

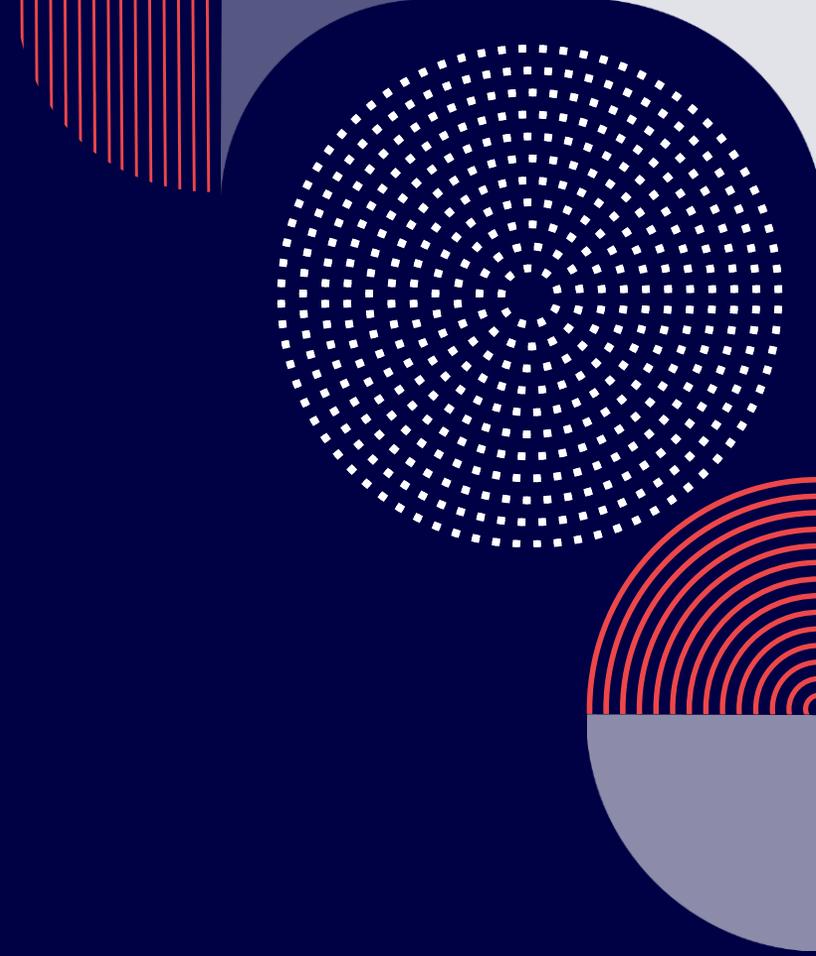


Awareness Webinar on

New Labour Laws
concerning the implementation for the Textile Sector

16 | 12 | 2022

About the Firm



A Brief Background

A pragmatic advisor - counselling and not just lawyering

Wadhwa Law Offices ('WLO'/ 'the Firm') is a **multi-disciplinary** firm rooted in the conviction that businesses do not need lawyers. They need counsel. Counsel who go beyond advising on the law and work with the **clients' business problems** to render commercial advice and **not just legal opinions**.

Every counsel at WLO is practical about the law, simplifies the issue, gives advice from multiple possibilities, and is the sounding board to clients on different aspects of their business. The firm's non-legacy non-conformist leadership **trained in global law firms** lends **distinct sophistication and international best practices**.

Practice Areas

- **Employment/ Human Resources**
- **Risk & White-Collar Crimes**
- General corporate and commercial advisory
- Regulatory advisory
- Technology, media, and telecommunication
- Intellectual property protection and management
- Crisis management and fraud risk management
- Commercial dispute resolution
- Arbitration
- Data privacy and GDPR
- Cross-border acquisitions, mergers, and joint ventures
- Private equity transactions
- Venture capital and start-up advisory
- Foreign investment strategy

Our Presence and Differentiators

An integrated team of counsel working from different jurisdictions

WLO's clients enjoy the benefit of both **in-bound and out-bound assistance**. It is a counsel of choice for international businesses looking for a **truly regional firm** and for the domestic market looking for a **firm with a global outlook**.

That makes WLO **one of only a handful of Indian firms** that serves as an **integrated team of counsel** working from different jurisdictions in Asia, that includes Gurugram, Bengaluru, Tokyo, and Singapore.

Because India lacked the presence of cross-border firms that provided legal assistance in the South Asian markets, **WLO founded AsiaWise in 2018**.

ASIAWISE is a group of cross-border professional services firms with members from advanced countries, Japan and Singapore, and members from India forming a single team.



Our Differentiators

- Keeping our client's best interest first
- High on personalisation
- Multi-jurisdictional experience and qualifications
- Cross-border, truly
- Know-how and capability in the Indo-Japan corridor
- A unique pan-Asian positioning
- Comfort of continuity across geographies



Akarsh Bhalla

Counsel - Employment

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Akarsh is part of the employment law practice and the risk investigation practice of the firm. He has advised various multi-national companies on **complex industrial relations and HR-related issues**. Akarsh has over **10 years of experience** representing clients at **all forums in employment-related disputes**.

That includes **reviewing and drafting employment policies and service rules, employment contracts, employment audits, employees' benefits and compensation structuring, downsizing of workforce and retrenchment, senior management severances, closure of industries, union negotiations, collective bargaining, and employment-related litigation**. Akarsh has a vast experience in internal disciplinary inquiries, whistleblower investigations, fact-finding inquiries, and POSH inquiries.



Nitin Wadhwa

Founder and Managing Partner

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A first-generation lawyer with over **fifteen years** of experience, Nitin Wadhwa is the Founder of Wadhwa Law Offices and a **founding member of AsiaWise**, a group of cross-border professional firms.

Rooted in his vision to change the way clients are served by lawyers, Wadhwa Law Offices, is one of only a handful of Indian firms that serves as an **integrated team of counsel** working from **different jurisdictions in Asia**. A **strategic sounding board** on a range of business problems, Nitin is known for his ability to **break down an issue into the simplest form** possible and in a **commercially oriented** way. That makes him a true counsel for clients, and not just an advocate or attorney on different aspects of their business.



Ayushi Jaiswal

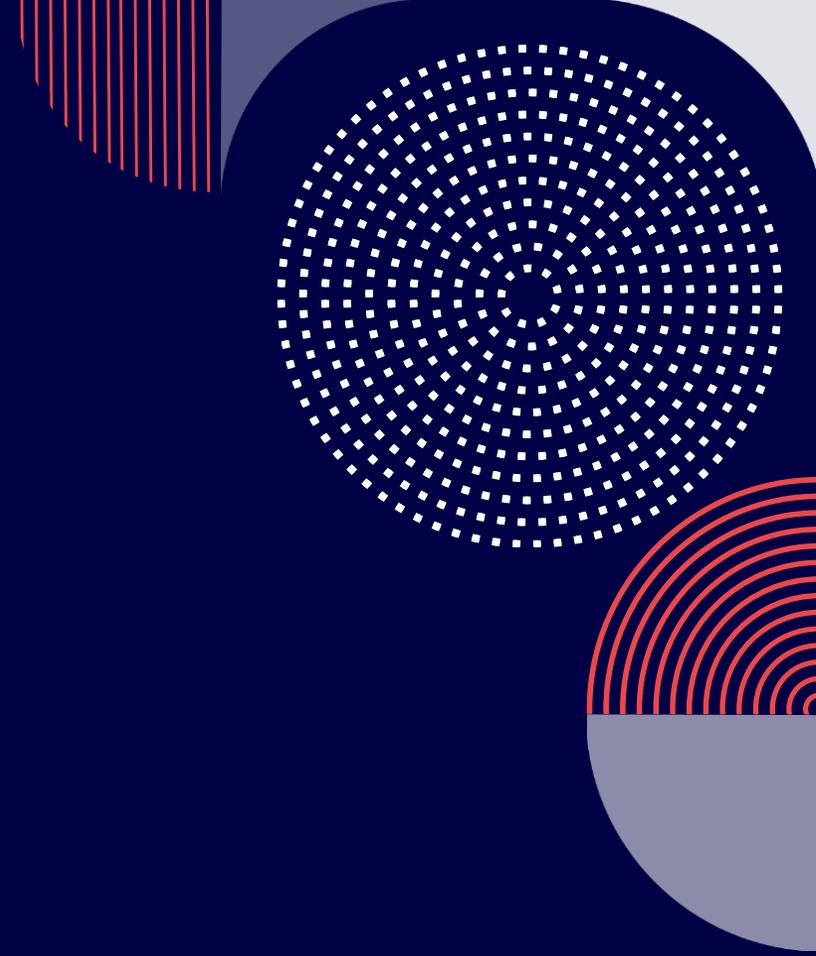
Counsel – White Collar & Practice

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An expert at handling **end-to-end solutions** in the white collar/business crimes' space, Ayushi is adept at conducting both **regulator-mandated and internal corporate investigations, compliance advisory** and roll outs, and act as a **defense counsel** for companies and individuals.

Ayushi ably manages internal investigations for both public and private companies, helps companies in navigating regulatory risks in matters of corporate governance, formulates and assists in the roll out of compliance policies and procedures, conducts annual risk assessments, holds workshops and training sessions, and acts as defense counsel. She also actively advises clients on disclosure requirements. She has expertise in managing **sector-diverse practices in different jurisdictions** and is known for effectively managing stakeholders and relationships.

Agenda



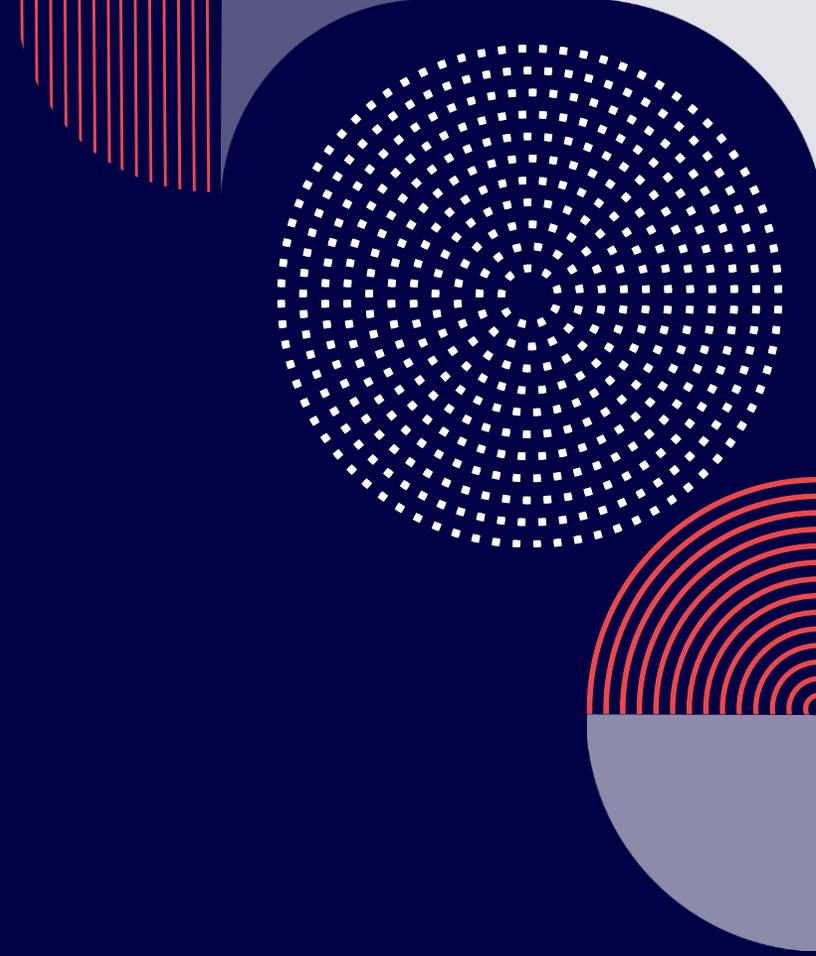
Agenda

- 1. Brief introduction to the four new Labour Codes**
 - a. The Industrial Relations Code, 2020
 - b. The Code on Wages, 2019
 - c. The Occupational Safety, Health and Working Conditions Code, 2020
 - d. The Code on Social Security, 2020

- 2. Categorization of workforce under the new Labour Codes.**
 - a. This aspect will explain the categories of different employees and;
 - b. the regulations applicable to each category

- 3. The employer- centric approach of the new Labour Codes**
 - a. This aspect will explain the ease of doing business due to the new regulations and the provisions that favour the employers.

- 4. The business impact of the new Labour Codes**
 - a. This aspect will shed light on the compensation restructuring by the new Labour Codes.
 - b. This aspect will explain the new compliances and regulations emerging from the new Labour Codes.



New Labour Codes

The Industrial Relations Code, 2020

The Industrial Relations Code 2020 amalgamates the following three legislations.

The Industrial Disputes
Act, 1947

The Trade Unions
Act, 1926

The Industrial Employment
(Standing Orders)
Act, 1946

Key Amendments Brought By The Industrial Relations Code, 2020

Previous Provisions	New Provisions
<p>No definitions were provided for:</p> <ul style="list-style-type: none"> • Fixed term employment • Employee <p>The definition of workmen was provided in The Industrial Dispute Act, 1947.</p>	<p>Definitions of both, employee and fixed-term employment have been provided for the first time.</p> <p>The term 'workmen' has been replaced with the term 'worker' in the Industrial Relations Code, 2020.</p> <p>The definition of the term 'strike' ' now includes “mass casual leave by more than 50% of workers on a given day”.</p>
<p>The threshold for seeking permission from the appropriate government regarding closure, retrenchment, and lay-off was 100 workers.</p>	<p>The threshold for seeking permission from the appropriate government regarding closure, retrenchment, and lay-off has now been increased to 300 workers.</p>
<p>The standing orders are only applicable to establishments that have 100 or more workmen as per the Industrial Establishment Standing Order Act, 1946.</p>	<p>The threshold for applicability of standing orders has been increased to establishments that have 300 or more workmen.</p>

The Code on Wages, 2019

The Code on Wages 2019 amalgamates the following four legislations.

The Payment of Wages Act,
1936

The Payment of Bonus Act,
1965

The Minimum Wages Act,
1948

The Equal Remuneration Act,
1976.

Key Amendments Brought By The Code on Wages, 2019

Previous Provisions	New Provisions
The period of limitation for filing of claims by a worker varied from six (6) months to two (2) years, basis the provision.	The period of limitation for filing of claims by a worker has been increased to three (3) years.
The Minimum Wages Act, 1948 establishes a Central Advisory Board which shall include : (i) employers, (ii) employees in equal number as employers, and (iii) independent persons (not exceeding one-third of the total members) and one of the independent persons is appointed by the Chairman of the Board by the central government.	The Code extends the Central Advisory Board to include five representatives of state governments to be nominated by the central government, while retaining all the other elements of the Central Advisory Board as were listed in the Minimum Wages Act, 1948 .
The provisions regarding timely payment of wages, and authorised deductions from wages of the Payment of Wages Act, 1936 is applicable only to employees that earn less than Indian Rupees Twenty Four Thousand (INR 24,000) per month.	There has been removal of the threshold limit for applicability of the provisions relating to timely payment of wages, and authorised deductions from wages. Hence, the Code will be applicable to all employees irrespective of monthly wages.

The Occupational Safety, Health and Working Conditions Code, 2020

The Occupational Safety, Health and Labour Conditions Code 2020 amalgamates the following thirteen legislations pertaining to safety, health and working conditions.

These laws include: The Factories Act, 1948, The Plantations Labour Act, 1951, The Mines Act, 1952, The Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955, The Working Journalists (Fixation of Rates of Wages) Act, 1958, The Motor Transport Workers Act, 1961, The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, The Contract Labour (Regulation and Abolition) Act, 1970, The Sales Promotion Employees (Condition of Service) Act, 1976, The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, The Cine Workers and Cinema Theatre Workers Act, 1981, The Dock Workers (Safety, Health and Welfare) Act, 1986, The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

Key Amendments Brought By The Occupational Safety, Health And Working Conditions, 2020

Previous Provisions	New Provisions
Under the Factories Act, 1948 the limit for overtime work was fifty (50) hours in any quarter of a year,	The Code has established a limit of one hundred twenty-five (125) hours for overtime work in any quarter of a year.
Under the existing labour laws there are no specific provisions pertaining to attaining consent of the employees for overtime.	The Code includes a provision for the employer to take consent from the employee for working overtime. The workers shall receive double the rate of wages for the overtime work.
Under the existing labour laws there are no specific provisions pertaining to night shifts for women employees.	The Code contains of provision pertaining to the employment of women after 7pm and before 6am. The Code also mandates certain with conditions regarding consent and safety, working hours, etc.

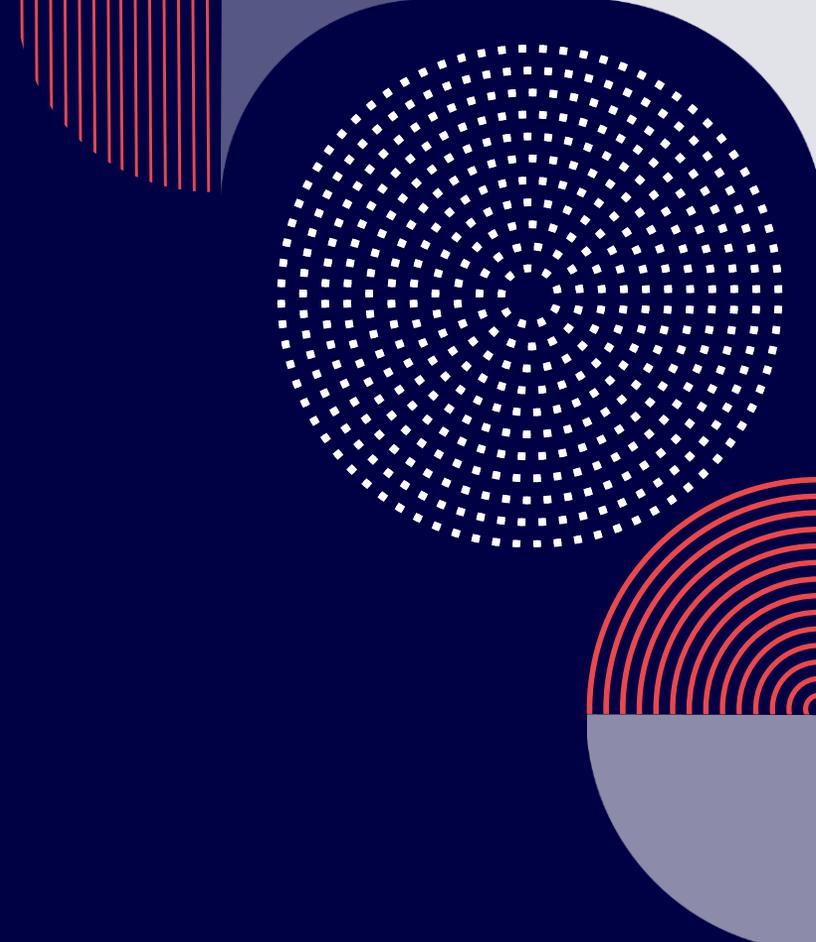
The Code on Social Security 2020

The Code on Social Security 2020 amalgamates the following nine legislations regarding social security.

- The Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Employees' Compensation Act, 1923
- The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972
- The Cine Workers Welfare Fund Act, 1961
- The Building and Other Construction Workers Welfare Cess Act, 1996
- The Unorganized Workers' Social Security Act, 2008

Key Amendments Brought By The Code On Social Security 2020

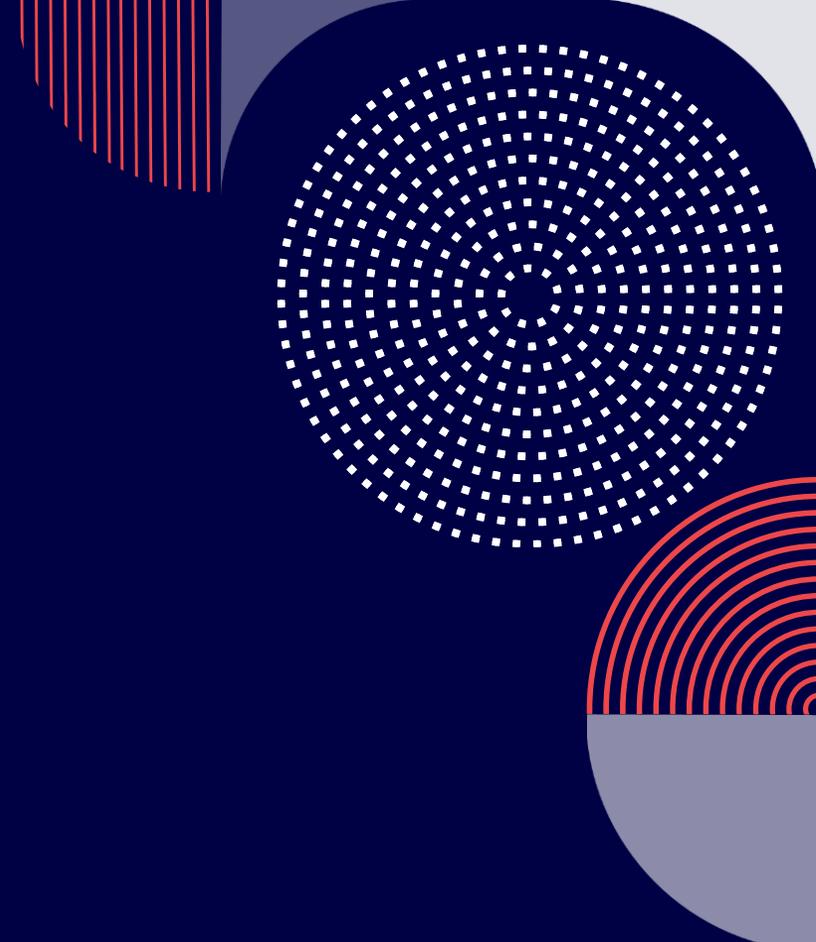
Previous Provisions	New Provisions
<p>There were no specific definitions provided for:</p> <ul style="list-style-type: none">• Fixed term employment• Home based worker• Self-employed worker• Platform worker	<p>All specified terms and their definitions are incorporated in the new Code.</p>
<p>There was no specific limitation period for deciding money dues from a particular employer as per the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.</p>	<p>According to section 125, a limitation period of five (5) years will be set from the date on which the cause of action is said to have arose after which no proceeding can be initiated regarding disputes of any amount due to be given to the employee by the employer.</p>
<p>Establishments were required to register separately for the different registrations required under different legislations.</p>	<p>As per Section 3 of the Code on Social Security, 2020, the establishments that have been registered under any other central labour law do not require registration under this Code.</p>



*Categorization of workforce under
the new Labour Codes*

Categorization of workforce under the new Labour Codes

- The new Code on Social Security, 2020 (“SS Code”) intends to provide uniformity in providing social security benefits to the employees which were earlier categorized and segregated under different legislations acts and therefore had different applicability and coverage.
- The SS Code empowers the government to extend social security benefits and frame social security schemes pertaining to benefits under the Employees' State Insurance Corporation (ESIC) for a wider group of employees including various categories of workers, such as unorganized workers, gig workers, and platform workers, which were previously not recognized or protected under labour laws.
- The Code has provisions pertaining to the registration of every unorganized worker, platform worker, or gig worker through self-declaration electronically or otherwise, along with documents such as Aadhar number.
- The Code states that for fixed-term employees, the employer shall make payment of gratuity on pro-rata basis.



*The Employer-Centric approach
of the new Labour Codes*

The Employer- Centric approach of the new Labour Codes

Recognition of trade unions

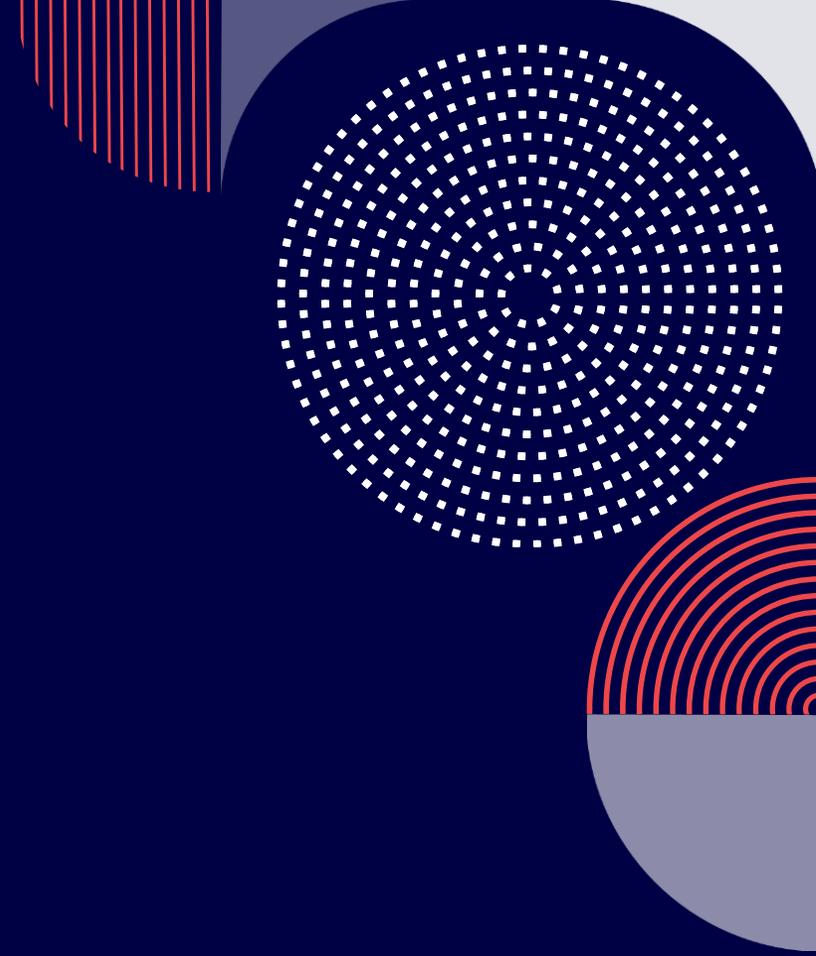
The code on Industrial Relations now introduces the concept of a sole “negotiating union”. If there are more than one (1) trade unions in an establishment, then the trade union that is supported by at least fifty one percent (51%) of the workers will be recognised as the sole union and will have the authority to negotiate with the employer on behalf of all workers.

Simplification of compliances

The new Codes also limit the multiple compliances under the existing laws and have simplified the process to ensure a minimal level enabling ease of compliance to the employers.

Intimation before Strike-Outs

The Code states that no person shall go on strikes and lock-outs in breach of contract without giving prior notice of Sixty (60) days before going on strike or within Fourteen (14) days of giving such notice or during the pendency of proceedings before a tribunal or within sixty (60) days of the conclusion of the proceedings.



*The Business Impact of the new
Labour Codes*

The Business Impact of the new Labour Codes

- The Occupational Safety, Health and Working Conditions Code, 2020 also mentions the responsibilities and liabilities of particular specialists such as the project engineer, the architect, and the designer for building and construction work, etc.
- The provisions of the OSHWC Code shall apply to all establishments having ten (10) or more workers, except for establishments pertaining to docks and mines.
- For the first time, the labour law has recognized the rights of transgender persons, requiring employers to allot them separate washroom, and locker room facilities.
- Worker consent is mandatory, along with payment of double-time wages, for overtime work. This creates a layer of protection against forced and exploitative labour, and ensures fair wages for the workers.
- According to the Code on Social Security, 2020 the employer is also required to pay for the inter-state migrant workers' return journey to their native place annually.

“Businesses do not need lawyers. They need counsel. Counsel who work with their clients to render commercial advice on different aspects of their business and not just legal opinions.”

*- Nitin Wadhwa,
Managing Partner, Wadhwa Law Offices*

Questions?

Contact us!

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Thank you!

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