

THE INDUSTRIAL RELATIONS CODE 2020

Industrial Relations Code - 2020



Presentation from Ganesh Prasad CAs

Category II

Labour laws subsumed

- **Trade Union Act,1926**
- **Industrial Employment (Standing Orders) Act,1946**
- **Industrial Disputes Act,1947**

New Labour code

Industrial Relations Code 2020 (Section:2 to 103)

Key Changes

- ❑ Establishment with less than 300 workmen can lay-off, retrench, close without government approval, earlier this limit was 100 employees.
- ❑ Trade union have to give notice of 14 days before going on strike.
- ❑ Fixed Term Employment, now employer can keep Fixed Term Employees (FTE) for specific duration and retrenchment compensation need not be paid. These FTE will be entitled same salary or social security as regular Employee.
- ❑ The appropriate government shall set up a Reskilling Fund and the fund shall consist of contribution by an employer equal to fifteen days' wages last drawn by the worker immediately before the Retrenchment.
- ❑ The fund shall be utilized by crediting fifteen days' wages last drawn by the worker to his account who is retrenched, within forty-five days' of such retrenchment, in such manner as may be prescribed.

Key Changes

- ❑ Fixed Term Employment has been incorporated, which is major change introduced in the code:-
The code provides that the fixed term employee will get all statutory benefits like ESI, EPF, bonus, wages, etc. at par with regular employees who are doing work of same or similar nature.
- ❑ The termination of the service of a worker as a result of completion of tenure of fixed term employment would not be a retrenchment.
- ❑ The employee would be eligible for gratuity if he renders service under the contract for a **period of one year**.
- ❑ Metro railway has been included in the definition of railways.
- ❑ Maximum number of members in the Grievance Redressal Committee has been increased from 6 to 10 in an industrial establishment employing 20 or more workers.
- ❑ The "Trade Union dispute" has been added, which provides dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union inter se;

Trade Union Act: negotiating union & negotiating council (Section:14)

- ❑ The Industrial Relations Code 2020 provides a new concept for negotiating trade unions or negotiating councils in an industrial company.
- ❑ In the case of a single union in an industrial company, the employer recognizes that union as the sole bargaining union of the workers.
- ❑ If there are several unions, the union is recognized by the employer as a bargaining union with 51% of the employees in the industrial company's model directory.
- ❑ In the case of several trade unions, none of which fulfil the above-mentioned 51% membership criteria, the employer forms a negotiating council made up of representatives of these registered trade unions, who are supported by at least 20% of the total workforce of the industrial company (1 representative for every 20 %).
- ❑ Industrial Relations Code 2020 also provides that if the central / state government believes that there is a need for a union or confederation to be recognized as a central / state union, that government may recognize the trade unions alike.

Strikes and lockouts:(Section:62)

- ❑ Industrial Relations Code 2020 defines “strike” as including the concerted casual vacation on a given day of fifty percent or more of the workers in an industry.
- ❑ No employee can strike without reporting a strike to the employer 14 days in advance. This notification is valid for a maximum of 60 days.
- ❑ Likewise, no employer can lockout any of its workers without giving 14 days notice of the lockout. This notification is valid for a maximum of 60 days.
- ❑ In addition, Industrial Relations Code 2020 prohibits strikes and lockouts:
 - (i) during and up to seven days after arbitration; and
 - (ii) during and up to sixty days after or before trial in a court or arbitrator
 - (iii) during any period in which a settlement or arbitration award is in effect.
- ❑ Employers are required to report to the relevant Government and Arbitration Officer within five days of receiving/announcing a strike/lockout.

Grievance Redressal Committee Sec 4

- ❖ The IR Code provides that every establishment employing 20 or more workers is to have one or more grievance redressal committees for resolution of disputes and such committee is to consist of equal number of members representing the employer and the workers chosen in a manner as may be prescribed.
- ❖ Further, the total number of members in such committee shall not exceed 10 and there shall be equal representation of women workers in the committee and such representation shall not be less than the proportion of women workers to the total workers in an establishment.
- ❖ The erstwhile law provided for grievance settlement authorities to be set up in establishments employing a minimum of 50 workers. Further, it did not provide for equal representation of women as specified under the IR Code.

Disputes relating to termination of individual worker: (Section:44)



Worker may apply to the industrial Tribunal for adjudication of the dispute like

- i) Termination of the services
- ii) Discharge
- iii) Dismissal
- iv) Retrenchment

The worker may apply to the Tribunal 45 days after the application for the conciliation of the dispute was made.

Standing orders:(Section 30)

All industrial establishments with at least 300 workers must prepare standing orders on the matters related to,

- i) classification of workers,
- ii) manner of informing workers about work hours, holidays, paydays, and wage rates,
- iii) termination of employment, and
- iv) grievance redressal mechanisms for workers

Code on Industrial Relation 2020

Key Definition

Workers (Sec 2zr)

The definition of worker will be based on the basis of wages being drawn by him and Worker / Employees with salary up to Rs 18,000 will fall under the category of worker.

Industry (Sec 2p)

Has been modified and provides that any systematic activity carried on by cooperation between employer and his workers, whether such workers are employed by such employer directly or by or through any agency including a contractor

Industrial Dispute
(Sec 2q)

Has been modified to include the dispute arising out of discharge, dismissal, retrenchment or termination of such worker.

Lockout (Sec 2u)

Means temporary closing of a place of employment, or the Suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.

Standing orders (sec 2zj)

Means Orders relating to matters set out in the first schedule.

Re-skilling funds:(Section:83)

Industrial Relations Code 2020 provides for the creation of a “Reskilling fund” for employees retrenched from the industrial establishment by the employer. The fund will be made up of the following amounts:

Employer contribution, equivalent to 15 days of last drawn wages of the worker immediately before retrenchment

Contributions from other sources as may be prescribed.

The fund shall be used by crediting 15 days wages last drawn by the worker, within 45 days of such retrenchment.

Offences and Penalties(Sec 86)

The Code brings in changes in the penalties for the contravention of certain provisions as given here below:

An employer if contravenes the provisions relating to lay off, retrenchment or closing the unit viz.

- Rights of workers laid off for compensation;
- Conditions for retrenchment of workers;
- Compensation to workers in case of transfer of establishment;
- Compensation to workers in case of closing down of the industry.

shall pay a fine of Rs. 50 thousand to Rs. 2 lakhs for first time offence and shall pay a Fine of Rs. 1 lakh to Rs. 5 lakhs and/or imprisonment up to 6 months for second time offence.

Any further Contravention relating to:

- Lay off, retrenchment or closure attract a fine of Rs. 1 lakh to Rs. 10 lakhs and if repeated after convicted, the subsequent violation attract a fine of Rs. 5 lakhs to Rs. 20 lakhs and/or imprisonment up to 6 months.
- Indulging in any unfair labour practice attract a fine of Rs. 10 thousand to Rs. 2 lakhs and if repeated after conviction, the subsequent violation attracts a fine of Rs. 50 thousand to Rs. 5 lakhs and/or imprisonment up to 3 months.

Conclusion:

- An industry can grow only when there is peace and harmony in the industrial environment and it is only possible when there is a union in an industry.
- Having a union in the workplace or any industry is very important.
- An industry needs to keep its work going so that the needs of the nation can be met and the economy can thrive.
- If there is no coordination between the employees and the employers, or if there is some conflict between them, this can also affect the economy of the nation.
- Therefore, it is important to have a union in all workplaces.
- The union helps to have effective communication between workers and management. They provide special support to workers in a small platform to hold their opinion and raise the issue they face in the workplace.
- It also ensures that the workers, both men and women who work there, are protected and do not face any kind of malicious or unpleasant activity.