

LABOUR LAW REFORMS

IS IT REALITY OR FICTION



CS K. K. SINGH
MANAGING PARTNER

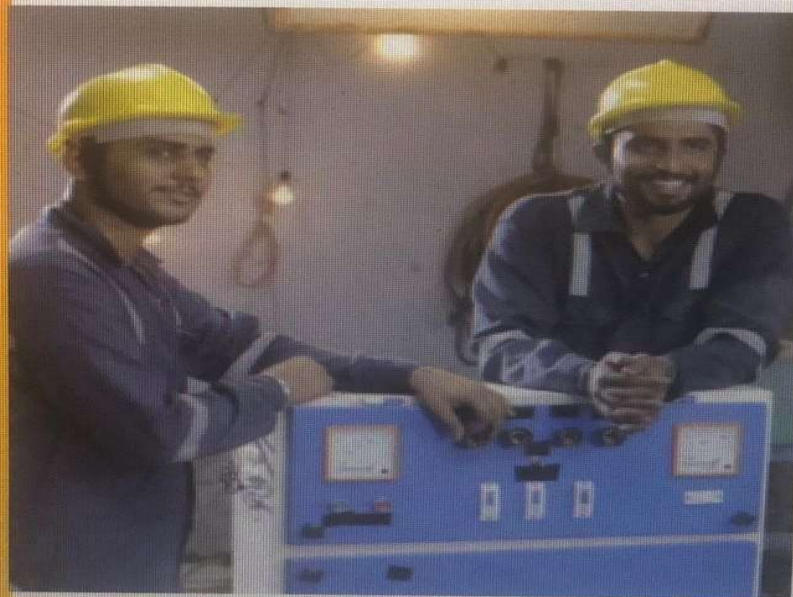
K. K. SINGH AND ASSOCIATES
Company Secretaries

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New Labour Code For New India

**Biggest Labour Reforms in
Independent India.**



“

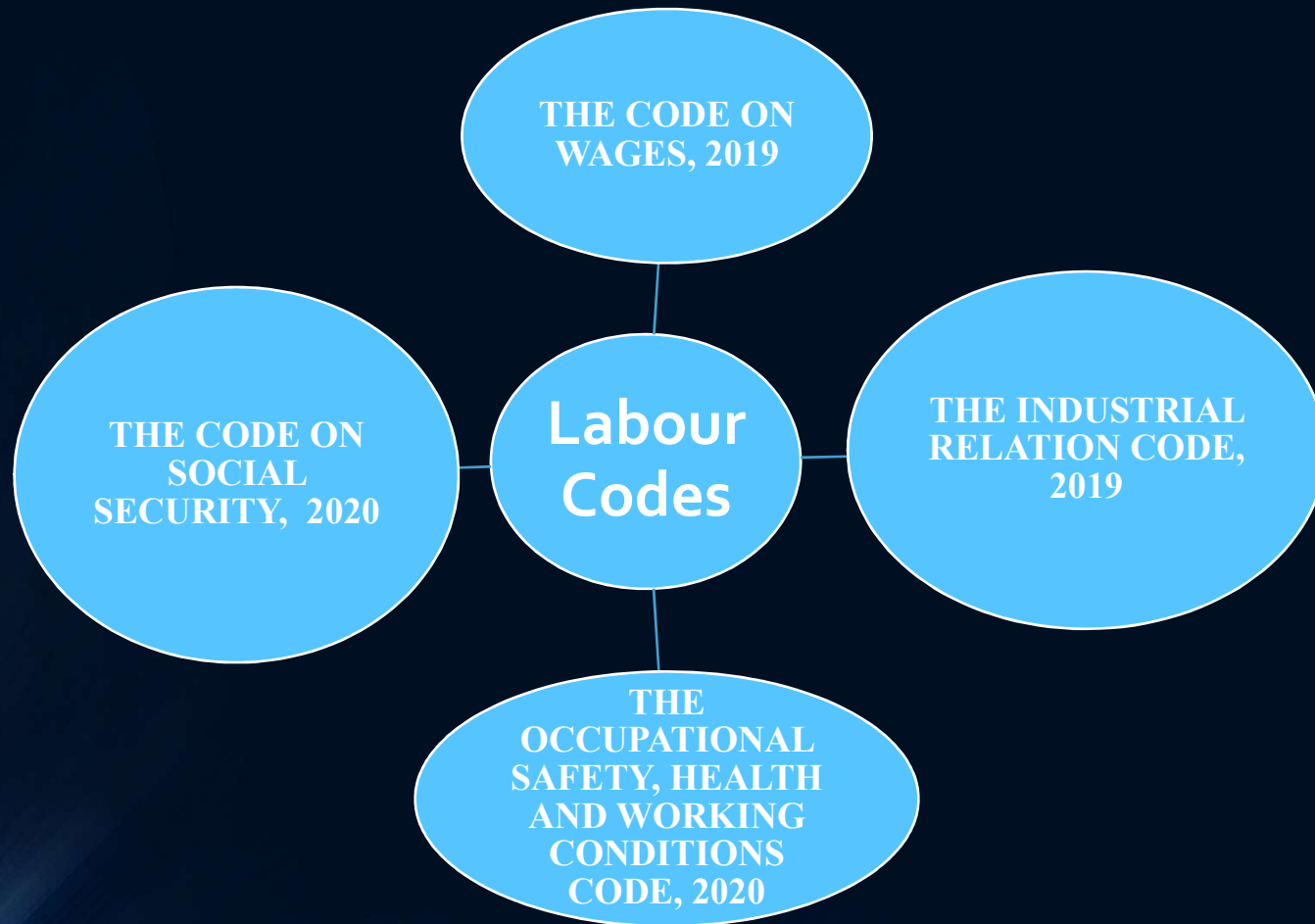
Long due and much awaited Labour reforms have been passed by the Parliament. The reforms will ensure well-being of our industrious workers and give a boost to economic growth. They are also shining examples of 'Minimum Government, Maximum Governance.' The new Labour codes universalise minimum wages and timely payment of wages. They give priority to occupational safety of the workers. These reforms will contribute to a better working environment, which will accelerate the pace of economic growth. These Labour reforms will ensure 'Ease of Doing Business.' These are futuristic legislations which will empower enterprises by reducing compliance, red-tapism and 'Inspector Raj.' These reforms also seek to harness the power of technology for the betterment of the workers and industry both.”

Prime Minister Narendra Modi

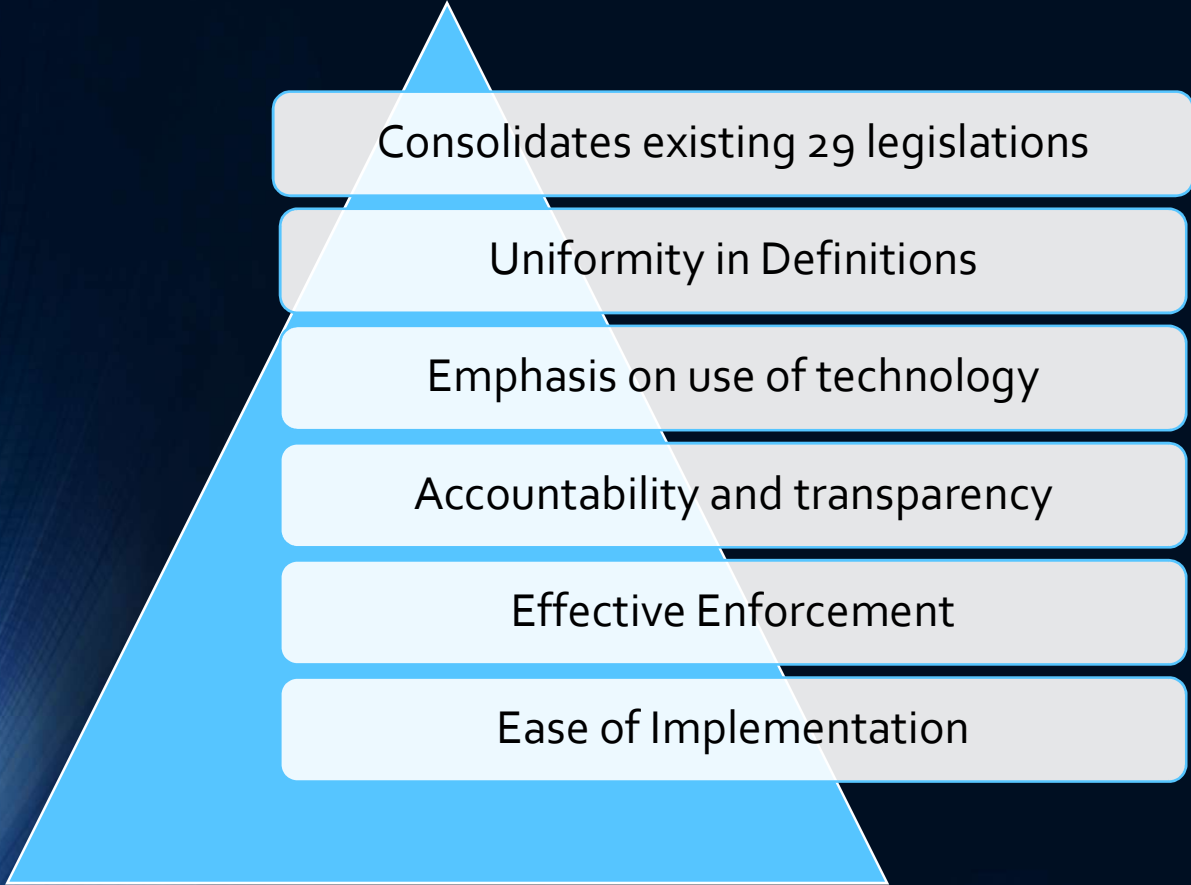
(In a tweet on the occasion of passing of Labour Reforms Bill on 23.09.2020 in the Parliament)



LABOUR CODES



GENERAL OVERVIEW



Consolidates existing 29 legislations

Uniformity in Definitions

Emphasis on use of technology

Accountability and transparency

Effective Enforcement

Ease of Implementation



THE CODE ON WAGES, 2019

- **This Act of Parliament received the assent of the President on the 8th August, 2019. Yet to be notified for effective date.**

- **PREAMBLE**

- **An Act to amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental thereto.**
- **It consist of 9 Chapters and 69 Sections. (It is smallest one out of 4 codes).**

THE CODE ON WAGES, 2019

Repealed Acts 4:-

- The Payment of Wages Act, 1936,
- The Minimum Wages Act, 1948,
- The Payment of Bonus Act, 1965,
- The Equal Remuneration Act, 1976.

SAILENT FEATURES

The Code on Wages, 2019

- Applies to all establishments, Employees and Employers as defined unless specifically exempt in the code.
- Covers all employees including at managerial level
- Standardisation of definition of “Wage”
- Stage government Minimum Wages to be aligned with National floor Wages.
- Timely payment of wages – Need to meet wage payments as prescribed.
- Recovery from wages of employees capped to the limit of 50%.
- Fixed settlement time of dues in case of Resignation /dismissal.
- Time for preferring claims extended.
- Role of Inspector widened to include facilitation function.
- Penalties and Prosecution enhanced and made it deterrent

The Code on Social Security, 2020



THE CODE ON SOCIAL SECURITY, 2020

- This Act of Parliament received the assent of the President on the 28th September, 2020. Yet to be notified for effective date.

PREAMBLE

- An Act to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors and for matters connected therewith or incidental thereto.
- It consist of 14 chapters, 164 Sections and 7 Schedules.

THE CODE ON SOCIAL SECURITY, 2020

Repealed Acts 9 :-

- 1. The Employee's Compensation Act, 1923;
- 2. The Employees' State Insurance Act, 1948;
- 3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952;
- 4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959;
- 5. The Maternity Benefit Act, 1961;
- 6. The Payment of Gratuity Act, 1972;
- 7. The Cine-Workers Welfare Fund Act, 1981;
- 8. The Building and Other Construction Workers' Welfare Cess Act, 1996;
- 9. The Unorganized Workers' Social Security Act, 2008.

SAILENT FEATURES

The Code on Social Security, 2020

- Increased coverage with inclusion of gig workers/platform workers, fixed term employees and those in unorganised sector.
- Existing scheme valid for one year from the effective date to the extent not contradictory with the provisions of this code.
- Major Change: Contractor is defined as an Employer having independent responsibilities i.e. responsibility from the Principal Employer is reduced.
- Stringent penalties and prosecution provisions provided for to the extent of non compoundable.

The Industrial Relations Code 2020

THE INDUSTRIAL RELATIONS CODE, 2020

- This Act of Parliament received the assent of the President on the 28th September, 2020 Yet to be notified for effective date.

PREAMBLE

- An Act to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto.
- It consist of 104 Sections, 14 Chapters and 3 Schedules.

THE INDUSTRIAL RELATIONS CODE, 2020

Repealed Acts 3:-

- The Trade Unions Act, 1926;
- The Industrial Employment (Standing Orders) Act, 1946;
- The Industrial Disputes Act, 1947

SALIENT FEATURES

THE INDUSTRIAL RELATIONS CODE, 2020

- Standing Orders applicability limit increased from 100 to 300 employees;
- In case of 100 or more workers and ordered by appropriate government, Constitution of works Committee is required;
- Grievance Redressal Committee shall dispose-off the applications within 30 days of receiving of such application;
- Preference to retrenched worker for re-employment within 1 Year;
- Notice of Strike and Lockouts extended to all industries;
- Additional ground for strike – mass leave;
- Prior Approval of government for layoffs, Closure where 300 or more workers are involved;
- Introduction of concept of negotiating union.

Occupational Safety, Health and Working Conditions Code, 2020



THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

- **This Act of Parliament received the assent of the President on the 28th September, 2020 Yet to be notified for effective date.**

PREAMBLE

- **An Act to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and for matters connected therewith or incidental thereto.**
- **It Consist of 14 Chapters, 143 Sections and 3 Schedules**

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

Repealed Acts 13 :-

- The Factories Act, 1948
- The Plantations Labour Act, 1951
- The Mines Act, 1952
- The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
- The Working Journalists (Fixation of Rates of Wages) Act, 1958
- The Motor Transport Workers Act, 1961;
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Sales Promotion Employees (Conditions of Service) Act, 1976
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
- The Dock Workers (Safety, Health and Welfare) Act, 1986
- The Building and Other Construction Workers Act, 1996

SAILENT FEATURES

- Single registration for all establishment;
- Working hour : 8 hours with a spread of 48 hours in a week;
- Issuance of appointment letter to employees/worker is mandatory;
- Prohibition to engage contract labour in core activities ;
- Mandatory free health check-ups for specified categories of employees;
- List of benefits for inter-state migrant workers has been extended;
- Flexibility in employment of women;
- Constitution of safety committee and appointment of safety office in prescribed industries;
- Constitution of national occupational safety and health advisory Board for monitoring the implementation of code.

EASE OF DOING BUSINESS



BHUPENDER YADAV
Hon'ble MINISTER FOR LABOUR & EMPLOYMENT

EASE OF DOING BUSINESS

- Single Registration; Single License; Single Statement; Minimum Forms
- Common definitions
- Reduction of Committees
- Web-based surprise inspection
- Use of technology – Electronic registration and licensing.
- Reduction of compliance cost and disputes.

CHALLENGES

**TURN IT INTO OPPORTUNITIES FOR
PROFESSIONALS**



CHALLENGES

- Understand and Analyze “WAGE”.
- Determining the impact of revising the salary structure and conclude on financial impact.
- Aligning and redrafting HR policies.
- Defining the employees under different cadres.
- Identify and Understand the changes in compliance, timelines etc.

Who will be more beneficial ?

- a) Employer
- b) Employee
- c) Government
- d) Professionals
- e) All of the above



Major Labour reforms in past years since 2014 in Existing Labour Laws

- For transparency and accountability, the usage of IT-enabled system for inspection has been made mandatory.
- The ceiling limit of gratuity has been increased from Rs 10 Lakhs to Rs 20 Lakhs on 29.03.2018.
- On 16.02.2017, Payment of Wages Act enabled payment of wages to employees by cheque or crediting it to their bank account.
- Maternity Benefit Amendment Act, 2017, which came into effect on 01.04.2017, increased the paid maternity leave from 12 weeks to 26 weeks.

OFFENCES AND PENALTIES

General non-compliance

- For non-compliance such as non-maintenance/improper maintenance of records, failure to submit draft standing orders within prescribed time, non-compliance/contravention of any other provision or rules – fine from Rs. 10,000 to Rs. 10,00,000

Second offence

- For second or subsequent default- Fine up to Rs. 20,00,000 **or** imprisonment up to 6 months or both

Non compoundable

- Failure to pay/deposit contribution deducted from employees' wages – fine of INR 100,000 in addition to imprisonment for a term ranging between 1 to 3 years

Officer in default

- Factory-occupier, mines-owner/agent/manager
- Establishment – the person who has ultimate control over the affairs of the establishment
- Employer in other cases

**Way
forward**

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Focus areas

The areas that are critical for establishments transition smoothly from the existing laws to the New legislation



Understand “wage” and quantify financial impact

- Understand the impact of the definition of “wages”
- Analyzing the salary structure, identify inclusions and exclusions to determine wages
- Quantify the financial impact on account of the changed definition of wages Identify the impact on coverage of employees

Aligning compensation structure

- Basis the impact of the definition of “wage”, the organisation align the compensation structure to optimise the impact
- Determine the impact of revising the salary structure and conclude on the financial impact, the take home pay of the employees, the retires and possible tax implications

Aligning HR policies

- Align the impacted policies— e.g. Maternity benefit, Gratuity, PF etc.
- Align working hours, leave policy, overtime policy, rest days and related HR policies, timelines for wage settlement
- Align appointment letters
- Align retrenchment policy, medical examination facility etc.

Work force categorization

- Defining the employee across different cadres –
 - on-roll regular employees; contracted / third party employees;
 - fixed term employees; gig workers.
 - Consultants/ retainers; other non-traditional employer-employee arrangements
- Engaging of contract work in core-non-core activities and identifying compliances relating to the same

Being compliant

- Identify and understand the change in compliance requirements, timelines thereof,
- Map the current compliance processes
- Identify areas of changes and realign the internal processes to meet the compliance requirements under the codes

LET US PREPARE AND START FOR NEW LAWS:-

Understanding of the implications, better preparedness, smoother transition

Keep pace with changes

- State rules on concurrent topics such as working hours, leave encashment, minimum wages etc. to draw reference from central rules; course corrections with minimal disruption

Where it stands?

- All four labour codes have received the presidential assent and are Acts today
- Draft rules have been issued for all the four codes – were open for feedback only for a limited window upto mid-December in respect of 3 codes
- Government on track to implement the codes from

- Stringent penalty prescribed for non-compliance with no window available to defer the implementation

Why now ?

- Definition of wages and other key provisions of the codes not expected to change; enabling impact analysis and revisiting of salary structure
- Payroll processes changes are triggered from the provisions of the Code Industry at large is looking to gear up for the implementation of the codes.....

Food for thought? Questionnaire

- Q. 1. Does it (Labour laws Reform) required in our country?
- Q. 2. Do we have a level playing field with respect to all establishments ?
- Q. 3. Why are we looking for uniformity of wages everywhere ?
- Q. 4. Why do not have such competition for uniformity in education, skilling, justice, equal opportunity, equal infrastructure and so on... in our country ?
- Q. 5. Should we still have the reservation for Government establishment for compliances ? Mean Why relaxation for Government establishments ?







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