

## Labour Reforms - Labour Codes

The Parliament passed three labour code bills in September 2020, as part of a measure to consolidate the multitude of labour laws in the country. This is a very important topic for the [UPSC exam](#), not only for the polity segment but also for the social issues segment. In this article on labour reforms, you can read all about the Four Labour Codes passed by the Parliament.

### Labour Reforms Background

In India, labour is a subject in the Concurrent List.

- Since it is in the Concurrent List, both the Parliament and the state legislatures can enact laws on it.
- As per the Central Government, before the new labour codes were passed, there were more than 40 central laws and more than 100 state laws on labour and related matters.
- The Second National Commission on Labour (2002) recommended that the central labour laws should be integrated into groups like:
  - Industrial relations
  - Wages
  - Social security
  - Safety
  - Welfare and working conditions
- This was recommended by the Commission because the existing labour laws were archaic, complex and had inconsistent definitions. The Commission suggested simplification of the labour codes for the sake of transparency and uniformity.

In 2019, the Central Government introduced four bills on labour codes to consolidate 29 central laws. These are:

1. Code on Wages
2. Industrial Relations Code
3. Social Security Code
4. Occupational Safety, Health and Working Conditions Code

While the Wages Code was passed in 2019, the other three bills were referred to a Standing Committee on Labour. As per the recommendations of the Committee, the government replaced these bills with new ones in September 2020, and these were passed in the same month.

The Rules for all the four labour code bills would be notified in one go according to the Labour Ministry. Hence, even though the draft Rules for the Wages Code had been circulated in 2019 itself, the Ministry withheld its finalisation and implementation.

### Code on Wages, 2019

The Code on Wages was passed by the Parliament in 2019.

- The Wages Code seeks to regulate wage and bonus payments in all employments where any industry, business, trade or manufacture is carried out.
- This code replaces the following laws:
  - Minimum Wages Act, 1948
  - Payment of Wages Act, 1936
  - Payment of Bonus Act, 1965



- Equal Remuneration Act, 1976
- Coverage of the Code on Wages:
  - The code will apply to all employees.
  - The Central Government will take decisions on wages for employments in mines, railways, oil fields, etc.
  - For all other types, the state governments will make the decisions.
- Wages include salary, allowance or any other monetary component. It does not include bonuses and travelling allowances.
- Floor wage
  - As per the code, the Central Government will fix the floor wages considering the workers' living standards.
  - The floor wage may vary depending on the geographical location.
- The minimum wages decided by the central or state governments should be above the floor wages. In case the existing minimum wages are higher than the floor wages, the central or state governments cannot reduce the minimum wages.
- While fixing the minimum wages, the government should take into account the difficulty level of the work, and the workers' skill levels also.
- Also, the minimum wage fixed will be reviewed by the government at least every five years.
- Employers cannot employ people on less than the minimum wage.
- The number of working hours will be fixed by the central or state governments. In the case of overtime work, the worker is entitled to overtime compensation which should be at least twice the normal wages.
- The employer can fix the wage period as either daily, weekly, fortnightly, or monthly.
- The employer can deduct wages for the following. However, the deductions should not exceed 50% of the worker's wages.
  - Fines
  - Absence from duty
  - Accommodation given by the employer
  - Advances given to the employee
- All employees whose wages do not exceed a specific monthly amount will be entitled to an annual bonus.
- The Code prohibits gender discrimination in wages and recruitment of people for the same work or work of similar nature.
  - Work of a similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same.
- Advisory boards
  - Advisory boards will be set up by the central and state governments. These boards will consist of an equal number of employees and employers, state government representatives and independent persons.
  - One-third of the boards will be women members.
  - These boards will advise the governments on minimum wage fixing and increasing the employment opportunities for women.
- The Code specifies penalties for offences committed by an employer.
  - Contravention of any provision of the Code
  - Paying less than the minimum wage
  - The maximum punishment is three-month imprisonment along with a fine of Rs. 1 lakh

## Wages Code Concerns

There have been concerns expressed about the new Wages Code. Some of them are discussed below:

1. There is no clarity on the formula for fixing the minimum wage and also on the particular authority designated for setting the minimum wages.



2. The fixing of minimum wages on the basis on geography, skill and difficulty levels of the work, etc. might bring in a lot of discretionary power to the hands of the administrators, since many of these factors are not easy to measure. This might lead to adverse effects like lobbying.
3. The clause for the deduction of wages seems arbitrary and it might prevent workers from unionising in fear of a deduction in wages.
4. The Code omits the principal employer's liability to pay wages if the labour contractor had failed to do so. The principal employer is defined broadly in the Code making it difficult to pinpoint responsibility for payment of wages. This is a major issue since, in India, a majority of the workers are contract labourers.
5. The Code also takes away the jurisdiction of courts in providing justice to workers who have faced violations with respect to their wages. This means that workers can no longer access courts to contest the wages paid to them by their employers, but can only approach the quasi-judicial body and appellate authority set up under the provisions of the Wage Code.

## Industrial Relations Code, 2020

Some of the provisions of the Industrial Relations Code, 2020 are mentioned below.

- The Industrial Employment (Standing Orders) Act, 1946 had made it mandatory for employers of industrial establishments with 100 or more workers to define the conditions of employment and rules of conduct for workmen, by way of **standing orders/services rules** and to inform the workers of the same clearly.
  - However, under the new Code, the minimum number of workers employed for an establishment to have standing orders has been raised to 300.
  - With the increased threshold, it becomes more flexible and easier to hire and fire thus leading to increased employment according to the government.
  - Prior permission of the government is mandated before closure, lay-off, or retrenchment of employees in establishments having more than 300 workers.
- The Code also introduces new conditions for conducting a legal strike.
  - Employees are prohibited from going on strike without giving a 60-day notice.
  - Employees are also prohibited from going on strike during the pendency of proceedings before a Tribunal or a National Industrial Tribunal.
  - They should also not go on strike before 60 days are completed after the tribunal's proceedings.
- The new Code also proposes the setting up of a re-skilling fund for training retrenched workers with contribution from the employer, of an amount equal to 15 days last drawn by the worker.

## Industrial Relations Code Concerns

Some of the concerns expressed by people about the new Code are discussed below.

1. It can dilute the rights of workers working in industrial establishments with under 300 workers.
2. In such smaller establishments, employers have been given complete flexibility in terms of hiring and firing the services of workers.
3. The condition for legal strikes has been made more stringent in that the time frame for the notice to be given by workers to go on legal strikes has been increased, making it almost impossible to call a strike legally.
4. The reskilling fund seems to be arbitrarily framed and there is no clarity on where the whole funds would come from.

## Code on Social Security, 2020



Some of the key provisions of the Social Security Code, 2020 are discussed below.

- The definition of employees has been widened to include inter-state migrant workers, construction workers, film industry workers and platform workers.
- The gratuity period for working journalists has been reduced from 5 years to 3 years.
- The Code talks about setting up social security funds for unorganized workers, platform workers, and gig workers.
- There is a provision for the central government to decrease or defer the employer's or employee's contribution towards the PF or ESI for up to 3 months in the event of a pandemic, national disaster or an epidemic.
- The Code proposes the establishment of a National Social Security Board for recommending to the central government the formulation of schemes for the various sections of unorganised, gig and platform workers.

## Code on Occupational Safety, Health and Working Conditions, 2020

The major provisions of the Occupational Safety, Health and Working Conditions Code are mentioned below.

- The Code expands the definition of a factory as a premise where at least 20 workers work for a process with power and 40 workers for a process without power.
- The Code removes the manpower limit on hazardous working conditions and makes the application of the Code obligatory for contractors recruiting 50 or more workers (earlier it was 20).
- The Code fixes the daily work hour limit to a maximum of eight hours.
- The Code empowers women to be employed in all kinds of establishments and at night (between 7 PM and 6 AM) subject to their consent and safety.
- To encourage formalisation in employment, the employer is required to issue an appointment letter.
- The Code defines an inter-state migrant worker as someone who has come on his/her own from one state and received employment in another state and earns up to Rs.18000 per month.
- Portability benefits for inter-state migrant workers: They can avail benefits in the destination state as regards ration and benefits of building and other construction worker cess.
- However, the Code has dropped the earlier provision for temporary accommodation for workers near worksites.
- The Code also proposes a Journey Allowance - this is a lump sum fare amount to be paid by the employer for the journey of the worker from his/her native state to the place of employment.

Many of the provisions of the codes have been termed as anti-worker by trade unions and workers' organizations. Some experts say that they give more power to the employer especially to hire and fire arbitrarily.



