



**WHAT WILL THE IMPLEMENTATION  
OF THE NEW LABOUR CODES MEAN  
FOR COMPANIES?**

**ksk** | **KING STUBB & KASIVA**  
ADVOCATES AND ATTORNEYS



As the New Labour Codes is expected to be implemented by the new Indian government once it is formed, we bring you the key implications of the New Labour Codes.





# New Labour Codes

## Consolidation of labour and employment laws:

As per a press release of the central government, around 100 state and 40 central laws are currently regulating various aspects of labour in India. With the objective of simplifying compliance and modernizing or updating the labour regulations to meet present-day requirements, the Indian government has enacted four Labour Codes.

## New Labour Codes:

The New Labour Codes (mentioned below) will replace 29 central labour and employment laws

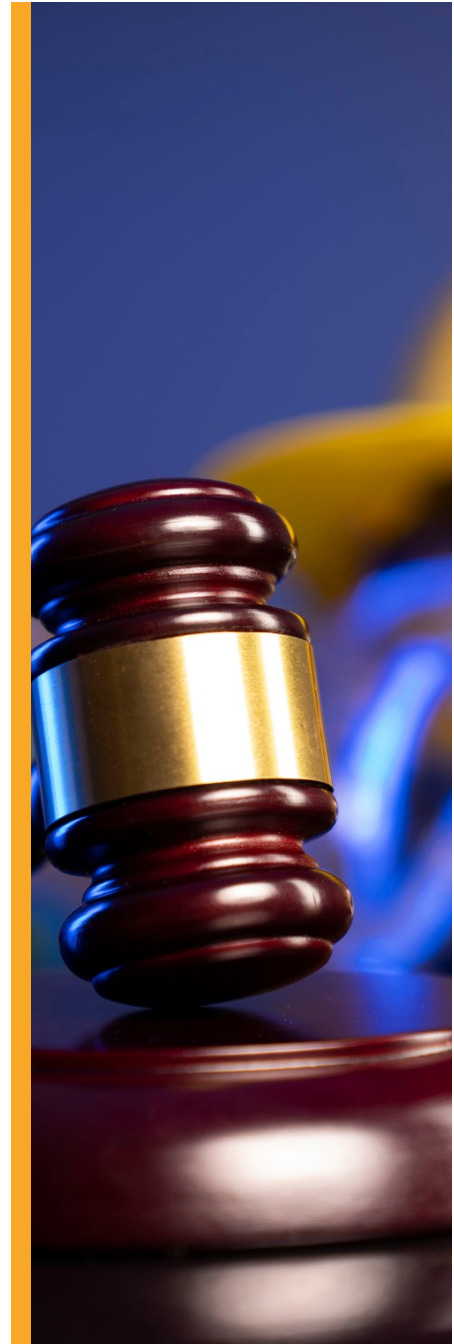
- Code on Wages, 2019
- Code on Social Security, 2020
- Occupational Safety, Health, and Working Conditions Code, 2020
- Industrial Relations Code, 2020

The major laws that are not subsumed under the New Labour Codes are:

- The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013
- Apprentices Act, 1961
- State-specific Shops and Establishments Acts
- Child and Adolescent Labour (Prohibition and Regulation) Act 1986

## Code on Wages, 2019: Salient Features

- It consolidates the Payment of Wages Act, 1936, the Minimum Wage Act, 1948, the Payment of Bonus Act, 1965, and the Equal Remuneration Act, 1976.
- It applies to all “establishments” and “employees”.
- Unified definition of “wages” is provided. Employers are prohibited from paying less than the minimum wage. National floor wage to be set by central government, and the revision of floor and minimum wages will be undertaken at intervals not exceeding 5 years.
- The employer shall pay or cause to be paid wages to the employees, engaged on a monthly basis, before the expiry of the 7th day of the succeeding month. Where an employee has been removed or dismissed from service, or retrenched or has resigned from service, or became unemployed due to the closure of the establishment, the wages payable to him shall be paid within 2 working days of his removal, dismissal, retrenchment or resignation.
- The monthly basic compensation of an employee must be at least 50% of the monthly payment.
- The statutory bonus of 8.33% of the wages is to be paid to the eligible employees, irrespective of a dispute relating to the payment of the bonus at a higher rate.
- Disqualification from receiving a bonus in case the employee is found guilty of sexual harassment.
- The inspectors are allowed to advise the establishments on compliance, in addition to their power to inspect the establishments, as may be prescribed under the relevant rules.
- Enhanced penalties for non-compliance and compounding of offenses are possible in some cases.
- The limitation for filing claims by a worker is enhanced to 3 years.



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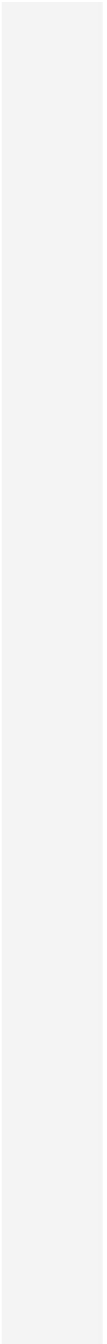
## Code on Social Security, 2020: Salient features

- Consolidates 9 central laws, including the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the Employees' State Insurance Act, 1948, the Employees' Compensation Act, 1923, the Payment of Gratuity Act, 1972 and the Maternity Benefit Act, 1961.
- It is not necessary to register the establishment again if it is already registered under existing law.
- ESIC benefits extend to all industries involved in hazardous processes, even if they employ one worker.
- Specified definitions of fixed-term employment, home-based worker, self-employed worker, platform worker, and gig worker, and a social security framework to cover these employees is prescribed.
- Aggregators have been introduced in the Code as a digital intermediary or marketplace for a buyer or user of a service to connect with the seller or the service provider. Listed aggregators are to contribute 1%-2% of their annual turnover to the social security fund for gig and platform workers.
- The requirement of a minimum period of service has been removed for payment of gratuity in the case of fixed-term employees.





## **Occupational Safety, Health, and Working Conditions Code, 2020: Salient features**

- It consolidates 13 laws, including the Factories Act, 1948, the Contract Labour (Regulation and Abolition) Act, 1970, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, the Sales Promotion Employees (Conditions of Service) Act, 1976, etc.
  - It applies to workers other than a person in a managerial or administrative role or supervisory role with a monthly wage of at least INR 18,000. Provisions relating to health and working conditions apply to all employees.
  - Consent is required from the employee for overtime work, for which they shall receive twice the wages.
  - Mandatory annual health check-ups and the issuance of appointment letters.
  - Contract labour-related provisions will be applicable to every establishment in which 50 or more contract labour are employed. Restriction on the engagement of contract labour in core activities, except where such activity is normally done through a contractor, or such activities do not require full-time workers for a significant part of the day or in case of any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.
  - Specific provision allowing women the right to work at night with their consent (between 7 p.m. and 6 a.m.) and the employer to ensure safety and facilities for workers at night
  - Employers must provide a traveling allowance annually to an inter-state migrant worker for undertaking a to-and-from journey to his native place.
  - The employers are required to make separate restroom, locker room, latrine and urinal accommodation to transgender employees, as may be prescribed.
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## Industrial Relations Code, 2020: Salient features



- It consolidates the Industrial Disputes Act, 1947, the Industrial Employment (Standing Orders) Act, 1946 and the Trade Unions Act, 1926.
- Standing orders apply to every industrial establishment where 300 or more workers are employed or were employed on any day of the preceding 12 months.
- The term “workman” has been replaced with “worker” and includes sales promotion employees covered under the Sales Promotion Employees (Conditions of Service) Act, 1976.
- Requires the employer to recognise a ‘sole negotiating union’ in establishments where there are more than one trade union.
- The threshold of workers for permission for layoffs, retrenchments, and closures in certain establishments has been increased to 300.
- “Mass casual leave” by more than 50% of workers on a day and strikes can be done only after adhering to certain requirements like notice, non-pendency of proceedings, etc.
- At the time of retrenchment, the government proposes to set up a reskilling fund with the contributions of the employer equal to 15 days’ wages last drawn by the worker.
- Workers’ disputes are to be resolved within 1 year by the Industrial Tribunals, which will have 2 members to facilitate faster disposal of cases.



# Gearing up for the New Labour Codes



The key impact of the implementation of the New Labour Code is on the classification of the workforce (as certain categories of the workforce, such as gig workers, platform workers, etc., are specifically brought within the Code on Social Security, 2020) and salary structure (as the Wage Code, 2019 brings in the uniform definition of wages and mandates that the monthly basic compensation should at least be 50% of the monthly payment to the employees). In addition, the company policies should align with the requirements under the Codes. While each of the provisions of the New Labour Codes may be subject to judicial interpretations, it is necessary that the companies undertake an analysis of the implications of the New Labour Codes on their businesses.



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