MCCI 1901

A note on: New Labour Codes - Impact on Employees & Employers

The revised provisions under the new labour codes are expected to cause enormous impact on both the organisations and their workforce. The industry needs to comprehend how New will improve the ease of doing business and what measures they need to take to align their practices to the changed laws.

India has been trying to reform its labour laws for the past 18–20 years, to bring them in line with the present workplace ecosystems and allow for more uniformity across both the organised and unorganised sectors.

In a historical move, it is finally all set to replace 29 labour laws with the four new labour codes, dealing with **Wages, Social Security, Industrial Relations,** and **Occupational Safety,** with an objective to consolidate, rationalise and simplify complex labour laws.

The new labour codes are expected to overhaul workplaces by improving working conditions and revamping existing processes to achieve outputs on a more sustainable basis. Social security, social equity, health, ease of doing business are the prominent factors driving the need for the labour reform.

Industry now needs to study their existing salary components and structure considering the prospective amendments and review their HR policies from an employee life cycle perspective.

Labour being in the concurrent list, all states need to ratify the rules. The labour codes will ensure the creation of One India & One law, reducing the number of laws with often conflicting definition of terms and provisions, to only four codes, thereby ensuring a great level of ease in doing business.

For organisations, the most important impact would be on wages and components. The Code on Wages 2019 as well as the Code on Social Security 2020 (SS Code) introduce a standardised definition of 'wage', which was previously an ambiguous concept. Wages now include all types of remuneration including Basic Pay, Dearness Allowance (DA) and Retaining Allowance (RA), applicable to all prospective social security schemes.

With a comprehensive list of inclusions and specified exclusions with conditions therewith, the code stipulates a 50% cap on allowances like House Rent Allowance, Provident Fund, travelling concessions, and Overtime Allowances, etc., vis-a-vis total remuneration, which will be counted as a part of the remuneration beyond the 50% limit.

With its wide coverage, including the unorganised sector workers, a uniform definition of wages will help harmonise and simplify the calculation of wages from a social security standpoint, mandating that the overall salary structure of employees be revamped to ensure that basic pay, together with the DA and the RA, makes up 50% of the total wages of the employee.

With the new rules providing that the minimum basic wage should be 50% or more of the total CTC, thus contributions to social security should be at least on 50% of such CTC of every individual, this has mostly been a practice at entry level, but needs to be formalised across formal and informal sectors alike right up to top management and leadership. Employers would also be required to clearly demarcate who are workers among their employees based on their roles and responsibilities as the codes bring in clarity as to workers and their entitlements.

Equal remuneration across genders: The Code of Wages, like the Equal Remuneration Act now subsumed under it, clearly prohibits discrimination in remuneration on grounds of gender on work done of similar nature and recruitment of employees for work of similar nature.

The replacement of the term 'men' and 'women', under the old Act, with the term 'gender' is a welcome move. The Code will help facilitate the inclusion of transgender employees in mainstream work and bridge the gender pay gap across all sectors. A clear definition of the term 'discrimination' and recognition of 'work of equal value' will help further strengthen the objectives of equity that the Code seek to attain.

Minimum floor wage: Beyond the older Minimum Wages Act which laid down the procedure for establishing minimum wages, the Code on Wages has also introduced the concept of 'floor wage', also applicable to the unorganised workforce.

This will be determined by the Central government based on

the minimum living standards and level of skills of workers across geographical regions based on which state governments shall identify a minimum wage rate, to be revised every 5 years or earlier. Provisions for overtime wages twice the normal wages on an hourly or part-of-hour basis as well as coverage of Employees' State Insurance (ESI) has also been added to minimise exploitative practices across areas of work. The Code also includes provision for timely payment of wages.

Changes in EPF & gratuity: Now applicable to both organised and unorganised sectors, the Employee Provident Fund (EPF) and gratuity contributions are set to rise under the Wage Code and the SS Code. Waiving the pre-existing cap of 5 years of service, the codes permit a 1-year service for employees to collect gratuities.

The Wage Code also mandates a rise in employer and employee contributions to EPF on the revised basic pay provisions. Thus, while in-hand salary may see a decrease, post-retirement fund is expected to see a rise.

Once the new definition of Wages is adopted, Gratuity liabilities are expected to increase, particularly for organisations where the basic pay to gross pay ratio has been quite low historically.

Quicker full and final settlement: Companies will now have to clear all employee dues, including salaries, leave encashments, reimbursements, etc., within two days of the last working day of the employee from the current 45-60 days after employee exit.

Maternity benefits: In its pursuit of gender equality at the workplace, the SS Code continues to ensure 26 weeks of paid maternity leave along with creche facilities funded by the employer. Compliance with this provision is expected to enhance workplace participation of women.

Fixed term employment: The Wage Code and the SS Code accord legal recognition to fixed term employees who were earlier excluded from the scope of labour regulations. Under the new code, employers are mandated to provide employment benefits to fixed term employees at par with those for the permanent workforce, including compensations and gratuity benefits, after 1 year of service.

This legal protection to contractual workers will go a long way in bridging the existing pay gap between a full-time and fixed employee, strengthen the concept of equal pay for equal work, and reduce reliance on third-party agencies for hiring fixed term employees. Gig and platform workers will be covered in the social security ambit and India, for all practical purposes, will become the first major economy to recognise and support social security for gig and platform workers.

National license: For staffing firms, the biggest benefit will be aligning to the national labour licence regime from the current work order licensing that requires each contractor to obtain a new licence in each district every year to now getting one license for the entire country and all customers for up to five years. This alone can create formalisation of employment and faster deployment for seasonal and non-seasonal employees currently deployed in an informal manner and help in faster hiring across industries.

The key to success is to ensure that a firm start date is provided. This will enable organisations to work as per defined project milestones. Employees and employers are both keenly waiting for the implementation of the labour code. Given that this needs to be implemented pan – India, Government of India needs to have in depth consultations for earliest implementations either code by code or integrated.

From the organisation point of view there is an urgent need to educate the managers and colleagues on the new labour codes – its impact on employees and employers.

ABOUT MCCI

MCCI is a non-government, not-for-profit, industry-led and industry-managed organization, with around 700 direct members and 15,000 indirect members covering a wide cross-section of small, medium & large industries, trades, professions and services. There are 30 Standing Committees under the Executive Committee, looking after various aspects of the industry, trade and services sectors. Besides, 10 Associations of Industry & Trade are affiliated to MCCI.

For over 120 years, MCCI has worked to develop an indigenous vibrant industrial base in the country, especially in the Eastern India. The indomitable spirit and quest to build an institution to safeguard the interests of the indigenous business community led to the birth of a Baishya Sabha. With the changing times now it stands as MCCI. MCCI has always evolved to reinvent itself to meet the requirements of the times and is presently going through another such transformative phase in the era of 'new normal'.

MCCI works as a bridge between businesses and the policy makers to create a conducive economic environment for the industry to prosper and flourish while benefitting all the stakeholders in the economy. It works on the goal to take Indian industry to a higher growth trajectory.

MCCI is one of the leading Chambers of Eastern India which has always worked for the betterment of MSMEs. The Chamber has been continuously organising MSME Helpdesks in association with the Department of MSME and Textile, Government of West Bengal. Several Business Programmes are organized for the benefit of the members.

MCCI looks to the future with confidence in its capacity to serve the people and the business community of Eastern region and in the process, contribute to the economic development of the State in particular and the country as a whole.

For the year 2022, MCCI is prepared to provide opportunities for growth and development to its members through 4E's ~ Explore, Educate, Empower and Enable which will help members achieve the 5 th E ~ Excellence in all spheres.

MCCI has always evolved to reinvent itself to meet the requirements of the times and is presently working on the specific Theme "Bouncing Back", working closely with the State and Central Government on policy matters and also building bridges through international connect initiatives.

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