

Labour Codes Bills Passed

Both houses of Parliament passed new versions of **three labour Codes - Code on Social Security, 2020, Occupational Safety, Health and Working Conditions Code, 2020 and Industrial Relations Code, 2020**. These Codes which have subsumed 25 central labour laws will now be sent to the President for his assent. The Codes shall come into force on such dates as the Central Government may, by notification in the official gazette, appoint.

Key Highlights of the Codes

Labour Codes - Passed by Parliament	The Industrial Relations Code, 2020	The Code on Social Security, 2020	The Occupational, Safety, Health and Working Conditions Code, 2020
Existing Laws - Amalgamated	<ol style="list-style-type: none"> 1. Industrial Disputes Act, 1947; 2. Industrial Employment (Standing Orders) Act, 1946; 3. Trade Unions Act, 1926 	<ol style="list-style-type: none"> 1. Employees' Provident Fund and Miscellaneous Provisions Act, 1952; 2. Employees' State Insurance Act, 1948; 3. Payment of Gratuity Act, 1972; 4. Maternity Benefit Act, 1961; 5. Employees' Compensation Act, 1923; 6. Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; 7. Building and Other Construction Workers Cess Act, 1996; 8. Unorganised Workers' Social Security Act, 2008; 9. Cine Workers Welfare Fund Act, 1981 	<ol style="list-style-type: none"> 1. Factories Act, 1948; 2. Contract Labour (Regulation and Abolition) Act, 1970; 3. Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; 4. Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; 5. Motor Transport Workers Act, 1961; 6. Beedi and Cigar Workers (Conditions of Employment) Act, 1966; 7. Mines Act, 1952; 8. Dock Workers (Safety, Health and Welfare) Act, 1986; 9. Plantations Labour Act, 1951; 10. Working Journalist and other Newspaper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955; 11. Working Journalist (Fixation of Rates of Wages) Act, 1958; 12. Sales Promotion Employees (Condition of Service) Act, 1976; 13. Cine Workers and Cinema Theatre Workers Act, 1981
Applicability	<p>The Code applies to all establishments, with separate thresholds for layoffs, retrenchment and closure, and for requirement of standing orders i.e.</p> <p>(i) Chapters relating to Trade Union and Industrial Disputes - Applicable to all establishments and workers</p> <p>(ii) Chapter relating to Standing Orders - Applicable to establishments with 300 or more workers</p> <p>(iii) All chapters (except Chapter III relating to Trade Union) –</p>	<p>The Code is applicable to all establishments subject to the minimum threshold of employees which is consistent with the current regime such as:</p> <p>(i) Employee Provident Fund - 20 or more employees;</p> <p>(ii) Employee State Insurance - 10 or more persons;</p> <p>(iii) Maternity Benefit- 10 or more persons in shops and establishments</p>	<p>(i) The Code is applicable to:</p> <p>a. every place carrying on any industry, trade, business, other manufacturing or occupation or motor transport undertaking, newspaper establishment, audio-video production, building and construction work or plantation or factory (for licensing purposes) in which 10 or more workers are employed;</p> <p>b. mine or port or vicinity of port where dock work is carried out.</p>

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	<p>Applicable to all workers including workers in supervisory capacity earning wages upto INR 18,000 (as against current limit of INR 10,000)</p> <p>(iv) Workers employed in a managerial and administrative capacity are excluded from the purview of the code.</p>	<p>(iv) Gratuity - 10 or more persons in shops and establishments etc.</p>	<p>c. Threshold criteria will not be applicable for establishments where notified hazardous or life-threatening activity is being carried on.</p> <p>(ii) Chapter on Factories Act:</p> <p>a. premises with 20 or more workers + manufacturing process + with aid of power (currently 10 workers)</p> <p>b. premises with 40 or more workers + manufacturing process + without aid of power (currently 20 workers).</p> <p>(iii) Chapter on CLRA Act:</p> <p>a. Every establishment with 50 or more contract labours; or</p> <p>b. Every manpower supply contractor with 50 or more contract labours.</p> <p>(iv) Chapter on ISMW Act:</p> <p>Every contractor with 10 or more inter-state migrant workers ((currently 5 migrant workers).</p> <p>(v) Sales Promotion Employees -</p> <p>Applicability extended beyond pharma and notified industry to any sales promotion employees except:</p> <p>a. employed in supervising capacity and drawing wages of INR 18,000 or more;</p> <p>b. engaged in managerial or administrative capacity.</p>
Definitions	Part A - Common Definition		
	<p>(i) Definition of wages is common across all three codes</p> <p>(ii) Contract Labour definition has been revised to include inter-State migrant worker and part-time worker and excludes worker:</p> <p>a. who is regularly employed by the contractor for any activity of his establishment or employment</p> <p>b. who is governed by mutually accepted standards and conditions of employment</p> <p>c. who is engaged on permanent basis</p> <p>d. who gets periodical increment in the pay, social security coverage and other welfare benefits, in such employment with the contractor</p> <p>(iii) Apprentices registered under the Apprentices Act, 1961 are excluded from the definition of "Worker" and "Employee".</p>	<p>(i) Definition of wages is common across all three codes</p> <p>(ii) Definition of Contract Labour is common across all three codes</p> <p>(iii) Exclusion of Apprentices registered under the Apprentices Act, 1961 from the definition of employee is common across all three codes</p>	<p>(i) Definition of wages is common across all three codes</p> <p>(ii) Definition of Contract Labour is common across all three codes</p> <p>(iii) Exclusion of Apprentices registered under the Apprentices Act, 1961 from the definition of employee is common across all three codes</p>
	PART B - Different definitions		
	<p>(i) New definition introduced for "Fixed Term Employment" (FTE) to provide benefits to such employees at par with permanent worker. Termination on completion of tenure of FTE will also not be counted as retrenchment.</p>	<p>(i) New definition introduced for "Fixed Term Employment" (FTE) to provide benefits to these employees at par with regular employees.</p>	<p>(i) FTE is not defined in the Code</p>

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	<p>(ii) "Industry" now has certain specific exclusions i.e. Companies engaged in charitable, social or philanthropic service, domestic services and certain Central and State Government activities.</p> <p>(iii) "Strike" now includes mass casual leave on any given day by 50% or more workers employed in an industry.</p>	<p>(ii) New definitions introduced for "Platform Worker" and "Gig Worker"</p> <p>(iii) Inter-state migrant workmen -</p> <p>1. The definition now also includes:</p> <p>a. person directly recruited by the employer in one State for employment in another State; or</p> <p>b. workers who have come on their own from one state to another.</p> <p>2. The Code also introduces a wage capping of INR 18,000 for a person to be referred as an inter-state migrant worker.</p>	<p>(ii) Core activity of establishment -</p> <p>Definition of core activity introduced specifying list of 11 excluded activities. It also provides special circumstances when contract workers may be engaged in core activity of an establishment.</p> <p>(iii) Inter-state migrant workmen -</p> <p>1. The definition now also includes:</p> <p>a. person directly recruited by the employer in one State for employment in another State; or</p> <p>b. workers who have come on their own from one state to another.</p> <p>2. The Code also introduces a wage capping of INR 18,000 for a person to be referred as an inter-state migrant worker.</p> <p>(iv) Contractor - The definition has now qualified "supplies contract labour for any work of the establishment" by adding the words "as mere human resource".</p> <p>(v) Manufacturing Process - The Code has widened the definition of manufacturing process by including 'three Dimensional or four-Dimensional printing, prototyping, flexography'.</p> <p>(vi) Principal Employer - The definition of principal employer now includes a 'manager' of a mine.</p>
Licenses/ Registrations	<p>No change has been made in the registrations in the Code vis-à-vis the current regime.</p>	<p>(i) The Code requires all establishments to which it applies, to be registered within the prescribed time.</p> <p>(Currently, registration is only required under EPF & ESI Act and only a notice of opening of establishment is required under the Payment of Gratuity Act.</p> <p>There are no registration and intimation requirements under Maternity Benefit and Employee's Compensation Act.)</p> <p>(ii) Aadhar based registration is required for all employees and unorganised workers under the Code. The procedure for registration is yet to be defined.</p>	<p>(i) Registration of factories and establishments - All 'establishments' (as defined in the Code) now need to be registered.</p> <p>(ii) Notice of commencement, cessation and closure - The Code states that all establishments now need to submit notice of commencement and cessation of operation and closure of establishment to the appropriate authority.</p> <p>(iii) Common License - The Code provides for a common licence in respect of a factory, industrial premises for beedi and cigar work and for engaging contract workers or any combination thereof or single licence for any one of them.</p>
Procedural Requirements	<p>1. Industrial Disputes</p> <p>(i) Streamlined structure of resolution of industrial disputes - removes multiple adjudicating bodies. Now, the code provides resolution of disputes through a Conciliation Officer and Industrial Tribunal/ National Industrial Tribunal.</p>	<p>1. Contributions</p> <p>(i) EDLI Contribution rate - increased from 0.5% to 1%</p>	<p>1. General duties of employer</p> <p>(i) Annual health check and Issuance of letter of employment - Duties related to annual health check of employees and issuance of letter of employment to employees have now been made mandatory for all establishments.</p>

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	<p>(ii) Introduction of two members in Tribunal - 1 Judicial member & 1 Administrative member</p> <p>(iii) Strikes and Lock outs -</p> <p>a. Notice period for strike or lock-out - Within 60 days before strike (as opposed to 6 weeks in current regime)</p> <p>b. Prohibition on strike or lockout within 14 days of notice - applicable to all establishments (Reporting by the employer to the authority within 5 days)</p> <p>(iv) Retrenchment/ Lay off/ Closure - Establishment with 300 or more workers to take prior approval of Central or State Government before lay off or retrenchment or closure. (as opposed to earlier threshold of 100 workers)</p> <p>(v) Threshold to take prior approval can be increased by government through notification</p> <p>(vi) Introduction of "Workers re-skilling fund" - In case of retrenched worker, employer to contribute equivalent to 15 days wages or such other days as may be notified by the Central Government.</p> <p>(vii) Disputes relating to termination of individual worker - Option is provided to workers to apply to the Tribunal after the expiry of 45 days from the date they have made the application to the conciliation officer.</p> <p>(viii) Grievance Redressal Committee - Maximum number of members in the Committee increased from 6 to 10.</p> <p>(ix) Commencement of conciliation proceedings - The conciliation proceedings will now commence from the date on which the first meeting is held by the conciliation officer.</p>	<p>(ii) EPF contribution rate - fixed at 10%, but may be extended to 12% by the Central Government</p> <p>(iii) New provision added to provide powers to Central Government to defer or reduce the contribution rates (under PF and ESI) for a period of up to 3 months in the case of a pandemic, endemic, or national disaster.</p>	<p>(ii) Notice of dangerous occurrences and accidents -</p> <p>a. Now all establishments are required to submit notice of dangerous occurrences and accidents causing death or bodily injury preventing a person from working for a period of 48 hours immediately after the accident.</p> <p>b. Now all establishments to act upon intimation from the employees of an apprehension of imminent danger.</p>
	<p>2. Standing Orders</p> <p>(i) Preparation and submission for certification of draft standing orders on the matters listed in Schedule I by establishment with 300 workers or more.</p> <p>(ii) FTE's are now included in the classification of workers for the matters listed out in Schedule I for standing orders.</p>	<p>2. Contributions</p> <p>(i) EDLI Contribution rate - increased from 0.5% to 1%</p> <p>(ii) EPF contribution rate - fixed at 10%, but may be extended to 12% by the Central Government</p>	<p>2. General Health and Working Conditions</p> <p>The Code specifies general health and working conditions like cleanliness and hygiene, ventilation, temperature and humidity, potable drinking water etc for all employees to be adhered to by all establishments.</p>

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	<p>(iii) No power to the Central Government to make provision related to Standing Orders applicable in establishments with less than 300 workers</p> <p>(iv) Ambiguity on impact of reduction in the number of workers below the threshold of 300 workers</p>	<p>(iii) New provision added to provide powers to Central Government to defer or reduce the contribution rates (under PF and ESI) for a period of up to 3 months in the case of a pandemic, endemic, or national disaster.</p>	
	3. Trade Unions (TU)	3. Gratuity	3. General Welfare Facilities
	<p>(i) Introduction of "Negotiating Council" or "Sole Negotiating Union" to become a single point of contact with the employer.</p> <p>(ii) Composition of Negotiating Council/ Sole Negotiating Union</p> <p>a. Where there are 2 or more TU's - designate TU with 51% or more support as Sole Negotiating Union</p> <p>b. Where there are 2 or more TU's each with less than 51% support - designate 1 representative for each 20% of support in the Negotiating Council</p> <p>c. Where there is 1 TU - designate it as Sole Negotiating Union</p> <p>(iii) Recognition of TU or federation at Central and State level</p>	<p>(i) Fixed term employees - entitled to receive gratuity on pro rata basis on termination of the contract and the completion of 5 years of continuous service is not necessary in such case.</p> <p>(ii) Gratuity payable on termination of employment - The tenure of service for working journalists for calculation of gratuity reduced from 5 years to 3 years</p>	<p>The Code specifies general welfare facilities like washing facilities, canteen, creche etc to be provided by all establishments for all employees. Code provides a threshold of workers for canteen and creche as 100 and 50 respectively.</p>
		4. Maternity Benefit	4. Hours of work and leave with wages
		<p>Medical bonus is payable at INR 3500 subject to a maximum capping, which is yet to be defined by the Central Government.</p> <p>(The Central Government can increase the amount of medical bonus upto INR 20,000)</p>	<p>(i) Overtime - The Code has introduced a provision stating that overtime of workers is subject to their consent for the work.</p> <p>(ii) Hours of work -</p> <p>a. 8 hours of daily work for all workers; Period of work including rest interval and spread over to be notified.</p> <p>b. Notice of periods of work to be given by all establishments.</p> <p>c. Prohibition of overlapping shifts is applicable to all establishments except for mines.</p> <p>(iii) Leave with wages - The Code applies provisions relating to annual leave with wages to workers of all establishments (1 day for every 20 days of work performed).</p>
		5. Unorganised workers/ Gig workers/ Platform workers	5. Night shift for women employees

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		<p>(i) Social Security Schemes framed by the government may be funded by CSR funds (as defined under the Companies Act, 2013) or by contribution of aggregators (1-2% of Annual Turnover)</p> <p>(ii) Central Government may introduce schemes for unorganised workers to extend ESI benefits</p> <p>6. Career centres</p> <p>(i) Introduction of concept of career centres which would also include employment exchanges within its ambit.</p> <p>(ii) Appropriate Government may require establishments to submit a notice before filling of vacancies to "career centres". However, there is no obligation upon the employer to recruit through these career centres.</p>	<p>Night shift of women</p> <p>The Code has made provision for employing women in night shift before 6 a.m. and beyond 7 p.m. with their consent and subject to conditions relating to safety, holidays and working hours or any other prescribed condition.</p> <p>6. Contract Labour</p> <p>(i) Liability of principal employer regarding welfare facilities - Now the onus of providing canteens, rest rooms, drinking water and first aid is on the principal employer. The Code has done away with the requirement of the Contractor to provide such facilities in the first instance.</p> <p>(ii) Payment of wages - The Code has introduced provision relating to payment of wages by 'bank transfer or other electronic modes' to contract labours.</p> <p>7. Inter-State Migrant Workers</p> <p>Toll free helpline</p> <p>The Code makes provision for the appropriate government to provide facility of toll-free helpline to the inter-State migrant workers.</p> <p>8. Cine Workers Act</p> <p>Agreement to include welfare provisions</p> <p>The Code specifies that the agreement with an audio-visual worker must contain provisions relating to health and working condition, safety, hours of work and welfare facilities.</p>
Registers and Returns	<p>The Code has introduced provision relating to 'intimations to authority in electronic form' such as:</p> <p>a. submission of draft standing orders;</p> <p>b. registration of Trade Union</p> <p>c. Notice of closure of industrial undertaking etc.</p>	<p>The Code has introduced provision relating to 'electronic filing' of return and 'electronic maintenance' of registers containing particulars like:</p> <p>a. hours of work performed by employees;</p> <p>b. wages paid;</p> <p>c. Leave, leave wages, overtime, attendance etc.</p>	<p>The Code has introduced provision relating to 'electronic filing' of return and 'electronic maintenance' of registers containing particulars like:</p> <p>a. work performed by workers;</p> <p>b. wages paid;</p> <p>c. Leave, leave wages, overtime, attendance etc.</p>
Displays	-	Type of displays yet to be notified in the rules	a. Notice of period of work is now to be displayed by all establishments

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			b. Type of displays yet to be notified in the rules
Limitation Period	Conciliation officer & Tribunal - The Code provides for a limitation period of 2 years for institution of proceedings in respect of any industrial dispute	The Code provides for a limitation period of 5 years for institution of proceedings in respect of assessment and determination of money dues from employer under Employee Provident Fund and Employee State Insurance.	The Code provides for a limitation period of 6 months for institution of proceedings in respect of an alleged offence that came to the knowledge of the Inspector-cum-Facilitator and a complaint was filed in that regard.
Penalties & Offences	Penalties		
	<p>(i) Unlawful lay off and retrenchment -</p> <p>a. First Offence - Fine upto 10 lakhs for first offence</p> <p>b. Subsequent Offence - Imprisonment upto 6 months and fine upto 20 lakhs</p> <p>(ii) Illegal Strike - Imprisonment upto 1 month or fine upto INR 10,000 or both</p> <p>(iii) Illegal Lock-out - Imprisonment upto 1 month or fine upto INR 1 Lakh or both</p> <p>(iv) General offences - Fine upto INR 1 Lakh</p>	<p>Failure to pay Contributions -</p> <p>a. First Offence - Imprisonment upto 3 years and fine upto INR 1 Lakh</p> <p>b. Subsequent Offence - Imprisonment upto 3 years and fine upto INR 3 Lakhs</p>	<p>(i) General Penalty:</p> <p>a. First offence - Fine upto INR 3 lakhs;</p> <p>b. Continuing offence - INR 2000 for each day till such contravention continues;</p> <p>(ii) Falsification of records:</p> <p>a. First offence - Imprisonment upto 3 months or fine upto INR 1 lakh or both;</p> <p>b. Subsequent offence - Imprisonment upto 6 months or fine upto INR 2 lakhs or both;</p> <p>(iii) Contravention resulting in accident and causing:</p> <p>a. First Offence</p> <p>1. death - Imprisonment upto 2 years or fine of atleast INR 5 lakhs;</p> <p>2. serious bodily injury - Imprisonment upto 1 year or fine upto INR 4 lakhs;</p> <p>b. Subsequent offence - Double the penalty mentioned above</p>
Compounding			
<p>(i) Eligibility - Offences punishable with imprisonment up to 1 year or with fine or both</p> <p>(ii) Quantum -</p> <p>a. Offences with fine - Sum equal to 50% of the maximum fine can be compounded</p> <p>b. Offences with imprisonment of maximum 1 year- sum equal to 75% of the maximum fine</p>		The Code specifies penalties for various offences, such as failure to maintain registers and submission of false information. Further, 50% of maximum penalty provided may be compounded where a 'penalty' is levied and 75% of maximum fine provided may be compounded for offences.	

(This is intended for general information purposes only and therefore, should not be considered a substitute for legal advice.)