



**Corporate  
Professionals**  
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# **Decoding the Four Labour Codes:** **What Businesses, HR Leaders &** **Professionals Need to Know**





# Journey of New Labour Codes

Code/ Rules	 Code of Wages 2019	 Social Security Code 2020	 Industrial Relations Code 2020	 Occupational, Safety and Working Conditions Code 2020
Lok Sabha	30th July 2019	22nd September 2020	22nd September 2020	22nd September 2020
Rajya Sabha	2nd August 2019	23rd September 2020	23rd September 2020	23rd September 2020
President Assent	08th August 2019	28th September 2020	28th September 2020	28th September 2020
Publish Date	7th July, 2020	13th November, 2020	29th October, 2020	19th November, 2020





# Journey of New Labour Codes

**Act**

**No. of States who  
have already come  
out with draft  
rules**



**Code on  
Wages 2019**

34 States and  
Union Territories



**Social  
Security  
Code 2020**

32 States and  
Union Territories



**Industrial  
Relations  
Code 2020**

33 States and  
Union Territories



**Occupational,  
Safety and  
Working  
Conditions  
Code 2020**

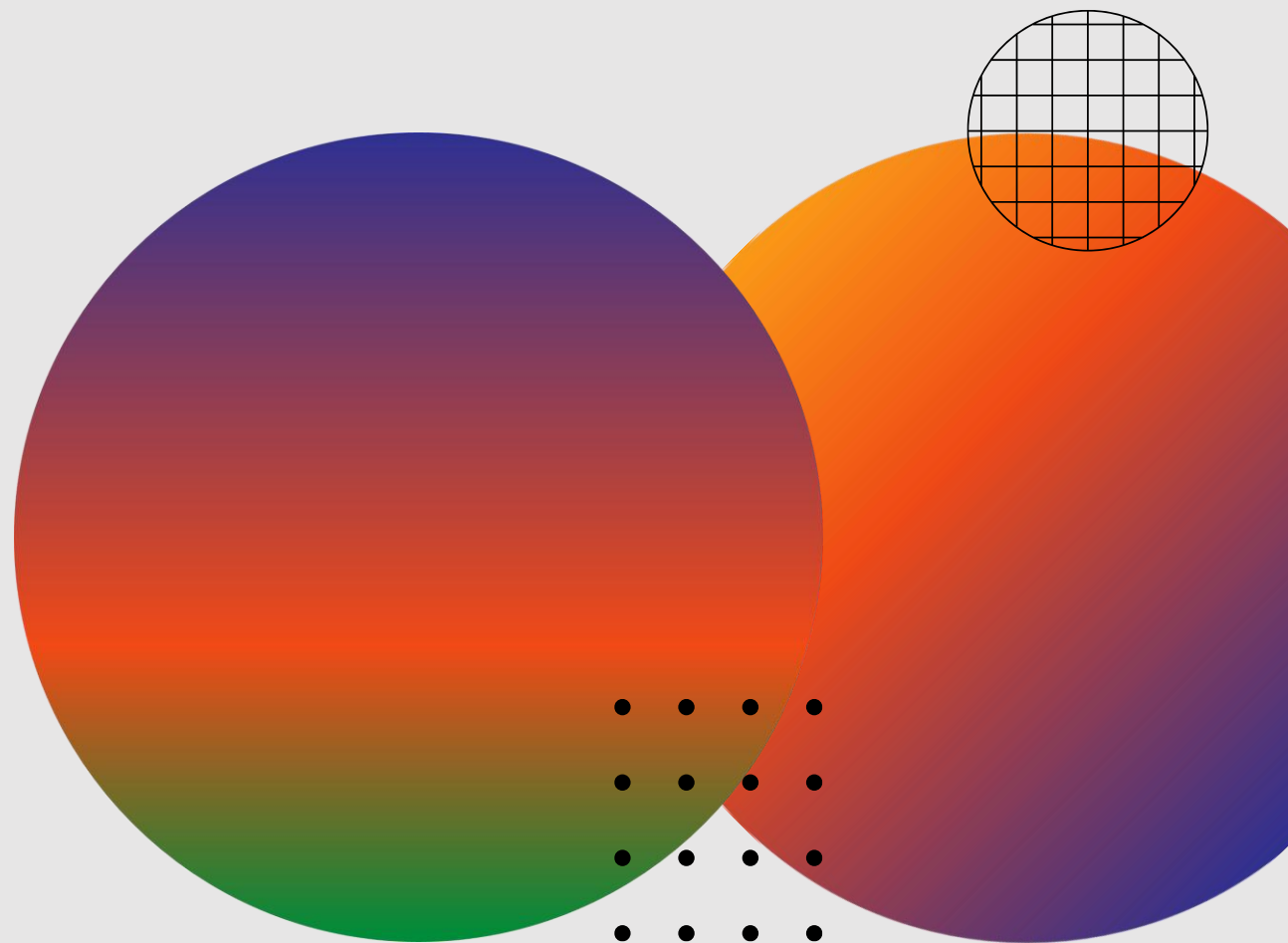
33 States and  
Union Territories







# THE NEW LABOUR CODES





## **Reforms Agenda – an overdue bold beginning.**

### **The Four Labour Codes are:**

1. New Wage Code, 2019 - subsumed 4 labour laws
2. Industrial Relations Code, 2020 - subsumed 3 labour laws
3. Occupational Safety and Health Code, 2020 - subsumed 13 labour laws
4. Social Security Code, 2020 - subsumed 9 labour laws

**The Codes are a dawn of a new era in employment laws and working conditions in the industry and commerce in India.**





## The origin of labour laws in India – historical gaps

We must recall that all the labour laws were enacted at different times to conform to the needs of those times and amended from time to time. **But**

- The British enacted early labour laws like the Trade Unions Act, 1926, Payment of Wages Act, 1936 and Workmen's Compensation Act, 1923 not to protect workers but to serve their own economic interests, including undermining Indian industries.
- Therefore, subsequent labour codes evolved as ad-hoc, patchwork measures without a coherent vision for the needs of a developing industrial economy.

**Even after independence** the labour laws were a patch work of old laws and make shift arrangements for the new needs over time. As a result -

- The worst is that each set of laws had a **different and even divergent definition of employee, employer and wages etc. and restriction in application on the basis of number of workers and amount of wages.**





**But for the Courts above most of the Labour laws were practically non-functional**

- There was no consonance or focus of the structure of these laws to **PRACTICALLY** secure the rights of the employees and employers enshrined in the Constitution of India.

**THERE WAS NEVER A FOCUS ON THE NEEDS OF THE INDUSTRY OR OF THE  
WORKING POPULATION**

- **THEREFORE, THE PRESENT ENACTMENT OF LABOUR CODES WAS A DIRE NEED** of the society at large, aimed at bringing about relevance, context and perspective of the needs of the industry today and the future.





## The New Code on Labour Laws have brought about -

1. **CONSOLIDATION** and **CONSONANCE** of concepts and construct of the law on each of the subjects mostly based on case law from the courts.
2. **CONVERGENCE** and **DIRECTION** to the entire meaning of labour laws in each of the codes to secure the rights of the employees and employers.
3. **CONJUNCTION OF OPERATIONAL ASPECTS** for simplification of compliance – for the employers, the employees and the enforcement machinery.





## The New Code on Labour Laws have brought about -

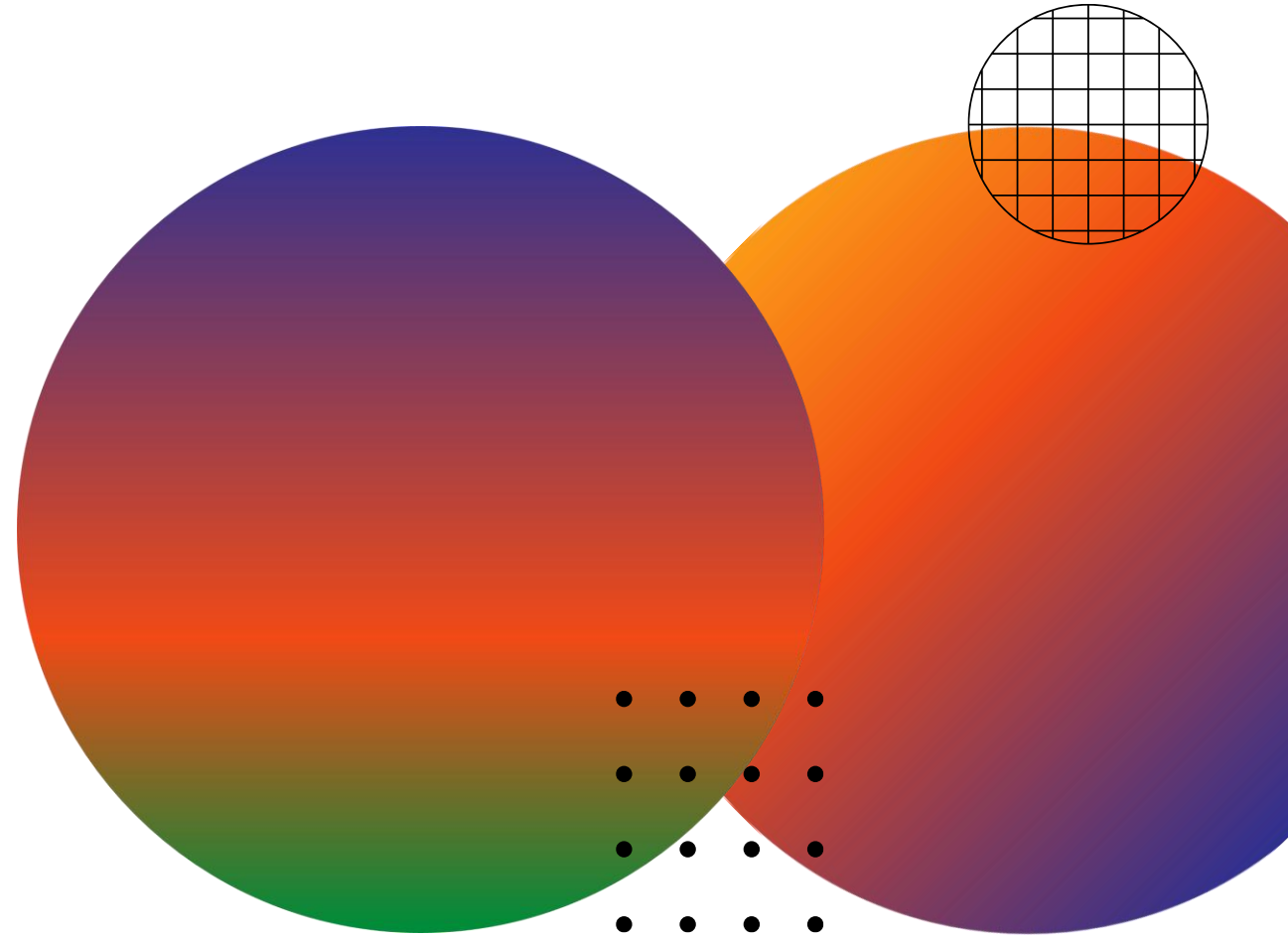
- **THE COMPLIANCE HAS BEEN ESSENTIALLY PROVIDED TO BE ON-LINE AND TRANSPARENT. THEREFORE, THE ENFORCEMENT WOULD ALSO BECOME FACELESS AND NON-INVASIVE.**
- Whether you call it elimination of Inspector Raj because each of these Labour Codes the Inspector is now called the Inspector cum Facilitator and the enforcement must provide time for regular compliance and not a prosecution in the first instance. So you don't need to be apprehensive.







## **Code on Wages, 2019**





## Acts repealed & subsumed Wage Code

The Payment of  
Wages Act, 1936

The Minimum  
Wages Act, 1948

The Payment of  
Bonus Act, 1965

The Equal  
Remuneration  
Act, 1976





## Code on Wages, 2019

- Applicable to **all Industries and “Service Sector”**
- **National Level Minimum Wage** and then, the respective State Governments fix minimum wages.
- **Scientific way of determining Minimum Wages**, which shall include Cost of Living Standard, calories intake per day, house rent cost, fuel/ electricity, children education, etc.
- An exhaustive list of permissible deductions has been prescribed such as PF and other social security schemes, fine/ penalty, deduction due to leave, damage/ loss attributable to employees, repayment of loan/ advance, TDS, etc.
- Deduction from the **wages shall be limited to 50% of total wages.**
- Disqualification from payment of bonus includes ‘Conviction for sexual harassment’





# UNBOOKED LIABILITIES – due to rationalisation of definition of wage

**If basic wages cannot be less than 50% of total wages.....**

- PF on additional amounts up to 15000/-
- Bonus for so far exempted employees.
- OT calculations complexities.
- Gratuity at a higher rate of wages (basic)
- Leave encashment at higher wage. Cannot accumulate voluntarily beyond limits.
- Notice Pay.
- Retrenchment and terminal dues.

**CHALLENGE AND OPPORTUNITY** – rationalize pay structures and cost of HR





## “NEW SYSTEM OF FIXING MINIMUM WAGES”... Not previous system

Mr. X is drawing salary of Rs. 100,000/- per month

Component	Old/ Existing System (Before Wage Code)	New Wage Code (50% Rule)
<b>Wages (Basic + DA)</b>	30,000	50,000
<b>HRA</b>	30,000	50,000
<b>Conveyance Allowance</b>	10,000	
<b>Special Allowance</b>	30,000	
<b>PF Contribution (12%)</b>	4,500	6,000
<b>Bonus (20%)</b>	6,000	10,000
<b>Maternity Benefits</b>	30,000	50,000
<b>Gratuity</b>	To be calculated on Rs. 30,000	To be calculated on Rs. 50,000





## Code on Wages, 2019

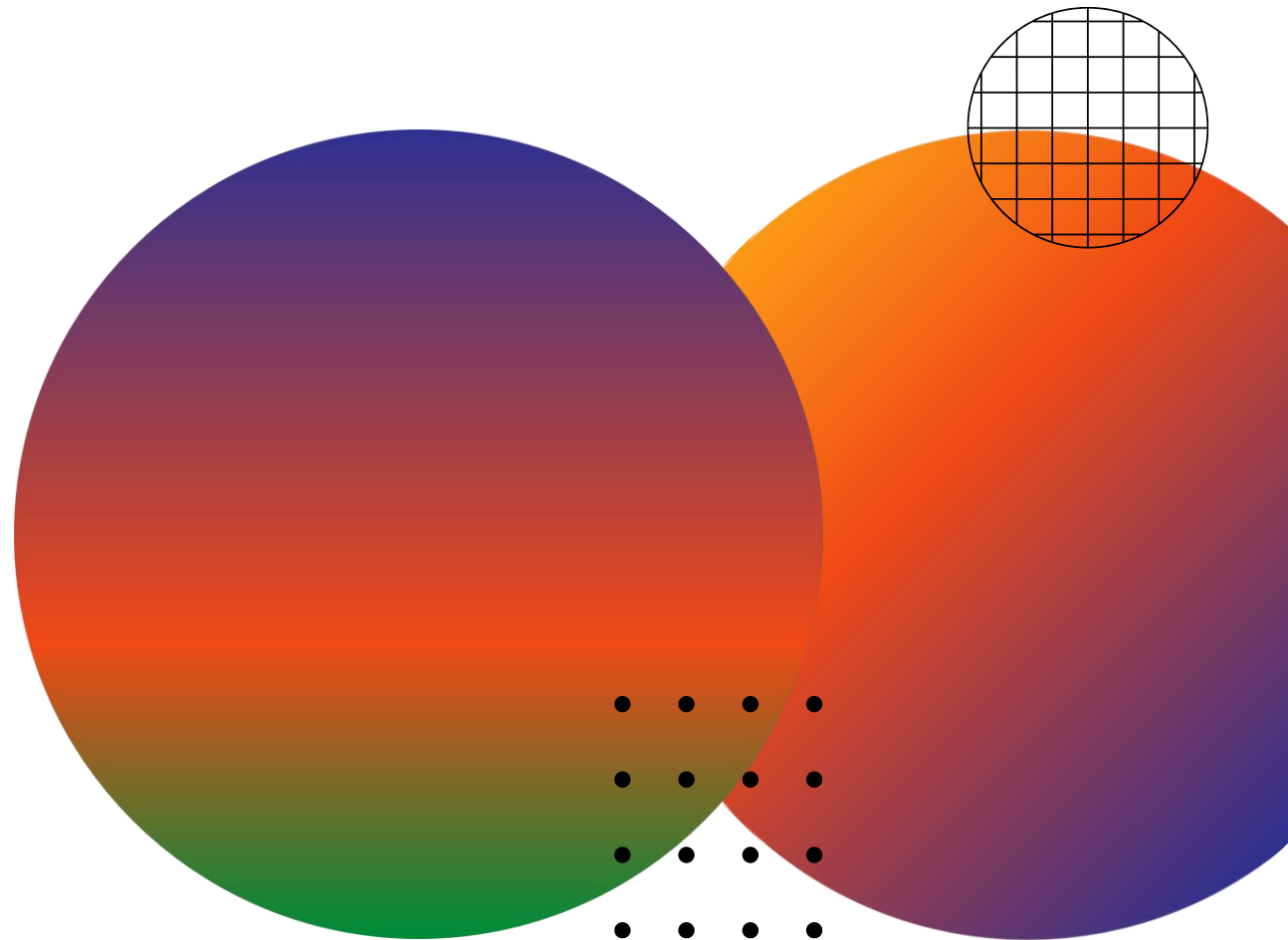
- A shift in the status of 'Inspector' to '**Inspector-cum-facilitator**' who shall be guided by the 'Inspection Scheme' of the Appropriate Govt.
- **Inspection Scheme** to include **web-based inspection**.
- In case of non-compliances, he shall **advise the employer** to rectify the gaps instead of direct prosecution as at present.
- Statutory registers may be maintained in electronic form.
- Penalty is prescribed, which ranges from **Rs. 20,000/- to Rs. 100,000/-** along with the provisions of Compounding of offences.
- In case the company files a voluntary application for compounding (i.e. before institution of prosecution) then only 50% of the fees shall be levied.





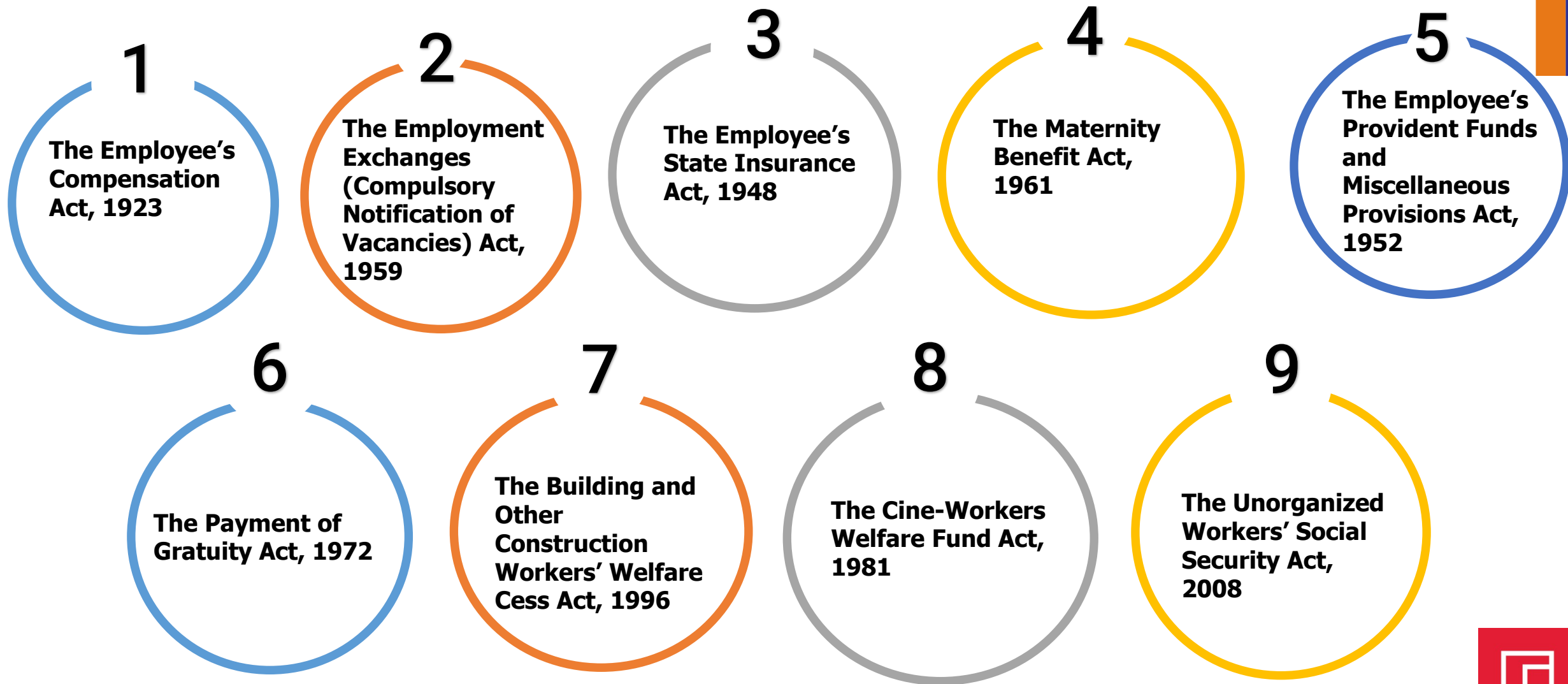


## **Social Security Code 2020**





## Acts repealed and subsumed under Code on Social Security, 2020





# Social Security Code, 2020

## New terms introduced:

- Career Centers
- Fixed Term Employment
- Gig Workers and Platform Workers
- Home-based workers
- Occupier in a Factory: In case of a Company, an Independent Director cannot be made an occupier.
- Contribution towards ESI/ PF falls under “Priority payment” under IBC Law,
- Gratuity Payment is also payable to ‘Fixed Term Employees’ on completion of their employment.
- Scope of course of employment to include commuting from his residence to place of employment and vice-versa.





# Social Security to unorganized sector, home-based workers, gig workers and platform workers

1. **Gig Worker:** Example: Freelancers
2. **Home Based Worker:** Person working simply on assignment basis and producing goods and services in his home/other place of his choice(not being the employer's workplace)
3. **Platform worker:** Example: Ola, Uber Drivers, People associated with Urbanclap, Housejoy etc.
4. **Unorganized worker:** Home based worker, self employed worker or a wage worker in the unorganized sector

Under the Code, the CG has been empowered to extend benefits under various schemes to above categories of workers.





# Social Security Code, 2020

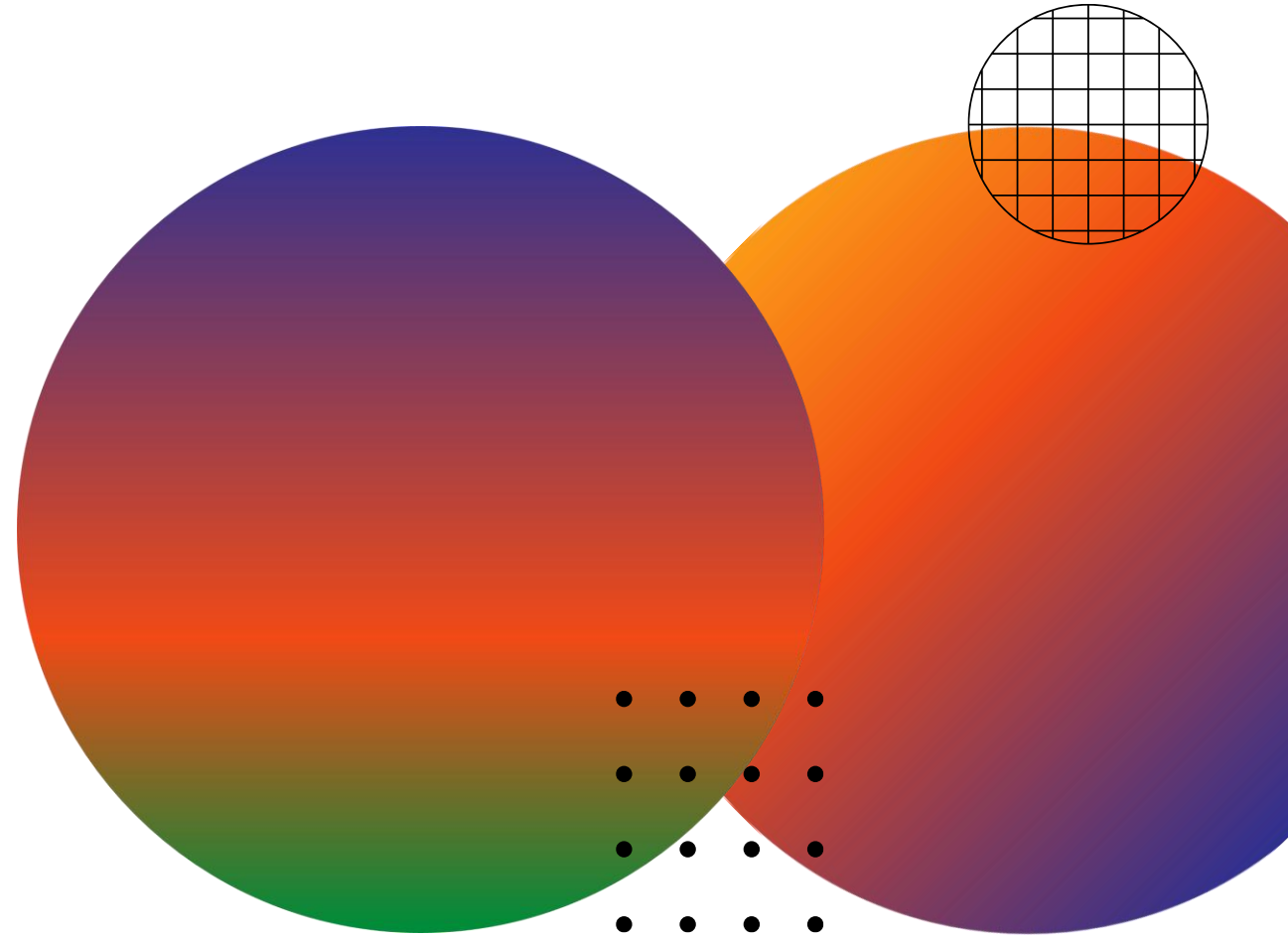
- Social Security Cover is provided to every 'Unorganised Workers' and Gig/ Platform workers, provided they are registered on 'Shram Suvidha Portal'.
- Both governments (central and respective state governments) are required to frame schemes
- Schemes shall provide
  - ❖ Life and disability cover
  - ❖ Accident insurance
  - ❖ Health and maternity benefits
  - ❖ Old age protection
  - ❖ Creche facilities.
- Platform Aggregator to contribute between 1 -2% of annual turnover to Social Security for their workers.







## OSHC Code, 2020





# Acts repealed and subsumed under Occupational Safety, Health And Working Conditions Code, 2020

1

**The Factories Act,  
1948**

2

**The Mines Act,  
1952**

3

**The Dock Workers  
(Safety, Health and  
Welfare) Act, 1986**

4

**The Motor  
Transport Workers  
Act, 1961**

5

**The Plantation  
Labour Act, 1951**

6

**The Contract  
Labour (Regulation  
and Abolition) Act,  
1970**

7

**The Interstate Migrant  
Workmen  
(Regulation and  
Employment and  
Conditions of Service)  
Act, 1979**

8

**The Working Journalist  
and other News Paper  
Employees (Conditions of  
Service and  
Miscellaneous Provision)  
Act, 1955**

9

**The Working  
Journalist (Fixation  
of Rates of Wages)  
Act, 1958**

10

**The Sales Promotion  
Employees  
(Conditions of  
Service) Act, 1976;**

11

**The Building and Other  
Construction Workers  
(Regulation of  
Employment and  
Conditions of Service)  
Act, 1996**

12

**The Cine Workers  
and Cinema Theatre  
Workers Act, 1981.**

13

**The Beedi and Cigar  
Workers (Conditions  
of Employment) Act,  
1966**





## OSHWC Code, 2020

- Constitution of National Occupational Safety and Health Advisory Boards as a replacement for multiple committees
- Code contains **exhaustive provisions** relating to occupation, safety, health, and working conditions of workers **across industries / commerce – service sector is also covered now.**
- **One Registration of an Establishment instead of multiple registrations.** Currently there are 6 Labour Laws out of 13 which provide for separate registration.
- The Code is **applicable to all establishments employing 10 or more workers.**

**CHALLENGE AND OPPORTUNITY** – reduce paper-work and improve compliance.





# OSHWC Code, 2020

- All new establishments need to be registered '**Shram Suvidha Portal**', whereas existing one needs to update on the portal

भारत सरकार  
GOVERNMENT OF INDIA

श्रम एवं रोजगार मंत्रालय  
MINISTRY OF LABOUR & EMPLOYMENT

श्रम एवं रोजगार मंत्रालय  
MINISTRY OF  
LABOUR & EMPLOYMENT

Shram Suvidha  
(One-Stop-Shop for Labour Law Compliance)

Screen Reader Access

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Report spam, Control spam

Tired of spam?  
Blocking callers on phone does not serve the purpose. Spammers keep changing numbers.

Download the TRAI DND App and Report SPAM

APP FEATURES

- Report Spam Call/ SMS
- Track Status
- Set Preferences

TRAI DND

9:41

Welcome

7500116954

Active

05-09-2024 14:30:51

View Details

Change Preference

Enable Automation

SPAM Call

SPAM SMS

SPAM Call

SPAM SMS

Feedback

Emergency Status

9:41

Welcome

Report SPAM

Call & SMS in 3 Easy Steps

Step 1: Tap on 'Report Spam'

Step 2: Select 'Spam Call' or 'Spam SMS'

Step 3: Tap on 'Report & Control'

Report & Control

Report

SPAM Call

SPAM SMS

Cancel

Report

Status

Completed

Preferences

User Id

User Id

Password

Password

Verification code

Verify

FQ34a5

Submit

Reset

Create A Shram Suvidha Account

Forget Password/Forget User Id

The Unified Shram Suvidha Portal is developed to facilitate reporting of Inspections, and submission of Returns. The Unified Shram Suvidha Portal has been envisaged as a single point of contact between



- Any **change in Ownership or management** needs to be intimated to the Registrar.
- **New duties of the Employer:**
  - ❖ Provide **annual health examination or test free of cost** (Draft Rules restricted to Factory, Mines, etc. within 120 days having age of 45 or more),
  - ❖ **Issue a letter of appointment**, or if not issued yet, existing enterprises have 3 months to issue appointment letters.
  - ❖ **No charge** to be levied on the employee for maintenance of safety and health, including medical examination etc.





- **Working hours:** Flexibility is provided, which increases working hours from 9 hours to 12 hours subject to 48 hours in a week.
- **Women Employment:** Allowed to work in night shift subject to her consent and provision of safety and security including transportation facility.
- **Contract Labour**
  - A Universal licence can be issued covering all states,
  - A Bank Guarantee of Rs. 1000/- for each worker,
  - Contractor shall provide experience certificate to the contract labour





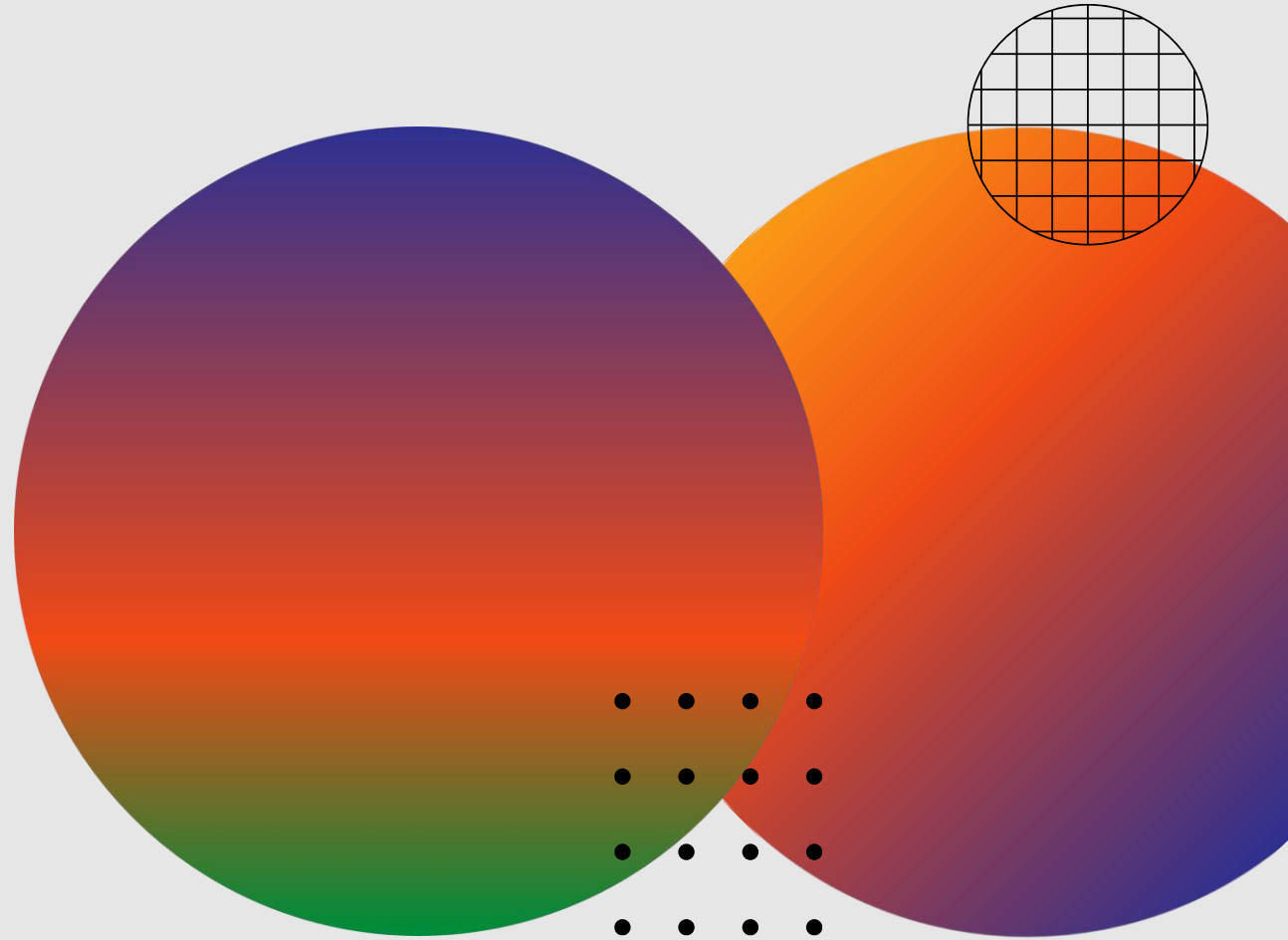
- **Third Party Audit:** A scheme may be formulated to carry out ‘third party Audit’ by an expert empaneled with the authority.
- **Constitution of Safety Committee and appointment of Safety Officer** having 500 or more workers and such other establishments as prescribed by the appropriate government.
- All the **recommendations of the Committee shall be implemented** (Draft Central Rules).







# **Industrial Relations Code, 2020**





## Acts repealed and subsumed under the Industrial Relations Code, 2020

1. The Industrial  
Disputes Act,  
1947

2. The Trade  
Unions Act, 1926

3. The Industrial  
Employment  
(Standing Orders)  
Act, 1946

**Lest you missed out that** - the other laws which got subsumed by implication are the law for **Working Journalist, and the Sales Employees** under the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous 52 of 1961 and the Sales Promotion Employees (Conditions of Service) Act, 1976, respectively – which has been a cause of volumes of contentious litigation since years.





## Very significant concepts -

1. Exhaustive definition of **worker / employee** hitherto confused and dependent on case law.
2. Structured definition of **Industry** - **excludes charitable institutions**.
3. **No requirement of certification of standing orders as the Standard Model Standing Orders would be applicable** to all industries upto 300 workers; and even beyond if stated in writing for adoption of Model Rules.
4. **Promotion of bipartite mechanism** of resolution of disputes.
5. **Time limit for raising an industrial dispute fixed** at 2 years (Sec. 53).
6. Clarity in **structure and functional procedure** of Industrial Tribunals.
7. Provision for **arbitration of industrial disputes** has become more structured for functionality.
8. **Worker re-skilling fund to be constituted** – (Sec 83)

**CHALLENGE AND OPPORTUNITY** – review the policy of handling disputes and improve compliance.





## Significant concepts on trade unions

1. **Formation and registration of a trade union** has been more clearly defined as per latest case law of the Apex Court; to discourage road-side unions.
2. **Code of discipline for trade unions.**
3. A **political fund** of union will be separate from General funds of the union; a member cannot be compelled to contribute to a political fund – transparency is mandatory in record of accounts.
4. New Concept of **negotiating union** or a negotiating council (Sec 14)
5. **Registration only if a minimum number of workers of the industry are members.**
6. **Recognition of trade union** at state level or by central level (Sec 27) provides status and responsibility.

**CHALLENGE AND OPPORTUNITY** – review industrial relations strategies.





## Promoting Responsible Collective Bargaining – is a hallmark

1. **Promotion of Bipartism** – Works Committee, Grievance Redressal Committee.
2. **Time limit for raising an industrial dispute fixed** at 2 years (Sec. 53).
3. New Concept of **negotiating union or a negotiating council** (Sec 14).
4. **14 days Notice to go on strike which is not open ended** - so the strike cannot be resorted to after 60 days of such notice.
5. Wide definition of strike - 50% workers on concerted casual leave – **deemed to be strike**. – in line with judgements of Apex Court.
6. The Conciliation Officer is bound to be pro-active and cannot sit over cases of disputes affecting the industry and commerce.

**Provisions converge to insist upon responsible collective bargaining**

**CHALLENGE AND OPPORTUNITY** – improve employee engagement for better productivity.





## Important provisions on HR structuring -

1. The very specific areas that have acquired a totally new dimension is –**defining of Non-Core functions for contract labour and no provision for contract labour in core areas but** stringent conditions for seeking deployment in core functions; but the procedure for registration and license is under the code on **Occupational Safety Health and Welfare Code 2020 (Section 2(p))**.
2. Fixed term employees will get **same benefits as regular employees**.
3. Provisions to prevent **Unfair Labour practice is intact** (Sec. 84) and Schedule of acts of unfair labour practice (Schedule 2 point 10)
4. **Industries employing less than 300 workers do not need permission of the Govt for lay off, retrenchment or closure.**

**CHALLENGE AND OPPORTUNITY** – Review the policy of handling grievances, complaints, and handing out disputes and improve compliance to prevent complaints.





## CONCLUDE that the Code on industrial Relations would

1. Ensure **affirmative administration** of the law and industrial peace that cannot be hostage to whims of any party to it.
2. **Promotion of bipartism** as a primary mechanism for maintaining industrial harmony.
3. **Strong and better defined structure and function of authorities** under the code for effective implementation of the provisions
4. Provisions for flexible **HR structuring** would be a great facility and prevent **exploitation especially contract labour**.
5. Provisions for **provide flexible working** in tune with the emerging industrial scenario.

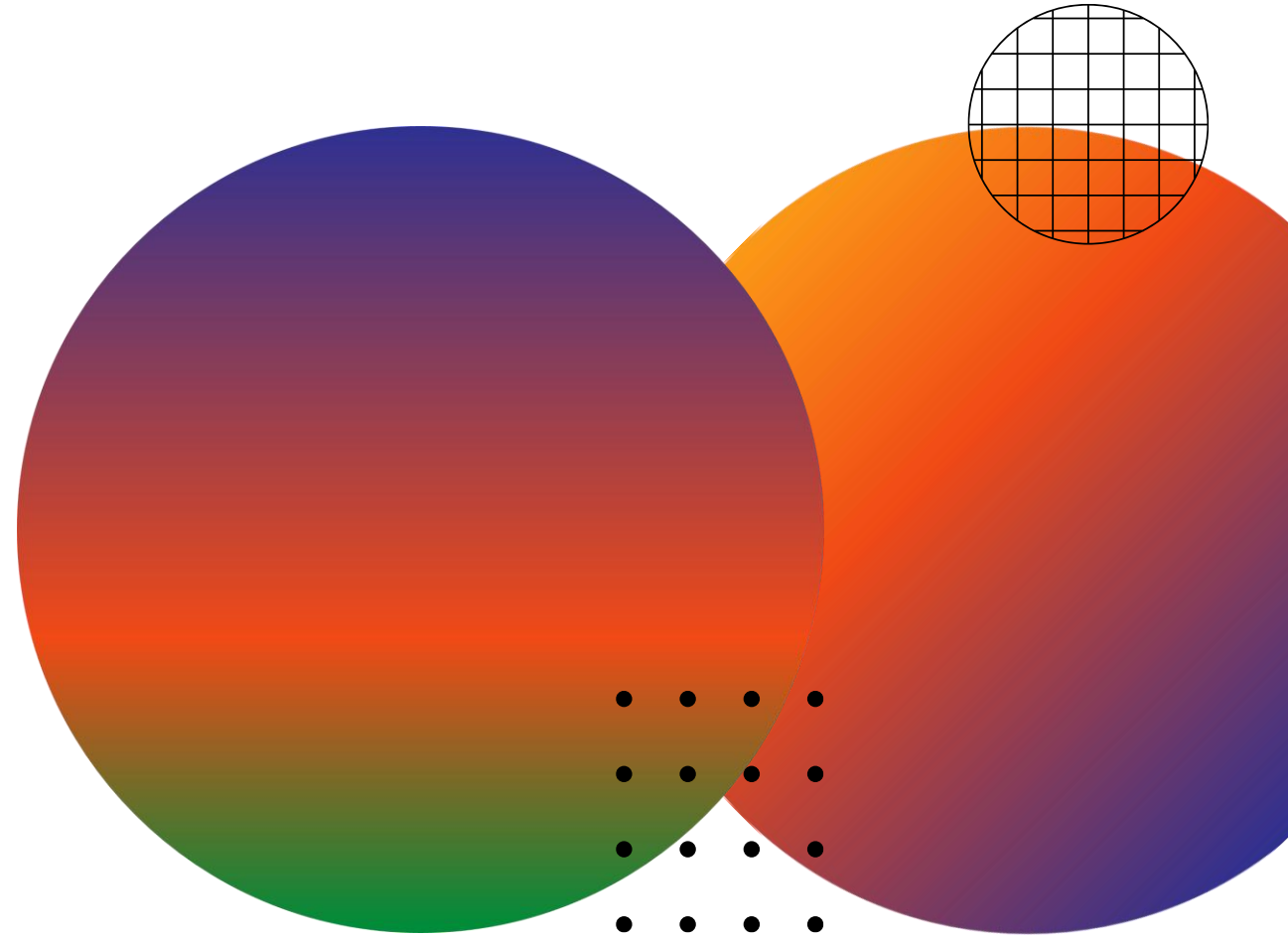
**Industrial harmony is a key to industrial growth and economic development and it shall be ensured. So, misuse of fixed term employment will not be possible.**







## Strategy for All codes





## What is common across all the codes?

1. Broader coverage to **include unorganized sector**.
2. **Gender neutrality** of concepts
3. **Definition of Wages** is common.
4. **Minimum wage** is a universal right and **not restricted to Scheduled employments**
5. **Occupational safety and health** is a universal concept **including service sector and unorganized sector**.
6. Primary approach is **ease of compliance rather than** focus on prosecution.
7. **Compliance** is online, therefore **faceless and paperless**.
8. The **Inspector** would also be a **facilitator**.
9. Concept of **compounding of offences**.
10. **Prosecutions not for violation but for non- compliance**.
11. **Penalties are very stringent** in case of prosecution.





# Strategic Restructuring of HR and Costing

1. What is the **percentage of contract labour presently engaged in performing work on core competencies** and what is the **alternative plans for engagement of regular workers** to ensure uninterrupted working ?
2. What is the **requirement of fixed term employees** that may have to be recruited as per the new provisions and **what would be the legal format to describe their engagement** without attracting clauses of unfair labour practice ?
3. Whether the strength of workers **after the regularization / restructuring process will increase to the threshold of 300 or more** and if so **whether the standing orders have been certified or not**; what action is needed for compliance?





## Strategic Restructuring of HR and Costing

4. What would be the **impact on the cost and administrative implication** if it is decided to restructure with engagement of **regular workers** or other categories after restructuring?
5. What would be the **cost of HR and change in Unbooked Liabilities as per Wage Code**
6. What would be the **business process reengineering in the new environment** of after advent of new labour codes whereby the focus will be on hiring highly skilled workforce and excellent management practices.





# Challenges and Opportunities for Business

## The new focus –

1. Induction of Technologies and advanced work-systems in the establishment.
2. Competencies, capabilities, and commitment of human resource by modern management methods.
3. Training and retraining of manpower and flexible HR structuring and restructuring for best performance.
4. Compliance management (on-line) – as per the new labour codes.
5. Value Addition - per operational unit and per unit manpower - to be in focus.

**OPTIMIZE AND IMPROVE RETURN ON INVESTMENT.**





# Challenges and Opportunities for Business

Business establishments deploy 20 to 70 % manpower through outsourcing; whereas the practice is severely restricted in the new labour codes (Section 2(p) OS&H Code 2020 Defines core functions whereby contract labour is not permitted..) - so the challenge is what would be the new organisational structure to meet the challenges of the future business heavily dependent on technology and skills.....?

**What are your plans..?**





## Challenges and Opportunities for Business

As per the definition of wages in the New Wage Code, 2019 the component of basic wage has been fixed at not less than 50%; similarly, the structure of wage was ruled upon by the Hon'ble Supreme Court for Provident Fund deductions; What would be the resultant change in costing of manpower in general and in the high pay bracket amongst supervisors and managers.....?

**What are your financial restructuring plans for the costing of HR...?**





# Challenges and Opportunities for Business

The new business working requires ever-changing technologies and specialised skills but the manpower needs are extremely variable as per availability of business.....?

**What are your plans for flexible manpower structuring without conflict with the law..?**





# Challenges and Opportunities for Business

The new business working requires ever-changing technologies and specialised skills but the manpower needs are extremely variable as per availability of business.....?

**What are your plans for flexible manpower structuring without conflict with the law..?**





# THANK YOU



**Corporate  
Professionals**  
WHERE EXCELLENCE IS LAW



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