

Currently, there are over 100 state and 40 central laws in India regulating various aspects of labor such as resolution of industrial disputes, working conditions, social security and wages. In order to ensure uniformity in labor laws, the Second National Commission on Labour recommended consolidation of central labor laws into broader groups such as:

(i) industrial relations, (ii) wages, (iii) social security, (iv) safety, and (v) welfare and working conditions.

In 2019, the Ministry of Labour and Employment introduced four Bills to consolidate 29 central laws. These Codes regulate: (i) Wages, (ii) Industrial Relations, (iii) Social Security, and (iv) Occupational Safety, Health and Working Conditions. While the Code on Wages, 2019 has been passed by the Parliament, bills in relation to the other three areas were referred to a Standing Committee.

Upon receiving recommendations from the Standing Committee, the 2019 bills were withdrawn, and following news bills were introduced in the Lok Sabha on September 19, 2020:

1. Occupational Safety, Health and Working Conditions Code, 2020

The 2020 bill intends to simplify and subsume 13 central laws regulating health, safety and working conditions of workers, such as the Factories Act, 1948, Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979, Contract Labour (Regulation and Abolition) Act, 1970, Dock Workers (Safety, Health and Welfare) Act, 1986 etc.. It aims to provide workers with wage security, social security, safety, health, and grievance redressal mechanisms. The following key changes are proposed by this bill:

- **Reduced Coverage:** The 2020 Bill now regulates:
 - Factories employing more than (i) 20 workers, if the process is carried out using power; or (ii) 40 workers, if it is carried out without using power, as compared to earlier threshold of 10 and 20 workers, respectively.
 - Establishments or contractors employing 50 or more contract workers (on any day in the last one year) instead of 20 contract workers.
 - Establishments where any hazardous activity is carried out, regardless of the number of workers.
- **Inter-state migrant workers**
 - The new definition of “inter-state migrant worker” includes any person who moves on his own to another state and obtains employment thereof as opposed to only those workers who are recruited in one State to work in another State.
 - Those persons will be considered as inter-state migrants who are earning a maximum of INR 18,000 per month, or such amount notified by the central government.
 - It provides for certain benefits for inter-state migrant workers, such as option to avail the benefits of the public distribution system either in the native state or the state of employment, insurance and provident fund benefits available to other workers in the same establishment etc.

2. Industrial Relations Code, 2020

This bill seeks to combine and simplify the Trade Unions Act, 1926, Industrial Employment (Standing Orders) Act, 1946 and Industrial Disputes Act, 1947. The objective of the bill is to advance the progress of industry by bringing about the existence of harmony and cordial relationship between the employers and workers and to minimize friction between them. Salient features of the bill are as follows:

- **Revised thresholds for applicability**
 - Industrial establishments with 300 workers or more (as opposed to the earlier threshold of 100) must prepare standing orders on matters such as (i) classification of workers, (ii) manner of informing workers about work hours, paydays, wage rates, (iii) termination of employment etc.
 - Establishments having at least 300 workers (as opposed to the earlier threshold of 100) are required to seek prior permission of the government before closure, lay-off, or retrenchment, which threshold may be increased by the Central Government.

- **Sole negotiating union**
 - If there were more than one registered trade union of workers functioning in an establishment, the trade union having more than 51% of the workers as members would be recognized as the sole negotiating union, as compared to the earlier threshold of 75% workers.
 - In case no trade union is eligible as A sole negotiating union, a negotiating council will be formed consisting of representatives of unions that have at least 20% of the workers as members.
- **Individual worker disputes**
 - Any dispute in relation to discharge, dismissal, retrenchment, or otherwise termination of the services of an individual worker will be considered as an industrial dispute and the worker may apply to the Industrial Tribunal for adjudication of the dispute.

3. Code on Social Security, 2020

This bill aims to subsume, simplify and rationalize 9 central labor enactments relating to social security, such as the Employees' Compensation Act, 1923, Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Employees' State Insurance Act, 1948, Payment of Gratuity Act, 1972, Unorganised Workers' Social Security Act, 2008 etc. The objective of the bill is to provide a comprehensive social security coverage to avoid deprivation of basic needs of workers. Key changes proposed by the bill are as follows:

- **Setting up of social security funds and schemes**
 - The bill proposes that the Central government will set up a social security fund for unorganized workers (such as home based and self-employed workers), gig workers and platform workers and register all such workers.
 - National Social Security Board to be set up that may also act as the board for the purposes of welfare of unorganized workers, gig workers and platform workers and can recommend and monitor schemes for them.
 - Schemes for gig workers and platform workers may be funded through a combination of contributions from the central government, state governments, and aggregators (digital intermediary which connect the buyer and seller / service provider, eg. food and grocery delivery services). Further, any contribution from an aggregator may be at a rate notified by the government falling between 1-2% of the annual turnover of the aggregators. However, such contribution cannot exceed 5% of the amount paid or payable by an aggregator to gig workers and platform workers.
- **Term of eligibility for gratuity** : It reduces the term of gratuity, which was earlier payable on the termination of employment, if the employee has been in the organization for at least five years, to three years for working journalists.
- **Additional powers during an epidemic**: It adds a new clause, which states that the central government may defer or reduce the employer's or employee's contributions (under PF and ESI) for a period of up to 3 months in the case of a pandemic, epidemic, or national disaster.

Our View:

The proposed changes take an inclusive approach by ensuring more social security funds and schemes are organized for gig workers and platform workers, and inter-state migrant workers include self-employed workers from other states as well. Further, the Industrial Relations Code, 2020 proposes to increase the threshold for applicability of standing orders and requirement of seeking prior permission for lay-off, retrenchment from 100 to 300 workers. These provisions will provide relief to small enterprises aiming to avoid additional costs related to labor compliances and thereby promote ease of doing business in India.

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