

# **The Industrial Relations Code**

## **2019**



# **A.Provisions altered**

# **1. Clause 2(m) – “Industry”**

**Clause 2(m) “industry” means**

- **any systematic activity**
- **carried on by co-operation between an employer and worker**
- **for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes – not being spiritual or religious in nature,**

**whether or not, —**

**(i) any capital has been invested for the purpose of carrying on such activity; or**

**(ii) such activity is carried on with a motive to make any gain or profit**

**However the definition excludes –**

- **Charitable,**
- **Social, or philanthropic service,**
- **Domestic service**

**and any other activity notified by the Central Government.**

## **2. Clause 2(n) – “Industrial Dispute”**

**Includes individual dispute and collective disputes**

### **3. Clause 2(zc) – “Retrenchment”**

**Excludes termination on completion of tenure of  
fixed term employment**

## **4. Clause 2(zf) – “Strike”**

**Includes concerted casual leave on a given day by  
fifty per cent or more workers employed in an  
industry**



## **5. Clause 2(z1) – “Wages”**

**Includes only basic pay, dearness allowance and retaining allowance. Excludes various allowances provided it does not exceed one-half or such other percent as notified by the central government. The amounts which exceed one-half or the percent so notified is deemed to be a remuneration.**

## **6. Clause 6(4) – Registered trade Union**

**A registered trade union should at all times have not less than 10 percent of the workers or 100 workers, whichever is less**

## **7. Clause 38**

### **Standing Orders**

**Suspension of employment – 50% of wages preceding the date of suspension and 75% for the remaining period if the delay is not directly attributable to the conduct of the worker**

**8. Clause 40 - Notice of change with regard to**  
**matters in third schedule**

**40(c) – no notice shall be required for effecting change in case of emergent situation requiring change of shift or shift working otherwise than (except) in accordance with standing orders, in consultation with Grievance Redressal Committee**

## **9. Clause 60 – Conciliation**

**Conciliation Proceeding is deemed to have commenced on the first meeting held by conciliation officer after receipt of notice of strike or lock-out.**

**60(2)(b) – conciliation proceedings deemed to have concluded on failure of conciliation recorded by conciliation officer**

## **10. Clause 62 – Strike and Lockout**

**No person can go on strike, in breach of contract**

**(a) Without giving employer notice of strike within sixty days before striking.**

**(b) Within fourteen days of giving such notice.**

**(d) During pendency of conciliation proceedings and seven days after its conclusion.**

**(e) During the pendency of proceedings before a Tribunal and 60 days after its conclusion.**

# **11. Clause 63**

**Strike/lock-out is illegal if there is contravention of Clause 62 or contravention of order made under 42(7).**

**42(7) – prohibition of strike and lock out by Government order while referring industrial dispute.**

# **B. New Provisions**



## **12. Clause 2(1) - “Fixed term employment”**

**Providing for engagement for a fixed period but ensuring hours of work, wages, allowances and other benefits not less than that of a permanent workman doing same or similar work. Also eligible for proportionate statutory benefits without applying qualifying period of employment required in the statute.**

## **13. Clause 2(zh) – “Trade Union Dispute”**

**Disputes relating to trade unions between two or more trade unions or between members of trade union.**

## **14. Clause 14 – Negotiating union or Negotiating council**

**Clause 14(2) – If there is only one registered trade union of workers functioning in an industrial establishment, it shall be recognized as a sole negotiating union.**

**Clause 14(3) – If more than one trade union are functioning, the trade union having 75% or more workers support that trade union, it shall be recognized as the sole negotiating union.**

**Clause 14(4) – In the event of more than one trade union, and no trade union has 75% of workers, negotiating council which has the support of not less than 10 per cent of the total workers shall have one representative for each ten per cent.**

**Clause 14(6) – Recognition granted to the trade union or to the negotiating council is valid for three years.**

## **15. Clause 22(2)**

**No civil court other than Tribunal has the power to entertain any suit in relation to dispute concerning trade unions and the members.**

## **16. Clause 44**

**Formation of Industrial Tribunals with a single member for two members consisting of a Judicial member and an Administrative member.**



## **17. Clause 47**

**Decision of the Tribunal should be by  
consensus of the members. In the event of  
split between two members, the issue to be  
referred to another judicial member.**

## **18. Clause 50(2)**

**The Tribunal may in the interest of justice grant interim relief to the worker during the pendency of the dispute.**

## **19. Clause 53**

**Conciliation proceedings can be held in respect of an industrial dispute which arose within three years. The Conciliation Officer in the event of failure of settlement should send a report within 45 days to the appropriate government. The concerned party may approach the Tribunal within 90 days from the date of failure report given by the Conciliation Officer.**

## **20. Clause 83 - “Workers Re-skilling Fund”**

**The management should contribute an amount equivalent to fifteen days’ wages last drawn of every retrenched worker before retrenchment or closure.**

## **21. Clause 97 – Civil Court**

**Civil court jurisdiction in respect of any matter under the provisions of this code is barred.**

## **22. Schedule II**

**Item 5 in respect of unfair labour practice  
by workers includes “willful go-slow”.**

# **C.Observations**

## **23. Section 2(h)**

**Any proceeding is deemed to be  
conciliation proceedings.**



## **24. Section 2(q)**

**Definition of Lay-off – outdated**

## **25. Sections 77 to 80**

**Permission to lay-off, retrench and  
closure to be granted by Industrial  
Tribunal**

## **26. Formation of Industrial Tribunal**

**27. Continued restrictions on the management under Section 40 and 90 which is erstwhile 9A and 33.**

**28. Lack of power of grant of  
injunction by the Industrial Tribunal.**

**29. Except EPF appeals and ESI cases, failure to include adjudication of claims under various enactments under the jurisdiction of Industrial Tribunal.**

## **30. Acts Repealed**

- 1) The Trade Unions Act**
- 2) The Industrial Employment (Standing Orders) Act**
- 3) The Industrial Disputes Act**

# **The Code on Wages 2019**



## **1. Clause 2(g) – “Contract Labour”**

**“Contract Labour” includes Inter State  
Migrant Worker and is deemed to be a  
worker**

## **2. Clause 2(k) – “Employee”**

**For “Employee” definition, fixation of salary limit is left to the appropriate government**

### **3. Clause 2(y) – “wages”**

**includes basic, dearness allowance and retaining allowance.**

**Excludes various allowances provided they do not exceed one half or such per cent as notified by the Government. The amount which exceeds the above percentage is added to wages.**

**4. Clause 2(v) – “Same work or work of  
similar nature”**

**Work in respect of which skill, effort, experience  
and responsibility are the same.**

## **5. Clause 3 – Gender discrimination**

**No discrimination on the ground of gender in the matter relating to wages when the “nature of work is same or similar”.**

**No discrimination on the ground of sex in respect of condition of employment.**

## **6. Clause 4**

**Authority to decide any dispute in respect of  
“work of same or similar nature”**

## **7. Clause 9 – Floor Wages**

**Fixation of Floor Wages based on minimum living standards of a worker in respect of different geographical areas.**

## **8. Rule 11 – Manner of fixing Floor**

### **Wage**

**Minimum living standards including the food,  
clothing, housing, etc.**



## **9. Clause 6 – Minimum Wages**

**Minimum wages fixation based on skill, geographical area, arduousness of work, etc**

### **Clause 9**

**The minimum wages fixed under Section 6 shall not be less than floor wages.**

## **10. Clause 13**

**While fixing minimum rates of wages, to fix  
hours of work for a normal working day**

## **11. Rule 3 – Criteria for fixation of minimum wages**

**a) Spouse and two children**

**b) A net intake of 2700 calories per day per consumption unit**

**c) 66 meters cloth per year per standard working class family**

**d) House rent expenditure of 10% of food and clothing expenditure**

**e) Fuel, electricity and miscellaneous item expenditure to constitute 20 percent of minimum wages**

**f) Children education, medical requirement, recreation and expenditure on contingencies at 25 percent of minimum wage.**

**{Criteria recommended in Reptakos Brett judgment of Supreme Court followed}**

## **12. Clause 29 - Bonus**

**Disqualification from receiving bonus includes  
dismissal for conviction for sexual harassment**

## **13. Clause 38**

**An employee found guilty of misconduct causing financial loss could lose bonus to that extent in respect of that accounting year**

## **14. Clause 46**

**Fixation of bonus or eligibility of bonus and application of the Code in respect of bonus to an establishment is deemed to be industrial dispute**

## **15. Clause 45 - Jurisdiction of Authorities**

**Claims regarding minimum wages, payment of wages including fines and deductions, bonus claims and dispute on “work of same or similar nature” to be decided by the Authority appointed by the appropriate government.**



## **16. Clause 49**

**Any person aggrieved by the order of the  
Authority may prefer an appeal to the  
Appellate Authority**

## **17. Clause 51**

**Inspector-cum-Facilitator would advise the employer and the workers on compliance of provisions of the Code and inspect establishments and exercise powers in terms of the instructions issued by the Government**

## **18. Observations**

**Appointment of Authorities, Appellate Authorities has not served the purpose. Claims under this code should be straightaway adjudicated by the Industrial Tribunal.**

# **19. Clause 69**

## **Repealed:**

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

**The Occupational Safety,**  
**Health and Working Conditions**  
**Code 2019**

# **1. Clause 2(m) – “Contract Labour”**

**A worker employed in or in connection with the work of an establishment and hired through contractor including interstate-migrant worker**

## **2. Clause 2(n) – “Contractor”**

**“Contractor” means a person who undertakes to produce a given result to the establishment, other than mere supply of goods or articles to the establishment through contract labour or**

**Supplies contract labour as a mere human resource and includes a sub-contractor**

### **3. Clause 2(zo) – “Occupier”**

**Excludes an independent Director within the meaning of sub-section (6) of Section 149 of the Companies Act.**



## **4. Clause 2(zzb) - “Serious bodily injury”**

**“Serious bodily injury” means any injury involving permanent loss of any part of a body including permanent loss of sight or hearing or any permanent physical incapacity.**

## **5. Clause 14(2)**

**An employee on apprehension of serious bodily injury, death or imminent danger to health may bring it to the notice of the employer directly or through member of the safety committee and also to Inspector-cum-Facilitator**

## **6. Clause 59**

**An employer in the case of serious bodily injury to an interstate migrant worker should report it to the specified authority and next kin of the worker. The employer should also provide residential accommodation and medical facilities.**

## **7. Clause 6(f) – Appointment letter**

**The employer should issue letter of appointment to every employee on his appointment.**

## **8. Clause 13 – “Duties of Employees”**

**To take reasonable care of his health and safety and of other persons, comply with safety and health requirements, cooperate with the employer in meeting statutory obligations, report any unsafe or unhealthy situation, not to willfully misuse or neglect safety appliance, not to willfully endanger himself.**

## **9. Clause 14**

**Every employee has a right to obtain information from the employer relating to his health and safety. He is also entitled to represent to the Inspector-cum-Facilitator if he is not satisfied with the response of the employer.**

## **10. Clause 84**

**Worker employed in a hazardous process on  
reasonable apprehension or likelihood of  
imminent danger to his life or health can bring it  
to the notice of Inspector-cum-Facilitator.**

## **11. Clause 25 – “Hours of work”**

**Such period notified by the  
appropriate government.**



## **12. Clause 27 - OT**

**Worker could be required to work  
overtime only with his prior written  
consent**

## **13. Clause 32 – Leave wages**

**Every worker is entitled for leave with wages provided he has worked for 180 days or more in a calendar year.**

## **14. Clause 43 – Woman worker**

**Woman worker can be employed from 7 p.m. to 6 a.m. with her consent and subject to conditions prescribed by the Government relating to safety, holidays and working hours.**

## **15. Clause 44**

**The Government can prohibit employment of women in such operations which is considered to be dangerous for her health and safety.**

## **16. Clause 47 (2)**

**License for contract labour to be**

**“work specific license”**

## **17. Clause 54 – Absence of license**

**Contract Labour engaged through a contractor without obtaining license is deemed to be employed by the principal employer.**

## **18. Observations**

**Clause 54 enables contract workman to become company employee by default. This is against the trend of Supreme Court judgments and on the subject including Constitutional Bench in SAIL case.**

## **19. Clause 134**

**The following Acts are repealed**

**i. The Factories Act**

**ii. The Mines Act**

**iii. The Dock Workers Act**



**iv. The Building and Other Construction Workers Act**

**v. The Plantations Labour Act**

**vi. The Contract Labour (R & A) Act**

**vii. The Inter-State Migrant Workmen Act**

**viii. The Working Journalists (Condition of Service) Act**

**ix. The Working Journalist Fixation of Rates of Wages Act**

**x. The Motor Transport Workers Act**

**xi. The Sales Promotion Employees Act**

**xii. The Beedi and Cigar Workers Act**

**xiii. The Cine Workers and Cinema Theatre Workers Act**

# **The Code on** **Social Security 2019**

## **1. Clause 2 (28) - “Employment Injury”**

**“Employment injury” includes accident occurring or occupational disease contracted within or outside the territorial limits of India.**

## **2. Clause 34**

**An accident is presumed to have arisen in the course of employment in the absence of evidence to the contrary.**

### **3. Clause 2(35) – “Gig Worker”**

**“Gig Worker” means a person who performs a work arrangement and earns from such activity outside traditional employer-employee relationship.**

## **4. Clause 2(55) – “Platform work”**

**“Platform work” means a form of employment by using online platform**

## **5. Clause 2 (56) - “Platform worker”**

**“Platform worker” means a person  
engaged in platform work**



## **6. Clause 45 - ESI**

**The Government in consultation with ESI Corporation may frame a scheme for unorganised workers, gig workers and platform workers and members of their families.**

## **7. Clause 109(4) – Social Security Fund**

**The Central Government to constitute Social Security Fund for platform workers or gig workers with funds funded by central government, state government or from employers or from corporate social responsibility fund within the meaning of Companies Act, 2013**

## **8. Clause 114 - Social Security Scheme**

**The Government may formulate social security scheme for gig workers and platform workers relating to disability, maternity, old age, etc.**

## **9. Clause 42 – ESI contribution**

**If the employer fails to pay contribution and the corporation pays the benefit to the employee, it shall recover from the employer, after providing due opportunity, the capitalized value of the benefit paid to the employee after adjusting the payment of contribution and interest or damages. The said amount may be recovered as arrears of land revenue.**

## **10.Clause 43 - ESI**

**If incidence of sickness among the insured person is excessive by reason of insanitary working conditions or neglect of health regulations in the factory or lodgings occupied by the insured person, then the corporation may send a claim for payment of extra expenditure amount incurred by the Corporation and after due enquiry determine the amount of extra expenditure**

# **11. Clause 53 – Gratuity**

**Gratuity is payable on termination of contract period under fixed term employment for which continuous service of 5 years is not necessary.**

## **12. Clause 125 – Limitation period**

**In respect of dispute arising under Employees Provident Fund and Employees State Insurance Corporation, no proceedings could be initiated after the expiry of a period of five years from the date on which the dispute is alleged to have arisen or the alleged due from an employer.**

## **13. Clause 127 – PF Appeal**

**An appeal may be preferred to the Appellate Authority within sixty days on deposit of 25% of the ordered amount or contribution as per employers own calculation, whichever is higher, with the concerned social security organization. Also, during such period, as notified by the Central government, an order passed under clause 125 should not be brought into operation to enable the employer to prefer appeal.**



## **14. Observation**

**Clause 42 claiming from the employer capitalized value due to non-payment of contribution and clause 43 claiming extra expenditure due to insanitary condition is harsh and excessive.**

# **15. The following Acts are repealed**

- 1. The Employees' Compensation Act,**
- 2. The Employees' State Insurance Act,**
- 3. The Employees' Provident Funds and Miscellaneous Provisions Act,**

**4. The Employment Exchanges (Compulsory Notification of Vacancies) Act**

**5. The Maternity Benefit Act**

**6. The Payment of Gratuity Act**

**7. The Cine-Workers Welfare Fund Act**

**8. The Building and Other Construction**

**Workers' Welfare Cess Act**

**9. The Unorganised Workers Social Security**

**Act, 2008.**

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**8. The Building and Other Construction**

**Workers' Welfare Cess Act**

**9. The Unorganised Workers Social Security**

**Act, 2008.**

# **HIGHLIGHTS**

# **The Industrial Relations Code 2019**

- 1.Fixed term employment.**
- 2.Strike and Lockout.**
- 3.Wages.**
- 4.Recognition of trade unions.**
- 5.No reference on Industrial Disputes.**
- 6.Civil Court jurisdiction ousted.**



- 7. Interim relief to workman during pendency of dispute.**
- 8. Continued compulsion of permission for layoff retrenchment and closure.**
- 9. Division Bench of tribunals.**
- 10. No power of injunction to Industrial Tribunal.**

# **The Code on Wages 2019**

- 11. Inter State migrant workmen deemed to be contract workman.**
- 12. Same or similar nature of work – equal pay for equal work.**
- 13. Fixation of minimum wages as per Reptakos Brett decision of Supreme Court.**

# **The Occupational Safety, Health and Working Conditions Code 2019**

- 14. Duties of employees**
- 15. Working hours to be fixed by Government**
- 16. Over time with the consent of employee worker**
- 17. Absence of contract license becoming fatal**

# **The Code on Social Security 2019**

- 18. Gig and platform workers.**
- 19. Levy of capitalized value collection from employer.**
- 20. Extra expenditure claimed from employer due to sickness caused because of insanitary working conditions.**
- 21. Gratuity for fixed term employment without 5 years limitation.**
- 22. 5 years limitation for EPF demand by organization.**
- 23. CONTINUED QUASI-JUDICIAL POWERS VESTED WITH AUTHORITIES**

**Thank You**

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