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The Industrial Relations Code, 2020: Codification of Labor Laws

New Legislation Enacted

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On September 29, 2020, Indian government enacted the Industrial Relations Code, 2020 (IR Code), to replace the individual laws relating to trade unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes (i.e., the Industrial Disputes Act, 1947, Trade Unions Act, 1926, and Industrial Employment (Standing Orders) Act, 1946).

Key changes that the IR Code introduces include: (a) increasing the threshold for applicability of standing orders from industrial establishments employing at least 100 workers to those with at least 300 workers; (b) increasing the threshold for applicability of retrenchment and layoffs in factories, mines and plantations without seeking prior government approval from establishments with at least 100 workers to those employing 300 workers; (c) increasing the wage ceiling for exclusion of supervisors from the definition of “workers” (earlier workman) from INR 10,000 per month (approx. USD 135) to INR 18,000 per month (approx. USD 245); and (d) introducing the concept of recognition of trade unions in the central statute. The effective date of the IR Code has not been announced.

The Code on Social Security, 2020: Codification of Labor Laws

New Legislation Enacted

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On September 29, 2020, the Indian government enacted the Code on Social Security, 2020 (SS Code), to replace the individual laws relating to social security (including the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the Employees' State Insurance Act, 1948, the Employees' Compensation Act, 1923, the Maternity Benefit Act, 1961 and the Payment of Gratuity Act, 1972).

Key changes that the SS Code introduces include: (a) recognition of "gig workers" and "platform workers" and provisions for payment of social security for such workers; (b) payment of gratuity to fixed-term employees on a pro-rata basis; and (c) limitation period of five years for initiation of inquiries and two years for concluding inquiries under the employees' provident fund scheme. The effective date of the SS Code has not been announced.

OSH Code, 2020: Codification of Labor Laws

New Legislation Enacted

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On September 29, 2020, the Indian government enacted the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code), to codify the individual laws regulating the occupational safety, health and working conditions of employees (including the Factories Act, 1948 and the Contract Labour (Regulation and Abolition) Act, 1970, the Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, and Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996).

Key changes that the OSH Code introduces include: (a) single registration and licensing mechanism; (b) the applicability thresholds for factories running with power is increased from those employing 10 employees to 20 employees, and for factories without power, from 20 to 40 employees; (c) the applicability threshold on contract labor is increased from establishments engaging at least 20 contract laborers to those engaging at least 50 contract laborers; and (d) employment of women in establishments (including factories) between 7 pm – 6am has been permitted with employee consent, subject to conditions relating to safety, holiday, working hours and other conditions as may be prescribed. Although the OSH Code has been enacted, its effective date has not been announced.

Transgender Persons (Protection of Rights) Rules, 2020

New Legislation Enacted

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On September 25, 2020, the Transgender Persons (Protection of Rights) Rules, 2020 (Transgender Protection Rules) under the Transgender Persons (Protections of Rights) Act, 2019 have been notified and made effective. The Transgender Protection Rules introduce certain obligations for private establishments including: (a) to provide a safe working environment and to ensure that no transgender person is discriminated in any matter relating to employment including infrastructure adjustments, recruitment, employment benefits, promotion and other related issues; (b) to publish an equal opportunity policy for transgender persons and display such policy on website or at conspicuous places in the premises; (c) for employers to ensure that the policy contains details of infrastructural facilities, measures and amenities to be provided to the transgender persons to effectively discharge their duties, applicability of all rules and regulations of the employer regarding service conditions and maintenance of confidentiality of the gender identity of the transgender employees; and (d) to appoint a complaint officer to handle complaints from transgender persons.

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