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***THE THREE NEW LABOUR
CODES: AN OVERVIEW***

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THE THREE NEW LABOUR CODES: AN OVERVIEW

With a view to reform the archaic labour laws and to facilitate the ease of doing business in India, the Government of India had decided to consolidate twenty nine (29) central labour laws into four (4) labour codes, namely,

- (i) The Code on Wages, 2019 (**the “Code on Wages”**);
- (ii) The Code on Social Security, 2020 (**the “SS Code”**);
- (iii) The Occupational Safety, Health and Working Conditions Code, 2020 (**the “OSH Code”**); and
- (iv) The Industrial Relations Code, 2020 (**the “IR Code”**).

The Code on Wages was passed by the Parliament and received the President’s assent in August 2019 and the draft rules thereof have been circulated by the Ministry of Labour and Employment for feedback. The Code on Wages legislates on wages and bonus and aspects relating thereto and consolidates and subsumes four (4) existing central labour laws, namely the Equal Remuneration Act, 1976, the Minimum Wages Act, 1948, the Payment of Wages Act, 1936 and the Payment of Bonus Act, 1965.

Recently, the three (3) remaining labour codes i.e. the SS Code, the OSH Code and the IR Code were passed by the Parliament on September 23, 2020 and thereafter received the President’s assent on September 28, 2020. An overview of the three (3) new labour codes is provided below:

(a) The Code on Social Security, 2020: The SS Code aims to provide better social security benefits such as provident fund, insurance and gratuity to workers. It extends the reach of the Employees’ State Insurance Corporation and the Employees’ Provident Fund Organization (which regulate benefits such as provident fund, insurance, pension, etc.) to the workers in the unorganised sector and the platform and gig workers. The SS Code further stipulates gratuity benefit for fixed term employees without any condition for minimum service period as envisaged under the current regime. The SS Code subsumes nine (9) labour laws relating to social security, namely, the Employees’ Compensation Act, 1923, the Employees’ State Insurance Act, 1948, the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952, the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, the Maternity Benefit Act, 1961, the Payment of Gratuity Act, 1972, the Cine-Workers Welfare Fund Act, 1981, the Building and Other Construction Workers’ Welfare Cess Act, 1996 and the Unorganised Workers Social Security Act, 2008.

(b) The Occupational Safety, Health and Working Conditions Code, 2020: The OSH Code aims to regulate the occupational safety, health and working conditions of workers employed in establishments. The OSH Code seeks to widen its applicability on different types of workers such as audio visual workers, inter-state migrants or sales promotion employees. It also attempts to promote gender equality by allowing women workers to work at night subject to obtaining their consent. The OSH Code further introduces the concept of deemed registration of establishments to circumvent the prolonged delays in administrative processes and provides that if an establishment is registered under any concerned law, it shall be deemed to be registered under the OSH Code. The OSH Code subsumes thirteen (13) labour laws relating to safety, health and working conditions, namely, the Factories Act, 1948, the Contract Labour (Regulation and Abolition) Act, 1970, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the Mines Act, 1952, the Dock Workers (Safety, Health and Welfare) Act, 1986, the Plantations Labour Act, 1951, 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 Sales Promotion Employees (Conditions of Service) Act, 1976, the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 and the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981.

(c) The Industrial Relations Code, 2020: The IR Code aims to streamline the laws regulating industrial disputes and trade unions in India. For the benefit of the employers, the IR Code has introduced various aspects such as increasing the threshold of workers to three hundred (300) for obtaining the consent of the concerned government in case of lay off, retrenchment or closure of the establishment, notice of change not required to be given subject to the conditions stipulated in the IR Code, increasing the wage threshold to INR 18,000 (Indian Rupees Eighteen Thousand) for exclusion from the definition of worker, etc. Similar to the OSH Code, the IR Code also introduces the concept of deemed certification of standing orders. Although the IR Code attempts to simplify the labour legislations, a wide extent of aspects under the IR Code are dealt through delegated legislations and a complete picture would be available once the Rules are framed under the IR Code and the other labour codes. The IR Code subsumes three (3) labour laws relating to industrial relations, namely, the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946 and the Industrial Disputes Act, 1947.

The Government of India is currently in the process of formulating the Rules under these Codes for their implementation. Once the Rules have been drafted and finalized, the above Codes along with the Rules shall come into force on such date as appointed by the Government by notification in the Official Gazette. As per latest news reports, the draft Rules of the three (3) newly notified Codes are expected to be circulated in November, 2020 for public suggestions and feedback. The news reports further suggest that the Government is aiming to implement all the four (4) labour codes in one go by December, 2020 and complete the final stretch of overhauling the labour laws.

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