STRIDE LEGAL INSIGHTS

ALL YOU NEED TO KNOW ABOUT THE FOUR NEW LABOUR CODES

I. BACKGROUD

a. On 21 November 2025, the Ministry of Labour and Employment notified the following Labour Codes – the Code on Wages, 2019 (‘**Wage Code’**), the Industrial Relations Code, 2020 (‘**IR Code**’), the Code on Social Security, 2020 (‘**SS Code**’) and the Occupational Safety, Health and Working Conditions Code, 2020 (‘**OSHW Code**’) (collectively, ‘**Labour Codes**’). The Labour Codes consolidate 29 existing central labour laws.

II. KEY FEATURES AND COMPLIANCES

A. ARE THE PROVISIONS OF THE FOUR LABOUR CODES EFFECTIVE IMMEDIATELY

i. The first immediate reaction and curiosity of all those who are going to be impacted by the implementation of the Labour codes has been with respect to the date as to when the Labour Codes will be effective and whether the regulators have provided for a transition period.

ii. The notification issued by the Ministry of Labour and Employment states that the Labour Codes have been notified to take effect from 21 November 2025, and these have now repealed the old laws save and except the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF Act.

iii. However the press release from the Ministry of Labour and Employment states that during the "*transition… existing labour Acts and their respective rules, regulations, notifications, standards, schemes, etc. will continue to remain in force*."

iv. Hence it appears that the existing rules under the old (repealed) laws will continue to apply and would have to somehow be read in consonance with the substantive provisions of the newly notified Labour Codes to guide future compliance (to the extent they are not contrary to the Labour Codes). This would be the position till the time State governments formally notify and implement fresh rules for the Labour Codes.

B. Definition of the term 'Wages'

i. The Labour Codes have adopted a consistent, uniform definition of the term 'Wages.' The new definition across the Labour Codes has now taken effect.

ii. The new definition of wages states that wages will include all remuneration payable whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed, and includes,—

i. basic pay;

ii. dearness allowance; and

iii. retaining allowance, if any.

iii. The definition of wages does not include:

(i) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(ii) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(iii) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(iv) any conveyance allowance or the value of any travelling concession;

(v) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(vi) house rent allowance;

(vii) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(viii) any overtime allowance;

(ix) any commission payable to the employee;

(x) any gratuity payable on the termination of employment;

(xi) any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment:

iv. The new definition of 'wages' further states that if the components of compensation that are expressly excluded/not treated as wages (for e.g., House Rent Allowance), exceed 50% of the total compensation, then at least 50% of the compensation would be deemed to be 'wages'. Further, remuneration in kind (if any) up to 15% will be treated as wages.

v. The new definition and calculation of 'wages' will impact how various benefits based on '*wages*' will be calculated – most tellingly in the context of '*gratuity*'. Gratuity was only payable on the '*basic salary*' and '*dearness allowance*' under the now repealed Payment of Gratuity Act, 1972. The new definition of wages is wider and covers other fixed/guaranteed allowances, expanding the base on which gratuity must be calculated. This is going to impact the accounting provision for gratuity made by companies in their balance sheet, and/or the funding for their gratuity trust.

vi. To the extent this has not already been done, employers must immediately examine the impact of this new definition on various employee payments, including leave encashment, gratuity, statutory bonus, maternity, retrenchment compensation, etc. Strategies, if any, to mitigate this impact would have to be carefully assessed.

C. Other immediate compliances under the Wage Code:

i. The Code on Wages consolidates four central / federal labour legislations being the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976.

ii. The Wage Code expressly prohibits an employer from discriminating on the basis of gender in matters relating to wages, in respect of the same work or work of similar nature. There is also a prohibition on discriminating on the ground of sex while recruiting for the same work or work of similar nature and vis-à-vis the conditions of employment.

iii. A two-day timeline is now prescribed for payment of unpaid wages for employees in cases of termination, resignation or closure of the establishment – a significant shift from the earlier regime, where such timelines applied only to a limited category of employees and only on termination. Companies will need to reassess and streamline their payroll and exit-clearance timelines.

iv. Further the Wage Code specifies that any deductions in wages should only be for reasons specified in the Wage Code and as per the process specified in the Wage Code.

v. The Wage Code further specifies that the employer shall fix the wage period for employees either as daily or weekly or fortnightly or monthly subject to the condition that no wage period in respect of any employee shall be more than a month.

vi. The Wage Code also specifies that an annual minimum bonus is required to be paid to employees who have put in at least thirty days work in an accounting year and drawing wages not exceeding such amount per mensem, as determined by the appropriate Government. The bonus is required to be paid at the rate of eight and one-third per cent. of the wages earned by the employee or one hundred rupees, whichever is higher whether or not the employer has any allocable surplus during the previous accounting year.

vii. The Wage Code introduces a concept of 'floor wage'. The 'floor wage' shall be notified by the central government to serve as a baseline for the state governments to prescribe minimum wages. If the existing minimum wages fixed by the central / federal or state governments are higher than the 'floor wage', the existing minimum wages cannot be reduced.

D. Compliances under SS Code

i. The SS Code consolidates 9 social security and welfare statutes, being: (i) Employee's Compensation Act, 1923; (ii) Employees' State Insurance Act, 1948; (iii) Employees' Provident Funds and Miscellaneous Provisions Act, 1952; (iv) Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; (v) Maternity Benefit Act, 1961; (vi) Payment of Gratuity Act, 1972; (vii) Cine-workers Welfare Fund Act, 1981; (viii) Building and Other Construction Workers Welfare Cess Act, 1996; and (ix) Unorganized Workers' Social Security Act, 2008.

ii. Under the SS Code, different thresholds are provided for eligibility for payment of gratuity to permanent and fixed term employees.

iii. The SS code specifies that Gratuity is payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

   i. on his superannuation; or
   ii. on his retirement or resignation; or
   iii. on his death or disablement due to accident or disease; or
   iv. on termination of his contract period under fixed term employment;

iv. As per the SS Code, completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed term employment or happening of any such event as may be notified by the Central Government.

v. A fixed term employee is eligible for payment of gratuity on pro-rata basis irrespective of the duration of their employment, subject to the eligibility threshold of 1 year prescribed under the Labour Codes.

vi. It must be noted that provisions related Employees' Provident Fund under the SS Code are applicable to every establishment in which twenty or more employees are employed.

vii. Provisions related to Employees' State Insurance Corporation are applicable to every establishment in which ten or more persons are employed other than a seasonal factory.

viii. Provisions related to Gratuity are applicable to every shop or establishment in which ten or more employees are employed.

ix. Provisions related to Maternity Benefit are applicable to every establishment being a to every shop or establishment in which ten or more employees are employed.

x. The SS Code covers the following categories of workers (i) employees (ii) contract labour (iii) fixed term employees (iv) gig workers (v) platform workers (vi) home-based workers (viii) inter-state migrant workers (ix) self-employed workers and (x) building workers, and (xi) unorganized workers.

xi. Social security benefits need to be provided to / in respect of gig and platform workers. ‘Aggregators’, who are the digital intermediaries or marketplaces for buyers or users of a service to connect with the sellers or the service providers, are required to make social security contributions for gig and platform workers they engage.

xii. The government can enact social security schemes for other unorganized workers such as home-based workers and self-employed workers. To avail the benefit of the schemes, the eligible beneficiaries are required to register themselves on a portal in the manner prescribed.

E. Compliances under OSHW Code

i. The OSHW Code consolidates 13 central / federal labour laws, being the (i) Factories Act, 1948; (ii) Contract Labour (Regulation and Abolition) Act, 1970; (iii) Mines Act, 1952; (iv) Dock Workers (Safety, Health and Welfare) Act, 1986; (v) Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; (vi) Plantations Labour Act, 1951; (vii) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 ; (viii) Working Journalists and other News Paper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955; (ix) Working Journalists (Fixation of Rates of Wages) Act, 1958; (x) Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981; (xi) Motor Transport Workers Act, 1961; (xii) Sales Promotion Employees (Conditions of Service) Act, 1976; and (xiii) Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

ii. Under the OSHW Code an establishment is defined aa a place where any industry, trade, business, manufacture or occupation is carried and in which ten or more workers are employed.

iii. Under the OSHW Code every employer of an establishment shall within a period of sixty days make an application to the registering officer appointed by the appropriate Government for the registration of such establishment.

iv. It must be noted that this registration requirement will be applicable to establishments employing ten or more employees.

v. The daily hours of work are set at eight hours, with special hours for certain sectors.

vi. Consent of the worker is required for overtime work and rules may be prescribed to limit the hours of overtime. Further, the employer will be required to pay twice the rate of wages for overtime work.

vii. Annual leave can be encashed by employees upon demand at the end of the calendar year, besides at the time of employment termination.

viii. Every employer is required to issue a letter of appointment to every employee on his appointment in the establishment, and where an employee has not been issued such appointment letter, the employer is required to issue an appointment letter he within three months of the notification of the OSHW Code.

ix. Entities are now prohibited from engaging 'contract labour' in core activities of an establishment, barring certain customary and emergency exceptions built into this prohibition.

x. In case an establishment is employing contract labour through a contractor who is required to obtain a licence under the OSHW Code, but has not obtained such licence, the contract labour so engaged through such contractor, shall be deemed to be employed by the principal employer.

F. Compliances under the IR Code

i. The IR Code consolidates three central / federal labour laws that govern and regulate industrial relations and industrial disputes, being the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946, and the Industrial Disputes Act, 1947.

ii. The IR Code formalizes the concept of fixed term employment, being the engagement of a worker on the basis of a written contract of employment for a fixed period. Further, a fixed term worker is entitled to: (i) parity in wages, working hours, allowances and other benefits applicable to permanent workers for doing same work or work of similar nature; (ii) statutory benefits as provided to permanent workers proportionate to the period of employment, notwithstanding the qualifying period to receive such benefits as prescribed in the legislations; and (iii) gratuity if the fixed-term worker renders service under the contract for a period of at least one year.

iii. Factories with 300 or more workers (an increase from the previous threshold of 100 workers in most Indian States), are now required to take permission of the appropriate government before any lay-off, retrenchment or closure exercise.

iv. Industrial establishments with 20 or more workers are now required to mandatorily constitute a grievance redressal committee, which must include an equal number of worker representatives (in addition to women representation). This is likely to be a significant departure for all employers from their existing grievance redressal mechanisms, which do not normally comprise worker representatives. Decisions of the grievance redressal committee will not only have to be passed by a majority but also agreed upon by more than half of the worker representatives.

v. There shall be a negotiating union or negotiating council in an industrial establishment having a registered trade union, to engage in negotiations on certain prescribed matters. In case there is only one registered trade union, such union will be the negotiating union.

vi. Every establishment having at least 300 workers is required to adopt standing orders, which are akin to service rules. The concept of deemed certification of the model standing orders as prescribed by the government has been introduced, wherein, if an employer adopts the model standing orders (upon informing the authorities), it shall be deemed to have been certified.

vii. The employer is required to contribute 15 days' wages to the Worker Re-Skilling Fund to be set up by the government for every worker retrenched (terminated). The fund shall provide monetary compensation to workmen who are retrenched.