

New Labour codes of India

As you may be aware, the following new labour codes have been passed by the Indian Parliament.

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

With Presidential assent on September 28, 2020 these are now Acts, for which the effective date is yet to be notified.

Labour being a concurrent topic, both Central Government and State Government need to come out with the respective rules. While Central Government had released draft rules in the past, States were rolling out the draft rules at a slower pace.

In a recent update, majority of the states have come out with their draft rules for all the 4 labour codes. Some outliers are states like West Bengal, Delhi, etc. The Central Government is now contemplating to roll out labour codes before the end of this fiscal year.

In view of the above, we are sharing below a broad overview of some of the key areas of impact.

1. Uniform and broader definition of 'wages' across both the Codes

The broadening of the definition of 'wages' will have an impact on the following –

- Quantum of contribution towards provident fund (PF) for domestic employees drawing salary below wage ceiling (presently INR 15,000) and International Workers
- Increased gratuity benefits
- Coverage under ESI / applicability of statutory bonus/minimum wages etc.

The above would necessitate a review of the salary structure as well as a financial impact analysis. Review of employment contracts would also be important to reflect the changes in retiral.

2. Introduction of new categories for coverage

- Fixed Term Employees (FTE) i.e. individuals employed for a fixed duration will be entitled to gratuity benefits under the Code on a pro-rata basis. Expatriates working for pre-determined periods will also be eligible for gratuity benefits even if employed for less than five years.
- Gig workers/ Platform workers – Government will soon introduce a scheme which will enable such employees to be eligible for social security benefits. Details are awaited.

This would necessitate a review of the various categories of service providers and determine the compliances required against the same.

3. Timelines for settlement of wages

- With the applicability of the provisions relating to Payment of Wages extended across all employees (wage limit of Rs. 24,000 per month no longer relevant for this), there is a need to meet the stringent timelines for settlement of wages. This could have an impact on the payroll process relating to new joiners as well as exit cases.
- Responsibility of principal employer with respect to contract employees include timely settlement of wages, and pay-out of statutory bonuses where the employer does not meet the same. This would necessitate a review of the process for settlement of contractor dues as well as review of the contract terms to protect business interests.

Going forward, employers would be required to:

- Understand the provisions of the Code and identify changes required in various policies and processes;
- Conduct a financial impact analysis
- Communicate the potential impact and changes required to the various stakeholders including employees;
- Review third party contracts in terms of principal employer obligations
- Align employees' compensation structure with the provisions of the labour codes considering the tax aspects and impact on net 'take home' compensation;

To discuss the new labour codes in detail, we would be glad to plan a presentation / session for your team.

Please write to us at communications@krayman.com if you would be interested.

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