The Labour Codes: A New Compliance Matrix

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ahead of the curve

In a landmark move to modernise India's labour law framework, the Ministry of Labour and Employment has issued notifications bringing into effect on and from November 21, 2025, the Code on Wages, 2019 (**Wage Code**), the Industrial Relations Code, 2020 (**IR Code**), the Occupational Safety, Health and Working Conditions Code, 2020 (**OSH Code**), and the Code on Social Security, 2020 (**SS Code**) (together, "the **Labour Codes**" or "**Codes**").

The Codes subsume and consolidate 29 central labour laws and is a key step towards simplifying compliance and creating uniformity in labour laws across the country.

As employers are working swiftly to transition to the Labour Codes regime, the absence of final rules and schemes under the Labour Codes has created uncertainty on its operationalisation, especially as the Codes alter definitions, authorities, forms, registers, inspection mechanisms, and penalties.

Fortunately, our legal system has anticipated such transitional gaps.

Section 24 of the General Clauses Act: The Bridge That Keeps Compliance Intact

While it may appear that a compliance gap exists, Section 24 of the General Clauses Act, 1897 (**General Clauses Act**) offers clarity. Section 24 provides that when a central law is repealed and re-enacted, any appointment, notification, scheme, rule, form, etc., (**Subordinate Legislations**) issued under the repealed law continues to remain in force, to the extent not inconsistent with the new central act and until replaced by Subordinate Legislation under the new act.

The Labour Codes also embody this principle through specific savings provisions[1] which provide that Subordinate Legislations under the repealed laws continue to remain in force to the extent they are not inconsistent with the Labour Codes.

Accordingly, the rules, notifications, etc., under the 29 central labour laws continue to operate alongside the new Codes, as long as they do not conflict with the Codes and until superseded by Subordinate Legislation under the Labour Codes. The Ministry of Labour and Employment in its press release on November 21, 2025, also confirms that during transition, the relevant provisions of the existing labour acts and their respective rules, regulations, notifications, schemes, etc. will continue to remain in force[2].

1 Section 104(2) of the IR Code, Section 69(2) of the Wage Code, Section 164(2) of the SS Code, and Section 143(3) of the OSH Code
2 https://www.pib.gov.in/PressReleasePage.aspx?PRID=2192463&reg=3&lang=2

Where do States Stand Today?

As on date, only Gujarat and Arunachal Pradesh have notified final rules under all 4 Labour Codes. All other States and the Central Government are yet to finally notify rules under the Labour Codes.

The draft rules carry no legal force until finally notified by the appropriate governments, and should be treated as mere directional guidance. In the absence of final rules under the Labour Codes, the operative compliance framework today is anchored to the Subordinate Legislations under the repealed laws.

What does this mean for employers?

In practical terms, employers must now navigate a unique compliance framework during the transitional phase:

1. **Provisions of the Labour Codes that are self-operative**

   These take effect immediately from November 21, 2025, and do not require rules/schemes for implementation. Employers should take steps to comply with these immediately. Examples include the right to encash accrued and unused earned leave at year-end, the obligation to issue wage slip to employees, fixation of wage period, computation of severance obligations keeping in mind the new wage construct under the Labour Codes.

2. **Provisions of the Labour Codes read together with the existing rules under the old legal regime**

   Where the provisions of the Codes require rules, schemes, etc., for it to be fully operationalised (such as, format of registers, forms, timelines, thresholds) but the appropriate governments have not yet notified them, in such cases, employers must follow the compliance obligation as per the Labour Codes read together with the relevant Subordinate Legislation under the repealed laws. An example includes the statutory cap for gratuity remaining at INR 20,00,000, till superseded by notification under the Labour Codes.

3. **New compliances dependent on rules under the Labour Codes**

   Certain obligations such as the reskilling fund are newly introduced under the Labour Codes and will be fully operative only once the appropriate governments notify the final rules or issue appropriate Subordinate Legislation.

   Thus, employers must adapt to provisions already in force under the new Codes, read with subsisting Subordinate Legislations under the repealed laws and anticipate forthcoming changes once the appropriate governments finalize their rules.

Whether more beneficial terms under the local shops act will prevail over the Codes?

A further complexity that arises is whether the local shops act will continue to apply and in case of a conflict between OSH Code and local shops act, which one will prevail since both the laws legislate on leave, working hours, etc.

Section 120 of the OSH Code contains a non-obstante clause which states that the provisions of the OSH Code shall have an overriding effect over any other inconsistent law, award, agreement or contract of service. The legislative intent appears to be for the OSH Code to override the local shops act to the extent inconsistent with the OSH Code. This is aligned with the prime objective of the Labour Codes to establish uniform laws.

However, the proviso to Section 120 provides an important exception. The proviso states that if an employee is entitled to more favourable benefits under such award, agreement, contract of service or otherwise, the employee shall continue to receive the same.

Though the main clause uses the term “law”, the proviso omits it and instead uses the catch-all term “or otherwise”. This raises the question whether “otherwise” should be interpreted in a wide manner to include all legal obligations (including those stemming from statutes such as local shops acts), or should it be read narrowly to cover only instruments similar to awards, agreements or contracts.

Case laws suggest that the term "otherwise" should generally be given a wide import. In some cases, the Courts have interpreted it in a restrictive manner with reference to the words immediately preceding it (a principle known as ejusdem generis). Even so, in *George Da Costa v. Controller of Estate Duty in Mysore*[3] the Supreme Court interpreted the term "**contract or otherwise**" applying ejusdem generis and held that it will mean some kind of **legal obligation** which though not in the form of a contract confers a benefit. Based on the above, it can be surmised that the proviso to Section 120 of the OSH Code applies to protect beneficial entitlements whether under contract or statute.

Consequently, where provisions of the OSH Code conflict with local shops acts, employers should apply the more beneficial provision to employees, recognizing that both are beneficial legislations designed to protect worker interests. This approach aligns with the judicial principle of harmonious construction and the protective intent underlying labour legislation.

The Way Ahead for Employers – Prepare Now, Not Later

Until the appropriate governments notify the final rules - the rules, schemes, etc., under the repealed acts will continue to apply as outlined above. During the transitional phase, employers will need to adopt a dual compliance framework which involves implementing the substantive provisions of the Labour Codes that are self-operative, and where relevant, continuing compliance under the Subordinate Legislation under the repealed acts to the extent they are not inconsistent with the Labour Codes. In this context, as employers transition to the Labour Code regime, some key areas of focus include workforce mapping, re-bucketing salary structure, reviewing contract labour arrangements, digitisation, etc. To mitigate the risk of compliance gaps, penalties, and operational bottlenecks, preparation at this stage is the most strategic course for employers navigating this regulatory transition.

3 1966 SCCOnline SC 16

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