneration capable of being expressed in monetary terms.

➤ INSPECTOR-CUM-FACILITATOR

The Codes provide for the appointment of an Inspector-cum- Facilitator, whose role is enlarged to encompass not just inspection but also to advise the employers and workers with regard to the various compliances prescribed under the Codes. Inspection will be done on the basis of an inspection scheme which will include a web based inspection schedule. The inspection schemes will be decided by the Central government.

➤ COMPOUNDING OF FIRST OFFENCE

Unlike the current legislations, the Codes permit compounding of the first offence committed under the Code by paying 50% of the maximum fine provided for such offence. However, if the violation of a similar nature is repeated within a period of 5 years from the date on which the first violation was committed, the subsequent offence cannot be compounded.

CODES OF WAGES, 2020

SUBJECT MATTER	CODES ON WAGES	EARLIER PROVISIONS
APPLICABILITY OF	Applicable to all employees including in organized an unorganized sector	Applicable only on scheduled employments under Minimum Wages Act, 1948
FIXATION OF FLOOR WAGES	The Central Govt. will set a floor minimum wage and may set different minimum wages for different States and regions	No provision to fix floor Wages under Minimum wages Act, 1948
TIME LIMIT FOR CLAIM FOR WAGES	Claim could be made within 3 yea	Any claim for wages could be made within 6 months under Minimum Wages Act,1948

Under the Payment of Bonus Act, every eligible employee is entitled to receive a statutory bonus ranging from 8.33% to 20% of the wages, and similar rates have been reflected in the Code, too. The applicability of the PBA was however, limited to employees drawing wages not exceeding INR 21,000 per month, under the code, the wages threshold is to be fixed by the appropriate Government in relation to establishments over which they have jurisdiction

APPLICABILITY TO EMPLOYEES	All employees are protected without any wage limit including supervisor and managers	Applied to those employees drawing less than Rs.24,000/- for filing claim under Payment of Wages Act, 1936
ACCOUNTING YEAR	Only year commencing with 1 st April and ending on 31 st March No change of above accounting year permitted	Not necessarily one starting on 1 st April and ending on 31 st March under Payment of Bonus Act, 1965. It could be changed also once by the employer and could change without permission. It could be more than 12 months also

SUBJECT MATTER	CODES ON WAGES	EARLIER PROVISIONS
DISQUALIFICATION FOR BONUS	For similar misconduct as enumerated earlier. Additionally disqualification on conviction for sexual harassment.	On dismissal misconducts i.e. fraud, riotous & disorderly behavior, theft and misappropriation under Payment of Bonus Act, 1965
MODE OF PAYMENT	To be credited in the bank account of the employee	By cash only under Payment of Bonus Act 1965
BONUS WHEN DISPUTE FOR HIGHER BONUS IS REFERRED FOR ADJUDICATION	Employer liable bonus @8.33% when a dispute is referred to industrial tribunal in a dispute for payment of higher bonus	No such provision under Payment of Bonus Act, 1965
GENDER DISCRIMINATION IN FIXATION OF WAGES	Prohibits gender discrimination in matters related to wages and recruitment of employees for the same work or Work of similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same.	Prohibited gender discrimination in wage payment under Equal Remuneration Act, 1976
GENDER DISCRIMINATION IN RECRUITMENT	Prohibits gender discrimination in recruitment, transfers and promotions	No reference prohibiting gender discrimination in recruitment under Equal Remuneration Act, 1976
TERRITORIAL JURISDICTION FOR INSPECTOR CUM FACILITATOR	Not provided	Appointed area wise
REGISTERS & RETURNS	Only two registers are required to be maintained Only one return to be filed	Over 10 Registers Four returns

CODES OF SOCIAL SECURITY, 2020

SUBJECT MATTER	CODE ON SOCIAL SECURITY	EARLIER LAW
REGISTRATION AND CANCELLATION OF AN ESTABLISHMENT. Sec.3	Required only when there is no Registration of establishment under any Labour laws.	Registration was required under every Act.
NATIONAL SOCIAL SECURITY BOARD AND STATE UNORGANISED WORKERS' BOARD. Sec.6	To be constituted comprising of 42 member.	Did not exist.
APPEAL TO TRIBUNAL. Sec.23	Appeal against provident fund authority entertain on 25% of excess amount by EPF Authority	It was upto 75%
PRESUMPTION AS TO ACCIDENT ARISING IN COURSE OF EMPLOYMENT. Sec.34	Protecting other person who could possibly be injured in an accident. Travelling any vehicle with permission of employer from the place of work	Partly existed in Different section
CORPORATION'S (ESI) RIGHTS WHEN AN EMPLOYER FAILS TO REGISTER, ETC. Sec.42	Expenditure incurred extended upon employee who was no timely insured by the employer	Did not exist.
LIABILITY OF OWNER OR OCCUPIER OF FACTORIES, ETC., FOR EXCESSIVE SICKNESS BENEFIT. Sec.43	Insured person due to insanitary working Condition. Insanitary condition of any tenements are occupied by insured person due to neglect of the owner .liable for extra expenditure by the corporation	Did not exist.
SCHEMES FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS. Sec.45	Unorganized gig workers and platform workers and their family members providing ESI benefits against contributions.	Did not exist.

SUBJECT MATTER	CODE ON SOCIAL SECURITY	EARLIER LAW
FRAMING OF SCHEMES FOR UNORGANISED WORKERS. Sec.109	<p>welfare scheme by Central government for unorganised workers -(i) life and disability cover; (ii) health and maternity benefits; (iii) old age protection; (iv) education; and (v) any other benefit as may be determined by the Central Government.</p> <p>Welfare scheme for unorganised worker by State government for -(i) provident fund; (ii) employment injury benefit; (iii) housing; (iv) educational schemes for children; (v) skill upgradation of workers; (vi)funeral assistance; and (vii) old age homes.</p>	<p>Did not exist</p>
FUNDING OF STATE GOVERNMENT SCHEMES. Sec. 110	<p>Partly by State government and partly by contributions (Central government could also provided financial assistance)</p>	<p>Did not exist</p>
HELPLINE, FACILITATION CENTRE, ETC.,FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS. Sec.112	<p>Appropriate government provide toll free call centre for helpline or facilitation centres for unorganised, gig and platform workers.</p>	<p>Did not exist</p>
REGISTRATION OF UNORGANISED WORKERS, GIG WORKERS & PLATFORM WORKERS. Sec.113	<p>Gig workers to be registered on production of document including Aadhar number</p>	<p>Did not exist</p>
SCHEMES FOR GIG WORKERS AND PLATFORM WORKERS. Sec.114	<p>Central government to frame rules for gig and platform workers relating to -(a) life and disability cover; (b) Accident insurance; (c) health and maternity benefits; (d) old age protection; (e) crèche; and (f) any other benefit as may be determined the Central Government. For their welfare to be funded by contributions towards social security fund and also a board will be constituted</p>	<p>Did not exist</p>
APPOINTMENT OF INSPECTOR CUM-FACILITATORS AND THEIR POWERS. Sec.122	<p>Besides inspections they will advice the employer and employees for compliance of the Code</p>	<p>Only Inspectors for inspect the Establishment</p>

SUBJECT MATTER	CODE ON SOCIAL SECURITY	EARLIER LAW
MAINTENANCE OF RECORDS, REGISTERS, RETURNS, ETC. Sec.123	Records pertaining to employment of employees number of dangerous apprentice their wages and other facilities, number of dangerous occurrences, accident injuries, statutory vacancies for suitable candidates and display of notice.	Did not exist in the manner as prescribed
ASSESSMENT AND DETERMINATION OF DUES FROM EMPLOYER. Sec.125	Enquiry by provident fund authority shall not be Initiated after expiry of period of 5 years.	No limitation prescribed for enquiry under section 7A of EPF & MP Act.
PENALTY FOR FAILURE TO PAY CONTRIBUTIONS, ETC. Sec.133	Penalties for non-compliance of any requirement of Code including non payment of prescribed Contributions Impermissible deduction, non submission of any returns, report etc.	Existed
ENHANCED PUNISH IN CERTAIN CASES AFTER PREVIOUS CONVICTION. Sec.134	Including enhanced punishment for subsequent offence	Did not exist
REPORTING OF VACANCIES TO CAREER CENTRES AND EXCLUSIONS FROM APPLICATION OF THIS CHAPTER. Secs.139&140	Before filling up establishment vacancies to the appropriate government by the establishments. Other than employment agriculture, domestic service, for duration of 90 days	Existed in different in the Employment Exchanges (CNV) Act, 1959
POWER TO DEFER OR REDUCE THE STATUTORY CONTRIBUTIONS. Sec.144	Central govt. May defer for reduced employer/ employees contributions for ESI, provident fund for a period of 3 month in the event of pandemic for natural disaster.	Did not exist
MISUSE OF BENEFITS. Sec.148	Any establishment or other person misusing benefits under the Code could be deprived from any benefit by the government	Existed in different manner

INDUSTRIAL RELATIONS CODE, 2020

SUBJECT MATTER	INDUSTRIAL RELATIONS CODE	EARLIER LAW
INDUSTRY	Exclusions from the definition of 'industry' – Excluded Any capital has been invested for the purpose of carrying on such activity; or such activity is carried on with a motive to make any gain or profit, but does not include-(i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or (ii) any activity of the appropriate, Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space or (iii) any domestic service; or (iv) any other activity as may be notified by the Central Government.	Did not exclude except domestic service that too by judicial interpretations
FIXED TERM EMPLOYMENT	Fixed term employment will be eligible to all statutory benefits including gratuity which will be available to him even for serving for one year.	Did not exist
RETRENCHMENT	Excludes termination of service of a worker as a result of completion of tenure of fixed term employment	Did not exist
EMPLOYEE	Introduced in the Industrial Relations Code, 2020. Covers any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward.	Never existed except 'workman' which has not been incorporated in the Code
WORKERS	Includes working journalists and sales promotion employees	Only 'workman' was defined under Industrial Disputes Act whereas in other under Industrial Disputes Act whereas in
NEGOTIATING UNION OR NEGOTIATING COUNCIL	It has plugged loophole : exploiting the multiplicity of unions in an establishment/organization by introducing concept negotiating union or negotiating council.	Did not exist

SUBJECT MATTER	INDUSTRIAL RELATIONS CODE	EARLIER LAW
TRADE UNION FORUM FOR APPEAL	Appeal against non-registration or cancellation of registration lies only before Tribunal	It lies before High Court also
INDUSTRIAL TRIBUNAL	Would consist of two members to be appointed by the appropriate Government out of whom one shall be a Judicial Member and the other, an Administrative Member.	Only single member was consisted in the Industrial Tribunal
RE-EMPLOYMENT OF RETRENCHED WORKER	Re-employment of - within a period of one year ' only	No such period was prescribed
FLASH STRIKE	Completely prohibited	No such prohibition
PROHIBITION OF STRIKE IN LOCKOUT	Strikers required to give a notice at least 14 days in advance to the employers if they wanted to go on strike. Such notice valid upto 60 days. Strike prohibited during pendency of proceedings before tribunals or arbitrator.	Only in public utility services 14 days' notice was to be given
WORKERS RESKILLING FUND	Consisted of the contributions of the employer of an industrial establishment an amount equal to fifteen days wages last drawn by the worker immediately before the retrenchment, or such other number of days as may be notified by the Central Government, for every retrenched worker in case of retrenchment	Did not exist
PROHIBITION OF STRIKE	Workers could not resort to strike without 14 days' notice during conciliation proceedings and seven days after their conclusion during adjudication proceedings and three months after their conclusion.	Only in public utility services.
PRIOR PERMISSION FOR LAY OFF, RETRENCHMENT AND CLOSURE of INDUSTRIAL ESTABLISHMENT	Applies to an establishment (not being an establishment of a seasonal character or in which work is performed only intermittently in which not less than three hundred workers.	Applied for industrial establishment where 100 or more workers are employed
COMPOSITION OF OFFENCES	Could be resolved for a sum for a sum of fifty per cent. of the maximum fine provided for such offence punishable with fine only and for a sum of seventy-five per cent provided for such offence punishable with imprisonment for a term which is not more than one year or with fine.	Did not exist

OCCUPATIONAL, SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

IMPORTANT FEATURES	CODE	EARLIER LAW
REGISTRATION	Every employer of any establishment to apply for registration electronically	Separate registration was required under each different Act
APPOINTMENT LETTER	appointment letter to be issued to every employee	Did not exist
NOTICES OF CERTAIN ACCIDENT, DANGEROUS OCCURRENCE AND DISEASES	Notices to the authorities and for diseases as specified under Third Schedule of the Code	Existed in different forms
RIGHTS OF EMPLOYEE (Sec-14)	Every employee shall have right to obtain from employer information related to employee's health and safety and report to Safety Committee also	No such provision exists
NATIONAL OCCUPATIONAL SAFETY AND HEALTH ADVISORY BOARD	Central government to constitute the national occupational safety and health advisory board	Not exists
WELFARE OFFICER	On 250 workers in factory, mine, plantation	It is 500 workers in a factory
SAFETY COMMITTEE AND SAFETY OFFICER	On 500 workers in a factory, On 250 workers in hazardous process. On 250 workers in building or other construction. On 100 workers in a mine	When there are 1000 workers
RESPONSIBILITY OF EMPLOYER	For maintenance of health, safety and working conditions of the employees	Existed in different forms
WELFARE FACILITY IN THE ESTABLISHMENT	Employer responsible to provide and maintain in his establishment such welfare facilities for the employees as may be prescribed by the central government.	Exists
DAILY AND WEEKLY HOURS OF WORK	8 hours in a day and 48 hours in a week	Exists
	For journalist maximum 144 hours during period of 4 consecutive weeks and not less than 24 consecutive hours during 7 consecutive days.	Does not exist
	Specific provision for working journalist and sales promotion employer pertaining to holidays casual leave and other kinds of leave.	Not existed

IMPORTANT FEATURES	CODE	EARLIER LAW
OVERTIME WORKING	Employer can take overtime work with consent of the worker	No such provision exists
NOTICE OF PERIODS OF WORK	Display of notice about period of work every day.	Exists in different form
ANNUAL LEAVE WITH WAGES	One day for every 20 days of his work	Exists
REGISTERS AND RECORDS	Registers and records to be maintained by employer	Existed but not in one but more registers
SPECIAL POWERS OF INSPECTOR-CUM-FACILITATORS	Steps to be taken apprehending serious hazard or imminent danger in a factory or mine	Exists in different form
ENCASHMENT OF LEAVE	Worker entitled to encash leave above ceiling as prescribed	No such provision exists
EMPLOYMENT OF WOMEN DURING NIGHT SHIFT	Employer can employ women employee between 7 p.m. and 6 a.m. with her consent, subject to conditions on safety, holidays and working hours.	Did exist
CONTRACT LABOUR	Licence for engaging contract labour can be obtained for working in more than one State, or for whole of India, valid for a period of five years	No such provision exists. Validity of licence is twelve months.
NO RECOVERY FROM CONTRACT LABOUR	Contractor shall not charge, directly or indirectly, whole or in part, any fee or commission from contract labour	No such provision exists
WELFARE FACILITIES TO CONTRACT LABOUR	Welfare facilities to contract labour to be, provided by the Principal Employer	Contractor is responsible to Provide welfare facilities to his contract labour
CONTRACT LABOUR IN CORE ACTIVITY	Permitted under certain condition	Existed unless prohibited by government
CODE NOT TO APPLY IN CERTAIN CASES	Excavation in mine being made for- prospecting purposes only and not for the purpose of obtaining minerals for use or sale subject to the conditions specified etc.	Did not exist in this form
EXEMPTION FROM PROVISION REGARDING EMPLOYMENT	On breakdown of machinery on plant and equipment Workers to be exempted from work.	Did not exist in this format

IMPORTANT FEATURES	CODE	EARLIER LAW
EMPLOYMENT OF PERSONS BELOW EIGHTEEN YEARS OF AGE (Sec.70)	Relates to the employment of persons below eighteen years of age. It provides that no person below eighteen years of age shall be allowed to work in any mine or part thereof but in case of apprentices and other trainees, such age limit Is not below sixteen years.	Existed in different format
FACTORY LICENCE TO INDUSTRIAL PREMISE AND PERSON	Without licence no employer shall use or allow to use any place or premises	Differently Existed
RIGHT OF WORKERS TO WARN ABOUT IMMINENT DANGER	If Workers in hazardous process apprehend likelihood of imminent danger to lives or health, they may bring it to the notice of person in-charge for immediate correction	No such provision exists
EMPLOYMENT OF AUDIO· VISUAL WORKER	Employment with written agreement in prescribed form and registered with competent authority	No such provision exists
OFFENCES AND PENALTIES	Enhanced fines from and imprisonment terms for different contraventions,	Lesser Fines and imprisonment period
GRAVITY OF PUNISHMENT	Almost double fine and imprisonment for subsequent offences	Existed reasonably

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THANK YOU