

Comparative Analysis of Provisions & Changes under Labour Codes

The enactment of the four Labour Codes has been hailed as a defining moment in reforming the outdated and archaic labour law regime in India. With the implementation of these Codes on the horizon, this article takes a closer look at the key changes introduced in each Labour Code in comparison to the existing provisions under various labour legislations. This comparative analysis is a ready reckoner for anyone looking to gain better insight into the nature of changes enshrined under the new Labour Codes.

A) Code on Wages, 2019

It subsumes the key legislations on wages, namely:

1. Payment of Wages Act, 1936
2. Minimum Wages Act, 1948
3. Payment of Bonus Act, 1965
4. Equal Remuneration Act, 1976

It has introduced a broader applicability criterion in terms of both establishments and employees. It has also standardized definitions to bring about clarity in implementation. New provisions regarding mode, time and disqualification of payments of wages and bonuses have also been incorporated to remove ambiguities in enforcement. Given below is a comparative chart of the changes that have been introduced.

S.No.	ACT	EXISTING PROVISIONS	CODE	PROPOSED CHANGES
1	Minimum Wages Act, 1948	Applicability Only to scheduled employments and those working in such scheduled employments.	Code on Wages, 2019	Applicability To all the establishments and employees
2	Payment of Wages Act, 1936	Applicability To all scheduled establishments and all employees drawing less than ₹24,000.	Code on Wages, 2019	Applicability To all the establishments and employees.

3	Payment of Wages Act, 1936	Monthly Payment/ Salary - Payable (i) Upto 1000 employees - on or before 7th of succeeding month. (ii) Above 1000 employees - on or before 10th of succeeding month.	Code on Wages, 2019	Monthly Payment / Salary - Payable Irrespective of the number of employees, payment to be made on or before 7th of succeeding month.
4	Payment of Wages Act, 1936	Full and final settlement shall be made in the subsequent month, basis the number of employees as cited in Point 3. Gratuity to be payable within 30 days from the last working day of the employee.	Code on Wages, 2019	Full and Final Settlement - wages to be paid within 2 working days of the separation of the employee. No change with reference to Gratuity.
5	Payment of Bonus Act, 1965	Mode of Payment of Bonus- By cash / DD / Bank Credit only.	Code on Wages, 2019	Mode of Payment of Bonus- By Bank Credit only.
6	Payment of Bonus Act, 1965	Disqualification for Bonus - Gross Misconduct	Code on Wages, 2019	Disqualification for Bonus -In addition to Gross Misconduct, "Conviction of Sexual Harassment" is now an added provision.

7	(i) Minimum Wages Act, 1948; (ii) Payment of Wages Act, 1936; (iii) Payment of Bonus Act, 1965;	Definition of Wages - Differs from Act to Act.	Code on Wages, 2019	Common Definition of Wages across all 4 Acts.
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B) Code on Social Security, 2020

It subsumes the following legislations:

1. Employee's Compensation Act, 1923,
2. Employees' State Insurance Act, 1948,
3. Employees' Provident Funds and Miscellaneous Provisions Act, 1952,
4. Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959,
5. Maternity Benefit Act, 1961,
6. Payment of Gratuity Act, 1972,
7. Cine-Workers Welfare Fund Act, 1981,
8. Building and Other Construction Workers' Welfare Cess Act, 1996
9. Unorganised Workers' Social Security Act, 2008.

Several new provisions have been introduced under the Code for bringing uniformity in social security coverage for workers. Schemes such as Employees' Provident Fund and Employees' State Insurance now have broader applicability and voluntary coverage. The key changes introduced under the Code have been detailed in the comparative chart below:

S.No.	ACT	EXISTING PROVISIONS	CODE	PROPOSED CHANGES
1	Employee's Provident Fund Act, 1952	Applicability - Only to scheduled employments as prescribed in the portal.	Code on Social Security, 2020	Applicability - Industry-specific application removed.
2	Employee's Provident Fund Act, 1952	Condition to Apply for Exemption- No threshold prescribed	Code on Social Security, 2020	Condition to Apply for Exemption - 100 or more establishments.
3	Employee's State Insurance Act, 1948	No provision on obtaining Voluntary Coverage.	Code on Social Security, 2020	Voluntary Coverage provision added, subject to employer's discretion.
4	Employee's State Insurance Act, 1948	ESIC not applicable to Mines.	Code on Social Security, 2020	ESIC applicable to Mines now.
5	Payment of Gratuity Act, 1972	Fixed Term Workers / Employees - Not entitled to Gratuity.	Code on Social Security, 2020	Fixed Term Workers / Employees - Brought in under the purview of Gratuity.

6	Employment Exchanges Act, 1959	Applicability - 25 or more employees in an establishment	Code on Social Security, 2020	Applicability - 20 or more employees in an establishment
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C) Code on Occupational Safety, Health and Working Conditions, 2020

It subsumes thirteen labour legislation namely,

Factories Act, 1948,

Plantations Labour Act, 1951,

Mines Act, 1952,

Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955,

Working Journalists (Fixation of Rates of Wages) Act, 1958,

Motor Transport Workers Act, 1961,

Beedi and Cigar Workers (Conditions of Employment) Act, 1966,

Contract Labour (Regulation and Abolition) Act, 1970,

Sales Promotion Employees (Conditions of Service) Act, 1976,

Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979,

Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981,

Dock Workers (Safety, Health and Welfare) Act, 1986 and

Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

Various new provisions have been incorporated to bring about standardization in the statutory norms for occupational safety, health and working conditions for workers. The applicability threshold under the Factories Act, 1948 has been increased for the benefit of smaller enterprises. New provisions on common licenses have also been introduced to reduce the compliance burden. The important changes introduced under the Code are summarized in the comparative chart below:

S.No.	ACT	EXISTING PROVISION	CODE	PROPOSED CHANGES
1	Contract Labour (Regulation and Abolition) Act, 1970	Applicability-Differs, state specific.	Code on Occupational Safety, Health and Working Conditions, 2020	Applicability To 50 or more across all the states.
2	Contract Labour (Regulation and Abolition) Act, 1970	Obtaining License - State Specific	Code on Occupational Safety, Health and Working Conditions, 2020	Common License across all the states.

3	Factories Act, 1948	Applicability – (i) With the aid of power -10 (ii) Without the aid of power - 20	Code on Occupational Safety, Health and Working Conditions, 2020	Applicability (i) With the aid of power - 20 (ii) Without the aid of power - 40
4	Factories Act, 1948	Applicability – (i) With the aid of power -10 (ii) Without the aid of power - 20	Code on Occupational Safety, Health and Working Conditions, 2020	The threshold in Threshold in Number of Workers for Appointment of: (i) Safety Officers - 500 (ii) Welfare Officers – 250 (iii) Canteen - 100

D) Code on Industrial Relations, 2020

It subsumes three key legislations:

Industrial Disputes Act, 1947,
Trade Unions Act, 1926
Industrial Employment (Standing Orders) Act, 1946.

The applicability threshold in terms of workers has been increased under the Code. At the same time, the provision on the grievance redressal committee has undergone changes. Given below is a comparative chart of the changes that have been introduced:

S.NO	ACT	EXISTING PROVISIONS	CODE	PROPOSED CHANGES
1	Industrial Employment (Standing Orders) Act, 1946	Applicability - Provisions of Standing Orders shall apply to industrial establishment in which 100 or more workers are employed.	Code on Industrial Relations, 2020	Applicability - Provisions of Standing Orders shall apply to industrial establishment in which 300 or more workers are employed.
2	Industrial Disputes Act, 1947	Grievance Redressal Committee Threshold - 6 members	Code on Industrial Relations, 2020	Grievance Redressal Committee Threshold - 10 members

CONCLUSION

The new Labour Codes have consolidated 29 legacy labour laws and brought down the number of legal provisions by a whopping 61% (from 1,232 to 480). Based on the recommendations of the 2nd National Commission on Labour (2002), these Codes have amalgamated, simplified and rationalized the extant labour legislation in the country. As explained above, this two-decade long reform exercise has resulted in much-needed removal of multiplicity of definitions, authorities and compliances while also bringing about greater transparency and accountability in implementation. Various changes under the Codes have also been driven by the growing penetration of technology in the labour market. Enhanced monetary penalties, reduced imprisonment clauses and provisions for compounding of offences will surely provide greater thrust to labour compliance without compromising on the vision of ease of doing business.