India's New Labor Codes: 9 Steps Multinational Employers Can Take Now

Insights
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India's Parliament just overhauled and simplified the country's labor law regime by consolidating it into four labor codes. The changes, which took effect November 21 will harmonize definitions, expand worker protections, and streamline administrative processes. However, many provisions depend on yet-to-be-issued state rules, leaving employers to navigate a transitional period with uncertainty about how they should comply. Here's what you need to know about the new code and steps to take in response.

Background

To modernize its labor law framework, Parliament consolidated 29 statutes into four comprehensive labor codes:

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

We cover each of the four codes in more detail in the sections below.

The updates set uniform definitions for wages, employees, and establishments, among other key provisions. Notably, the codes now formally recognize gig and platform work, and regulate fixed-term employment. Penalties have also been substantially increased, and the new laws introduce joint liability for unpaid dues in business transfers.

Current Status and Transition

Although the four codes have been enacted and notified by the central Indian government, implementation remains uneven. A recent press release from the central government clarifies that the existing labor laws will continue to apply during this transitional period.

However, the fact remains that the new labor codes have effectively repealed the old laws. This patchwork means employers must comply with old rules in some areas while preparing for the new framework. Multinational companies should monitor state notifications closely and maintain flexibility in HR policies to accommodate future changes.

Key Takeaways From India's 4 Labor Codes

1. Updates To Minimum Wages

The Wage Code 2019 consolidates the Payment of Wages Act 1936, Minimum Wages Act 1948, Payment of Bonus Act 1965, and Equal Remuneration Act 1976. Its key reforms include:

- **Uniform definition of wages.** Wages now include basic pay, dearness allowance, and retaining allowance. Exclusions include various allowances and employer contributions. However, if these excluded components exceed half of total remuneration, the excess is added back for statutory calculations (this is referred to as the "50% Rule"). This expansion of the definition for "wages" will generally result in an increase of social security contributions and gratuity pay.
- **National floor wage and universal minimum wage.** The central government will set a national floor wage and states must set minimum wages at or above this level. Minimum wage provisions now apply to all workers, not just scheduled employments.
- **Timely payment and expanded coverage.** Rules governing payment of wages now apply to all employees regardless of salary. Employers must pay full and final wages within two working days of separation. Statutory bonus eligibility extends to employees earning up to a ceiling, but that limit has yet to be set by the individual states.

2. Social Security Contributions

The Code on Social Security 2020 unifies nine laws relating to social security, including the Employees' Provident Funds Act 1952 and Employees' State Insurance Act 1948. Key reforms include:

- **Recognition of gig and platform workers.** The code provides new formal definitions for "aggregators," "gig," and "platform" workers, and requires social security contributions for such workers. Aggregators may be required to contribute 1% to 2% percent of turnover for these programs, capped at 5% of payments to such workers.
- **Unified registration.** The new code creates a single, uniform, streamlined registration system for social security contributions. All establishments, regardless of workforce size, must now register electronically with the central government. Any existing registrations remain valid.
- **Fixed-term equality.** Fixed-term employees must receive wages and benefits equivalent to permanent employees and are entitled to gratuity on a pro-rata basis after one year of service.
- **Expanded benefits.** Gratuity entitlement is extended to piece-rate, seasonal, and disabled workers. In addition, establishments with 50 or more employees must provide or share crèche (child care) facilities.

3. Industrial and Trade Unions

The Industrial Relations Code 2020 merges the Industrial Disputes Act 1947, Industrial Employment (Standing Orders) Act 1946 and Trade Unions Act 1926. Key reforms include:

- **"Employer" and "Employee" definitions expanded.** The new code defines "employer" as any individual employing workers directly or indirectly, heads of departments or CEOs of government bodies, factory managers, independent contractors, individuals with ultimate control over an establishment, and legal representatives of deceased employers. The code also replaces the term "workman" with "employee." The new definition of employee also expands the threshold for supervisory exclusion from ₹10,000 to ₹18,000 (approximately $110 to $200 USD) per month. Previously excluded categories, like journalists and sales promoters, are also included in the new definition of "employee."
- **Grievance Committee requirement.** Establishments with 20 or more workers must form a grievance redressal committee with equal employer-employee representation and mandatory inclusion of women.
- **Higher threshold for layoffs and re-skilling fund.** Only establishments with 300 workers (up from the previous level of 100 workers) are required to seek government permission for layoffs, retrenchment or closure. Employers must contribute the equivalent of 15 days' wages for each retrenched worker to a newly formed re-skilling fund.

4. Workplace Safety and Women's Rights

The Occupational Safety, Health and Working Conditions Code 2020 consolidates 13 laws, including the Factories Act 1948 and Contract Labour Act 1970. Key reforms include:

- **Broadened definition of establishment.** "Establishment" now covers any place where an industry, trade, business or occupation is carried out with 10 or more workers. "Factory" is now defined as a premises with 20 workers and electric power (or 40 workers if power is not used).
- **Independent contractor restrictions.** The new code clearly defines what counts as an organization's "core business activities" and generally bars the use of independent contractors for those activities. Exceptions include if the work is customarily done by contractors, does not require full-time staff, or is needed only to handle a temporary increase in workload.
- **Mandatory appointment letters, records, and health checks.** Employers must issue appointment letters to all employees and maintain digital registers of workers. Employers are also obligated to provide a free annual health check-up.
- **Working hours and annual leave** While working hour limits remain unchanged, they are now consolidated under this code. Workdays continue to be capped at eight hours and workweeks at 48 hours, with double wages for overtime. However, the eligibility criteria for annual leave has been reduced to 180 workdays from the previous level of 240 work days.

- **Women's employment.** The new code prohibits gender discrimination. It also formally allows women to work at night and during the early morning hours, in all roles, and only with their consent, provided that the employer ensures safety measures are in place. As we noted above, women must also be included in grievance redressal committees, and employers have new responsibilities to provide shared crèche (child care) or to pay a child care allowance of ₹500 (approximately $6 USD) per month per child (for up to two children).

5. New Consequences for Non-Compliance. Penalties for non-compliance with the new labor codes range from ₹50,000 to ₹100,000 (approximately $560 to $1,120 USD) and may include imprisonment depending on the nature of the violation. In business transfers, transferor and transferee are jointly liable for unpaid social security dues.

9 Practical Steps for Employers

To navigate the new framework, multinational employers should:

1. Monitor state rules. Track state notifications and adapt policies as rules are finalized.

2. Reassess pay structures. Apply the uniform wage definition and ensure allowances do not exceed 50% of remuneration. Update payroll systems to ensure timely payment of regular and final wages.

3. Update contracts and policies. Issue appointment letters to all staff and amend contracts to incorporate any applicable minimum wage, overtime, notice, and termination provisions. Address pro-rata gratuity for fixed-term employees.

4. Establish grievance redress committees. Create or update GRCs in establishments with 20 or more workers and integrate them with existing HR procedures. Ensure that GRCs have equal employer-employee representation, and include a proportionate number of women.

5. Review contract labor engagement. Identify core activities and assess whether contract labor is permissible.

6. Plan for new contributions. Budget for increased provident fund and social security contributions due to the broader wage definitions and anticipate obligations to re-skilling and social security funds.

7. Enhance health and safety compliance. Align policies with working-hour limits, the new annual leave thresholds, and women's night-shift work. Plan to provide annual health check-ups and maintain digital records.

8. Prepare for transactions. Assess liabilities for unpaid social security dues in mergers or business transfers and include protective clauses in transaction documents.

9. Train HR and managers. Educate local teams on new definitions, rights and obligations, and seek legal advice where confusion remains.

Conclusion

Employers with operations in India should proactively map applicability, revise policies and compensation structures, establish grievance mechanisms, and monitor regulatory developments. We will continue to track workplace law changes in India, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our International Practice Group.

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