

THE NEW LABOUR CODE IMPACT ON THE SERVICE SECTOR

The services sector in India is a key contributor to both the Indian economy and employment. In this webinar we looked at the impact of the new Labour Codes on the services sector. The impact of these is four-fold, Financial, Operational, Functional and Regulatory.

To ensure compliance with the new codes, corporates must ensure that stakeholders (management, employees, HR, accounting, legal etc) are sensitized about the applicable compliances, impact assessments need to be done to re-align operations to meet safety and welfare measures, prepare for digital compliances, registers, control on overtime, manage fixed term and contractual workers.

An organisation must overhaul its HR and Factory management manuals, safety standards and processes. Increased employee cost requires reassessment of financial budgets, working capital cycles (time bound payments to workers, contractors), profitability (increased employee benefits), reassessment of human resource policies, reporting and management tools, documentation to mitigate any risks.

HIGHLIGHTS

Financial Impact

The revised definition of wage may increase the cost to company. Managements need to carefully assess existing payment structures and the impact on costs under the codes.

- Floor Wage – the codes lay down a central minimum wage that the States can revise upward.
- Deductions – deductions are capped at 50% of the total wages and restrictions on fines without prior approval of a designated authority. The claims can be raised by employees, unions or Inspector-cum-Facilitator ('ICF') within 3 years and recovery can be done by the Government.
- Offences and Penalties – penalties for offenses like short payments, contraventions, improper maintenance of records etc can now result in steep fine and imprisonment.

Functional Impact

- Notice – A summary of the relevant code needs to be displayed on the notice board along with details of category wise wage rates, periods, date and time of wages and the jurisdictional ICF. It is essential that the teams are trained well to deal with the requirements of the codes.

Notices under Occupational Safety and Health also need to include date of payment of wages to unpaid workers and be displayed in English and the local languages as well

- Registration, Record keeping – Once the registration portal starts, registration be done with key information about the company,

management, employees etc. The registration number to be quoted on all HR documents and any change needs to be updated within 30 days of the change.

- Relevant forms – specific forms and processes have been laid down for maternity benefits, employee provident fund, gratuity etc.

Operational Impact

- Contract labour – applicable to organisations with 50 or more employees on contract or manpower supply contractors who have employed 50 or more people as contract labour. Contract labour cannot be employed in core activities except under exceptional situations or through licensed contractors.
- Health, Safety and Welfare Conditions – Recommended to have an HR audit to ensure that all required facilities are available in the office. Any company with 50 or more workers needs to provide a creche facilities either in-house or through a contract arrangement with a third-party provider.
- Work rules – lays down maximum work hours per day, per week with a maximum of 125 hours per quarter. The code also lays down the treatment of leaves with wages and timelines for payment of dues to workers or their beneficiaries in case of dismissal, retirement, death etc
- Hazardous Process – Organisations in such industries need to provide employees with safety gear and emergency medical services, ensure that pregnant women are not operating in such conditions. Health records of employees handling hazardous materials etc need to be maintained and regular medical examinations must be conducted

Regulatory Impact

- Inspector Cum Facilitator – authorised to advise employers and employees on

compliance with the provisions of the code, inspect establishments, search, seize or take copies of records and registers that he believes are important to his investigation and bring to the notice of the Government all defects or abuses identified. However, documents relating to manufacturing process, working process, intellectual properties are confidential and disclosures must be reasoned.

- Gratuity – a continuous service of 5 years not mandatory in case of death or disablement of employee. The code also puts down timelines and compliance requirements on dealing with gratuity claims. Gratuity can only be paid by demand draft or bank transfers.
- Welfare Schemes - Central Government will announce welfare schemes for gig, platform and unorganised workers to create an ecosystem to protect the benefits of these workers. State Governments too shall notify welfare schemes for unorganised workers
- Aggregators - To contribute funding for central government welfare schemes between 1% and 2% of annual turnover. Dates for this to be notified.
- Maternity Benefits - Women entitled to maternity benefit shall also receive INR 3,500 as medical bonus if no pre-natal confinement and post-natal care is provided by employer

In conclusion, ensure that you are ready with an impact analysis and have evaluated the changes that need to be done. In case of a planned closure or re-organisation, clearly factor in the impact. Study the rules of engagement under the new codes when dealing with trade unions, assess the impact of an inspection and the disclosure of confidential information, explain to the management the risks on the CEO and Managing Director and finally do an HR audit to identify gaps and instances where current processes need to be restructured.

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