



# New labor codes

**Mercer Support**

welcome to brighter



# Re-engineering India's labour markets

## Labour requirements till 2020

Multiple labour laws (100 State and 40 Central laws)

Cluttered compliances for employers

Inconsistent and non-existent definitions across laws

- **Urgent need to rationalise, simplify and update labour laws in India**
- **Recognised by National Commission of Labour in 2002**
- **In 2019, the Ministry of Labour and Employment introduced four Bills to consolidate 29 central laws.**



## The new landscape



Occupational safety, Health and Working conditions Code, 2020



Industrial Relations code, 2020

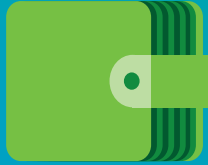


Code on Social Security 2020



Code on Wages, 2019

# The Four Labour Codes



## Code on Wages, 2019

### Status

- Passed by Parliament
- Presidential assent received
- Central Rules – Draft published
- Expected implementation 2022

### Summary

- Subsumes four Labour Acts related to wages and allied areas
- Rationalizes procedures and compliances with respect to wages and allied areas



## Code on Social Security 2020

### Status

- Passed by Parliament
- Presidential assent received
- Central Rules – Draft published
- Expected implementation 2022

### Summary

- Subsumes nine Labour Acts related to social security and its applicability and delivery
- Effects changes to compliances and procedures with respect to social security



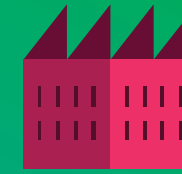
## Occupational Safety, Health and Working Conditions Code 2020

### Status

- Passed by Parliament
- Presidential assent received
- Central Rules – Draft published
- Expected implementation 2022

### Summary

- Subsumes thirteen Labour Acts related to OS, H and WC and their delivery
- Standardizes regulation related to work conditions across employers



## Industrial Relations Code 2020

### Status

- Passed by Parliament
- Presidential assent received
- Central Rules – Draft published
- Expected implementation 2022

### Summary

- Subsumes three Labour Acts related to IR and their conduct
- Rationalises procedures and compliances with respect to IR and ER

# The Wage Code, 2019

Subsumes the following Acts

- *The Minimum Wage Act, 1948*
- *The Payment of Wages Act, 1936*
- *The Payment of Bonus Act, 1965*
- *The Equal Remuneration Act, 1976*

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## Key compliance impact

- *Complications around definition of wages and fixing of bonus*
- *Costs of compliance*

## Key changes

- **Applicable to all employees and employers**
- **Integrates wage definition for all Code purposes. Excludes components but if allowances are > 50% of compensation, amount in excess of 50% will be deemed wage**

- **Employees to be paid wage by seventh day of succeeding month**
- **F&F payment to be made within two days (of what)**
- **Regime of fines for non compliance established with inspector and inspection eco-system**

- **Bonus limit not set as yet;**
- **Recognition of contractor as employer**
- **Maintenance of records and penalties**
- **Decriminalized penal system**

- **OT set at twice of normal wage; Rules around working hours**
- **National Minimum Wage (floor) introduced with state wise discretion**
- **Time limit to raise a claim time period – 3 yrs**

# Code On Wages, 2019

## What constitutes Wages ?

Means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, in terms of employment, express or implied, where fulfilled, be payable to a person employed in respect of his employment, and includes –

- Basic pay
- Dearness allowance; and
- Retaining allowance, if any

## Exclusions

- Statutory bonus
- Value of house accommodation and utilities
- Employer contribution to provident fund / pension together with interest thereof
- Conveyance allowance or value of travelling concession
- House rent allowance
- Remuneration payable under any award settlement
- Overtime allowance
- Commissions payable
- Gratuity payable on termination
- Retrenchment compensation/ retirement benefit payable or ex gratia payment made

## The allowances angle

Where the excluded components (among those highlighted) exceed 50% or such other notified percentage of all remuneration, the amount that exceeds such 50% (or other percent, so notified) shall be deemed as remuneration and shall be added to wage

Remuneration in kind to be up to 15% of total remuneration

# Code on Social Security ,2020

## The intersection of the Code on Wages and the Social Security Code will impact employers and employees the most

- Wage definition will be applied to all statutory benefits
  - Impact of the new wage definition is expected to increase uncertainties surrounding, costs of and contributions to gratuity and leave encashment schemes
  - Impact on certain segments of employees in case of PF (whose basic is close to or lesser than INR 15,000); this could impact take-home pay

## Nine Acts get subsumed

The Employees' Provident Fund and Miscellaneous Provisions Act, 1951

The Payment of Gratuity Act, 1972

The Employees' State Insurance Act, 1948

The Maternity Benefit Act, 1961

The Employee's Compensation Act, 1923

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959

The Unorganised Workers' Social Security Act, 2008

The Cine-Workers Welfare Fund Act, 1981

The Building and Other Construction Workers' Welfare Cess Act, 1996

## While details of the Schemes are awaited critical changes are:

- **Introduction of a new category of employees (Gig workers, platform workers, fixed term employees and unorganized workers) – that will be brought under coverage of various social security schemes**
- **Fixed term employees to be paid gratuity without completion of five years of service**
- **Limitation of liabilities for inquiry and assessment of past dues pegged at five years**
- **Coverage - ESI**

# Summarizing - Combined impact of Wage and Social Security Codes

Potential increase in costs (and contributions) to Gratuity, Leave and PF borne out of changes in definition of wages

Potential changes to wage structures of employees

Limitation of assessed liabilities to five years; The absence of limits in the current regulation makes these liabilities open ended

## Ancillary impact

- Greater need for controls in compliance by employers as integration of regulators occurs in the long run
- Non compliance will get expensive



# Occupational safety, Health and Working Conditions Code, 2020

## Subsumes the following Acts

- *The Factories Act, 1948*
- *The Dock Workers (Safety, Health and Welfare )Act, 1986*
- *The Mines Act, 1952*
- *The Building and other Workers (Regulation of Employment and Conditions of Service) Act 1996*
- *The Plantations Labour Act , 1951*
- *The Inter State Migrant Workmen (Regulation of employment and conditions of service) Act, 1979*
- *The Contract Labour (Regulation and Abolition) Act, 1970*
- *The Working Journalist (Fixation of rates of wages) Act, 1958*
- *The Motor Transport Workers Act, 1961*
- *The Sales Promotion Employees ( Condition of Service) Act, 1976*
- *The Cine Workers and Cinema Theatre Workers Act, 1981*
- *The Beedi and Cigar Workers Act, 1966*

## Key proposals



Single registration for employers with more than ten employees across the country for all labour regulations



Mandatory medical health check up (annual ) based on age of employee for class of establishments



Definition of Interstate migrant worker widened; now includes voluntary migrants but wage capped at INR 18k per month



# Industrial Relations Code, 2020

## Subsumes the following Acts

- *The Trade Union Act, 1928*
- *The Industrial Employment (Standing Orders) Act, 1946*
- *The Industrial Disputes Act, 1947*

## Key proposals



Definition of Industry recast to define all industries. Employee definition standardized



Fourteen days notice to be give for strikes and lockouts



Number of min employees required to effect retrenchment where Govt permission is required – 300



Norms established for recognition of Trade Union - 50% of workers enrolled in Union

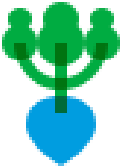
# Mercer View on the Codes

- **The Labour Codes kick off the much needed exercise of rationalisation of ageing labour laws in India**
- **We expect the rationalisation and simplification of the regulations will help employers render compliance at lower longer term costs**
- **We also expect widening of the net of compliance due to integration of laws and regulators**
- **In the near term, we expect implementation issues and higher short term costs due to factors that we have discussed**
- **When seen from a Social Security lens, we expect the Codes to deliver stimulus to the social security landscape and deliver better outcomes.**
- **This will ensure improvement in the adequacy, sustainability and integrity factors resulting in long term value to employers and employees.**



# Our approach – in summary

## Logical, sequential steps in the process



**Phase 1**  
Planning-Project Plan



**Phase 1 :Code on Wages and Social Security Code**

Review of existing compensation structure, policies and practices and recommending a new structure aligned to the code



**Phase 1: Code on Wages and Social Security Code**

Regulatory requirements under local law and regulations\*



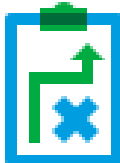
**Phase 1 :Code on Wages and Social Security Code**

Financial & Cost implications



**Phase 1 :Occupational Safety and Industrial Relations Code**

Review existing policies and recommending changes as per new code



**Phase 1 : Implementation roadmap and governance framework**

Help in building a governance framework

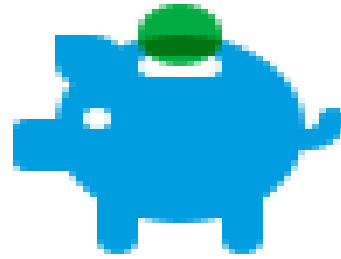


**Phase 2: Implementation**  
Design change communication plan



**Phase 2: Implementation**  
Develop Employee FAQ's, Employer Handbook, Sessions with Leadership

# Deliverables

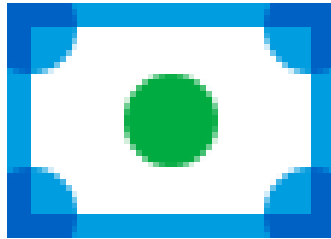


Financial implications on retirement benefits (using actuarial principles)

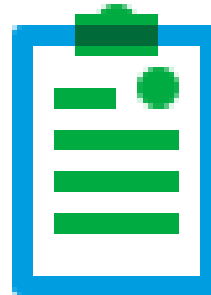
6 months handholding (query based) – post central final rules are notified



Communication plan & collaterals



New compensation structure options aligned to new wage definition



Regulatory checklist for labour codes, as applicable

