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CODE ON

# INDUSTRIAL RELATIONS

**2020**



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About

# Corpbiz

We are an Award Winning Legal and CPA Information Technology Enabled Services (ITES) concern.

We at Corpbiz are committed to provide assistance to the entrepreneurs in legal registration procedures and in managing their business globally.

Be it a startup business or a well established concern, our dedicated professionals are resolved to provide bespoke solutions as regards business registration and legal compliance.

Our bevy of competent business advisers help to trace, decode and execute key business growth strategies.

Our wide range of legal & business registration services includes GST Registration, Company Registration, ITR Filing, ESI & PF Registration, NBFC & Microfinance Company Registration, FEMA Advisory and much more.

**Our Core Operations:**

- *Business solutions*
- *Fin-tech Solutions*
- *ITES Systems*
- *LegalTech Solutions*
- *Management Advisory*
- *HR Services*
- *FEMA Advisory*

From a strategy review of the Business development to the complete hands-on implementation, Corpbiz Advisors can be truly your legal companion to grow your venture to a level further.

# OVERVIEW


In 2019, the Ministry of Labour and Employment had introduced 4 Bills (Codes) to consolidate 29 laws of the Central Government as regards employee remuneration. These Codes were proposed to regulate the following 4 key aspects:

- *Wages,*
- *Industrial Relations*
- *Social Security, and*
- *Occupational Safety, Health & Working Conditions*

The Code on Wages was passed by the Parliament in 2019, whereas the other 3 bills were referred to the Standing Committee on Labour.

Standing Committee on Labour submitted its report on the rest 3 Bills. Thereafter the Government replaced these Bills with new Codes on **19th September 2020**.

In this report, we shall analyze in detail the relevance and applicability of the newly introduced **Code on Industrial Relations 2020**.

A photograph of a factory interior, showing workers and machinery. The image is dark and serves as a background for the text on the right side of the page.

A BROADER  
FRAMEWORK TO  
PROTECT RIGHTS OF  
WORKERS TO MAKE  
UNIONS.

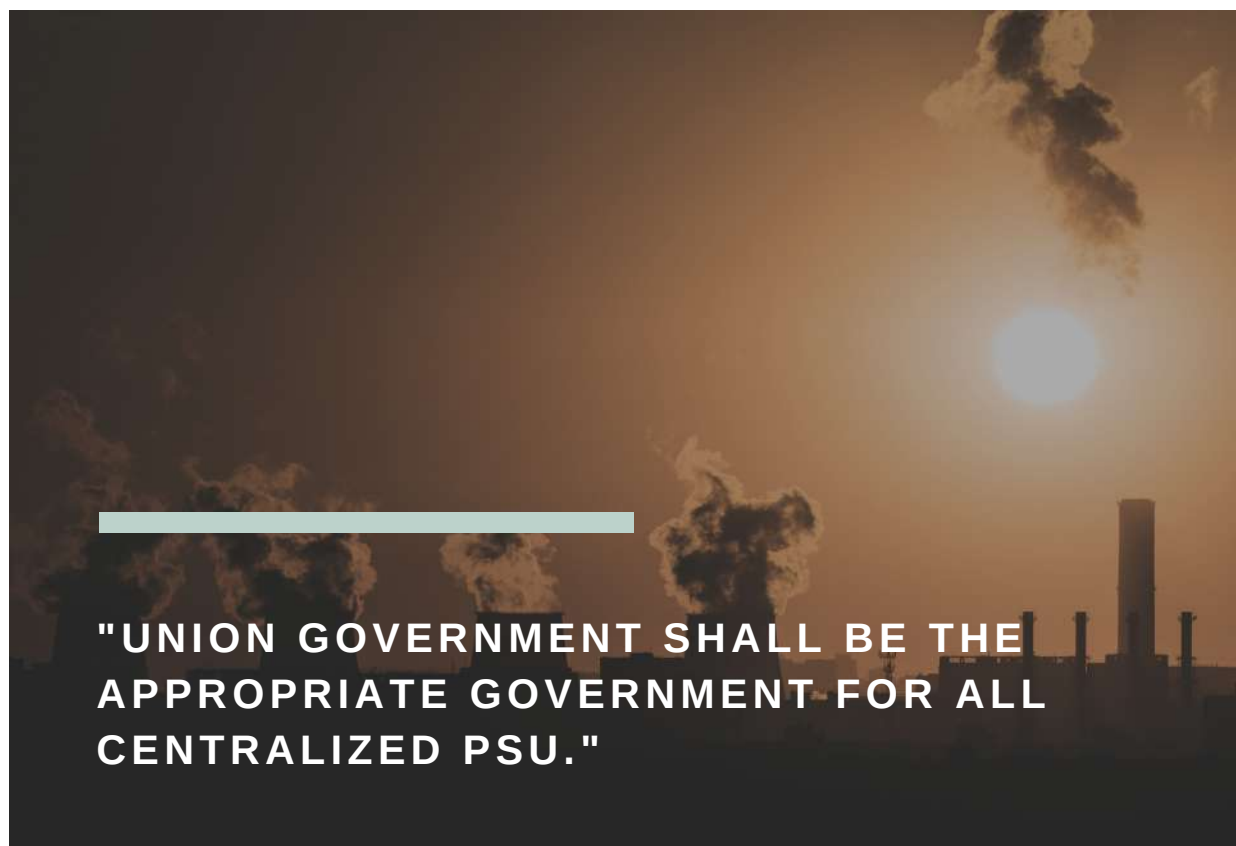
# CODE ON INDUSTRIAL RELATIONS 2020

**T**he Code on Industrial Relations 2020, also referred to as the “IR Code”, has been introduced by the Parliament with the sole motive to streamline and amend the regulations pertaining to the Trade Unions.

- It aims at reforming the working conditions of employees in various types of industrial establishments, besides scrutiny and redressal of various kinds of trade disputes.
- The current legislation provides for a more liberalized framework that supports the rights of the workers to form trade unions.
- It also aims to minimize the conflicts between the factory owners and laborers, through concrete provisions for investigation and quick redressal of the industrial disputes.
- Moreover, the IR Code 2020 has brought introduced many new supportive provisions for the workers to organize strikes.
- The threshold regarding the layoffs and retrenchment (cost-cutting) at the production units has been raised. The threshold limit for the workforce has been increased from 100 to **300 workers**. This is to give more flexibility to employers to hire and fire workers.



# Government's Role for Central PSUs



**T**he IR Code 2019 provides that the Union Government shall act as the appropriate government for all the centralized public sector undertakings (PSUs).



It further adds that the Central Government shall be the appropriate government for such a centralized PSU regardless of whether the stakeholding of the central government in that PSU is above 50% or not. The rule shall apply right from the commencement of this legislation.

# PENAL PROVISIONS

In the Industrial Relations Code **2020**



**T**he IR Code has now provided for various penal provisions for compounding (i.e., settling) of the offenses that were hitherto not subject to imprisonment term, or imprisonment with a penalty.

- Earlier, the compounding of offenses was done on payment of 50% of the maximum penalty provided for that offense.
- Now, the Codes on Industrial Relations and Social Security provide for penal action of **1-year imprisonment** term or same **with the penalty**.
- For the offenses subject to penalty, the settlement shall be done on payment of a sum of **50%** of the maximum penalty provided for that offense.
- Whereas in case of all other offenses subject to imprisonment, settlement shall be allowed for a sum of **75%** of the maximum penalty.

**Quick-Bite:** However, the Code on Occupational Safety 2020 provides for a 50% limit for the compounding, e.g., in case of not maintaining the registers. Similarly, a 75% limit is for offenses like falsification of the records.

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# EXEMPTION FROM IR CODE 2020 PROVISIONS

TO THE START-UPS & NEW ESTABLISHMENTS

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**Start-ups & New factories  
are exempt from the IR  
Code provisions.**

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**IR Code 2020 not  
applicable to the New  
Establishments.**

The Central government has given complete exemption from the provisions of the IR Code 2020 for all new industrial establishments or class of such establishments.



*Applicability of*

# STANDING ORDERS



The Code on Industrial Relations 2020 states that all industrial establishments with at least 300 workers or above must draft standing orders (employment terms & conditions) on the various aspects that are listed in the Schedule to this Code. These issues include the following:


- Categorization of the workers;
- The procedure of informing workers on working hours, leaves, payday (salary date), and wages;
- Termination of the employment; and
- Proper Grievance Redressal Mechanisms for the workers.

The IR Code 2020 has raised the threshold of the workforce at the establishments from 100 to 300 workers, for applicability of these guidelines.



# CENTRAL GOVERNMENT

## Can't Revise the Threshold



*"No changes can be made to the applicability of the standing orders."*

**F**urthermore, the IR Code has provided that the central government shall not be allowed to make any changes vide notification with regard to the applicability of the standing orders on the establishments where the workforce is below 100 workers.

Very importantly, the IR Code 2020 has provided that if the workforce of an establishment reduces below the threshold of 100 workers at any point of time after it has been covered under the IR code, the provisions of the standing orders, will not continue to apply.

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Rules related to

# CLOSURE, LAY-OFF & RETRENCHMENT

## Lay-off:

An employer's incapability to continue employing the workers and paying them because of severe business tensions



## Retrenchment

Discontinuation of the job of a worker due to economic reasons, other than disciplinary reason. This is also referred to as cost cutting in common language.

IR Code 2020 provides that all factories with at least **300 workers** will have to obtain prior permission from the appropriate government before proceeding with any such action regarding the above 3 conditions.

**A**s per the IR Code 2020, prior permission of the central government is required for an establishment with a workforce of at least 300 workers before proceeding for the closure of a factory, imposing lay-offs on the employees, or doing their retrenchment.

The IR Code 2020 provides that all factories with at least **300 workers** will have to obtain prior permission from the appropriate government before proceeding with any such action regarding the above 3 conditions.

## ***Powers to the central government to revise the threshold:***

The IR Code 2020 enables the government to only increase and not decrease the threshold of the workforce for the establishments to seek prior permission before proceeding towards closure, lay-off, or retrenchment. Earlier, in the 2019 Bill, both increase and not decrease in the threshold were allowed vide notification.

# Sole Negotiation Union

**A**s per the IR Code 2020, in case there are more than one registered trade unions of the workers functioning within one production unit, the trade union with the strength of 51% member workers shall be recognized as a **Sole Negotiation Union**. In the 2019 Bill, this threshold was **75% of workers**.



# Negotiation Council

In case there is no trade union eligible for the role of sole negotiation union, a **negotiation council** shall be constituted comprising of representatives of various unions with at least **20% worker members**. This threshold has been raised from earlier 10%.

# Disputes

*Related to Dismissal of an Individual Worker*



**A**ccording to the **IR Code 2020**, all disputes are classified into:

- *Discharge,*
- *Dismissal of the worker,*
- *Retrenchment of a worker, or*
- *Termination of the job of an individual worker*

All of the above are considered to be an industrial conflict or dispute. In all these cases, the worker may directly apply to the **Industrial Tribunal** for the adjudication of the particular dispute.

# Thank you!

For more info, please contact:-

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