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DPDP RULES 2025: OPERATIONALISING INDIA'S DATA PROTECTION FRAMEWORK

Introduction:

The Digital Personal Data Protection Rules, 2025 ("DPDP Rules") operationalise the Digital Personal Data Protection Act, 2023 ("DPDP Act") by converting its principles into a workable compliance framework. They define practical standards for notice, consent, security safeguards, data rights, breach reporting, State processing, cross-border transfers, and the functioning of the Data Protection Board ("DPB"). Together, the DPDP Act and DPDP Rules establish a modern, enforceable, and technology-neutral data protection regime for India. A detailed analysis of each Rule is set out below.

1. Notice, Consent, and Consent Management:

Rule Nos. 3 and 4 collectively establish the framework for notice and consent, requiring Data Fiduciaries to issue clear, standalone privacy notices outlining data collected, purposes of processing, and rights, while Consent Managers must operate secure, auditable, zero-knowledge systems that enable transparent, standardised, and conflict-free consent management.

2. State and public-interest processing:

Rule No. 5 operationalizes Section 7(b) of the DPDP Act by specifying the manner in which the State and its instrumentalities may process personal data without consent for the delivery of subsidies, benefits, licenses, permits, and other public services, subject to strict safeguards. The Second Schedule prescribes requirements such as purpose limitation, accuracy, minimization, retention controls, and transparency establishing clear standards for welfare-related data processing.

3. Security and Breach Notification:

Rule Nos. 6 and 7 together establish the security and breach-response framework, requiring Data Fiduciaries to adopt robust technical and organizational safeguards such as encryption access controls, and monitoring



and to follow a two-stage breach-notification process that includes timely communication to affected individuals and a detailed report to the DPB within seventy-two (72) hours, thereby ensuring accountability, prompt remediation and transparency in managing personal data breaches.

4. Inactivity-Based Deletion:

Rule No. 8 requires a Data Fiduciary to erase personal data once the purpose for which it was collected, as specified in the Third Schedule, is no longer being served, unless retention is legally required or the Data Principal engages to continue the purpose or exercise their rights. At least forty-eight (48) hours before erasure, the Data Principal must be notified. Additionally, personal data, traffic data, and processing logs must be retained for a minimum of one (1) year for purposes listed in the Seventh Schedule, after which they must be deleted unless further retention is mandated by law. This ensures purpose limitation, data minimisation, and transparency in data handling.

5. Contact Information for Queries on Personal Data Processing:

Rule No. 9 requires every Data Fiduciary to prominently publish on its website or app, and include in every response to a communication from a Data Principal exercising their rights under the DPDP Act, the business contact information of the Data Protection Officer, if applicable, or another designated person who can respond on behalf of the Data Fiduciary to queries regarding the processing of the Data Principal's personal data.

6. Children's Data and Parental Consent

Rule No. 10 mandates that Data Fiduciaries implement reliable mechanisms to verify parental consent for processing children's data, including consent from lawful guardians of persons with disabilities. Rule No. 11 provides limited exemptions for essential services relating to education, health, safety, and statutory functions, ensuring that necessary child-focused activities can continue without disruption despite the DPDP Act's stricter prohibitions.

7. Exemptions from Certain Obligations for Processing Children's Data:

Rule No. 12 provides that the provisions of sub-sections (1) and (3) of Section 9 of the DPDP Act shall not apply to (i) the processing of personal data of a child by Data Fiduciaries listed in Part A of the Fourth Schedule, and (ii) the processing of children's personal data for purposes specified in Part B of the Fourth Schedule, in both cases subject to the conditions specified in the respective Parts. This rule



creates targeted exemptions while ensuring that specified safeguards are maintained.

8. Additional obligations of Significant Data Fiduciaries:

Rule No. 13 stipulates that Significant Data Fiduciaries must undertake annual Data Protection Impact Assessments (“DPIA”), independent audits, and algorithmic risk evaluations. They may also be subject to localisation obligations for specified categories of personal data. These elevated standards introduce accountability for high-risk data controllers.

9. Rights of Data Principal:

Rule No. 14 states that Data Fiduciaries must clearly publish procedures for exercising rights, verification requirements, and timelines for response. Rights such as access, correction, erasure, and nomination must be facilitated in a consistent and user-friendly manner.

10. Cross-Border Data Transfers

Rules No. 15 states that India adopts a flexible, conditional model. Personal data may be transferred to any country subject to conditions that the Central Government may impose regarding disclosure to foreign entities. This avoids a rigid “adequacy” or “whitelist” approach and preserves strategic policy space.

11. Research and Statistical Exemptions:

Rule No. 16 provides that processing carried out exclusively for research, archival, or statistical purposes is exempt from certain obligations, subject to adherence to the safeguards prescribed in the Second Schedule. This enables academic and scientific activities to proceed while ensuring appropriate privacy protections.

12. Constitution, Functioning, and Administration of the Data Protection Board (DPB):

Rule Nos. 17 to 21 outline the constitution, functioning, and administration of the DPB. Rule No. 17 provides for appointment of the Chairperson and Members through a Search-cum-Selection Committee, while Rule No. 18 prescribes their salaries, allowances, and terms of service (Fifth Schedule). Rule No. 19 governs meetings, quorum, voting, conflict of interest, urgent decisions, and authentication of orders. Rule No. 20 allows the Board to function digitally,



while retaining powers to summon and examine individuals. Rule No. 21 enables appointment of officers and employees, with terms of service specified in the Sixth Schedule. These rules establish a structured, accountable, and modern framework for the DPB's operations.

13. Appeals and Government Powers:

Rule No. 22 allows any person aggrieved by an order of the DPB to file a digital appeal before the Appellate Tribunal, accompanied by a fee similar to that under the Telecom Regulatory Authority of India Act, 1997, unless reduced or waived by the Chairperson. The Appellate Tribunal is not bound by CPC but follows natural justice and may regulate its own procedure. It functions as a digital office, using techno-legal measures while retaining powers to summon and examine individuals on oath.

14. Calling for Information from Data Fiduciary or Intermediary:

Rule No. 23 empowers the Central Government, through authorised officials specified in the Seventh Schedule, to require any Data Fiduciary or intermediary to furnish information for purposes outlined in the Schedule within a specified timeframe. If providing such information could prejudicially affect India's sovereignty, integrity, or state security, the Government may direct that it not be disclosed to the concerned Data Principal or any other person without prior written permission from the authorised official. For this rule, "intermediary" has the meaning assigned under the Information Technology Act, 2000.

Conclusion

The DPDP Rules transform the DPDP Act's broad principles into a comprehensive operational framework. By defining clear standards for notice, consent, security, grievance handling, breach reporting, State processing, and oversight, the Rules create a predictable compliance environment for organisations while strengthening individual privacy rights. With mechanisms such as Consent Managers, DPIAs, algorithmic oversight, and inactivity based deletion, India's regime reflects modern global best practices adapted to its digital scale. Effective implementation will be critical to building a rights-driven, transparent, and accountable data protection ecosystem.



IP RIGHTS AND PRE-INSTITUTION MEDIATION: CONTINUING WRONG DOCTRINE PREVAILS OVER DELAY

Case Name: Novenco Building and Industry A/S vs. Xero Energy Engineering Solutions Private Limited & Anr.

Case No.: Civil Appeal arising out of SLP (C) No. 2753 of 2025

Court: Supreme Court of India, Civil Appellate Jurisdiction

Order Date: October 27, 2025

Introduction

The Hon'ble Supreme Court of India ("Supreme Court") has recently clarified a recurring and increasingly significant question in commercial litigation: whether a suit alleging ongoing infringement of intellectual property rights can be exempted from the mandatory requirement of pre-institution mediation under Section 12A of the Commercial Courts Act, 2015 ("CCA"), on the ground that it "contemplates urgent interim relief." The Hon'ble Supreme Court's analysis revisits the statutory purpose and scope of Section 12A of CCA and harmonises it with well-established intellectual property principles governing continuing infringement, urgency, and consumer protection.

Factual Background

Novenco Building and Industry A/S ("Novenco"), a Danish manufacturer of high-efficiency "Novenco ZerAx" industrial fans protected by patents and design registrations worldwide, including India, appointed Xero Energy Engineering Solutions Private Limited ("Xero Energy"), Hyderabad, as its dealer in 2017. Novenco alleges that director of Xero Energy later incorporated Aeronaut Fans Industry Private Limited to manufacture and sell fans identical to its patented Novenco ZerAx products, adopting deceptively similar names, branding, and designs to exploit Novenco's goodwill.

Despite multiple communications in 2022 and a cease-and-desist notice issued after terminating the dealership in October 2022, the alleged infringement continued. A technical inspection in December 2023 and an affidavit in February 2024 confirmed such infringement. Further, in June 2024, Novenco filed Commercial Suit No. 13 of 2024 before the Hon'ble Himachal Pradesh High Court ("High Court"), seeking an injunction and exemption from pre-institution mediation under Section 12A of CCA. The Respondents sought rejection of the plaint for lack of urgency. The Single Judge rejected the plaint under Order VII Rule 11 of Code of Civil Procedure, 1908 ("CPC"), and the Division Bench upheld that order, citing delay. Novenco thereafter approached the Hon'ble Supreme Court, where the mediation efforts undertaken during the appeal proved unsuccessful.



Issues:

1. Whether a suit alleging ongoing infringement of patents and designs qualifies as one that “contemplates urgent interim relief” under Section 12A of CCA.
2. Whether the delay between Novenco’s discovery of the alleged infringement and the filing of the suit undermines the claim of urgency, thereby making pre-institution mediation under Section 12A of CCA mandatory.
3. Whether the Hon’ble High Court was justified in rejecting the plaint under Order VII Rule 11 of CPC solely on the ground of non-compliance under Section 12A of CCA.

Findings and Analysis:

A. Nature and Purpose of Section 12A of CCA:

The Hon’ble Supreme Court reaffirmed that Section 12A of the CCA aims to promote pre-institution mediation, subject to a pragmatic exemption where the suit contemplates urgent interim relief. The Hon’ble Supreme Court clarified that the assessment of urgency must be made from the plaintiff’s standpoint, based solely on the averments in the plaint and the documents placed on record. At this initial stage, the merits of the interim relief are not to be evaluated; the inquiry is confined to whether the plaint *prima facie* discloses a plausible element of urgency.

B. Continuing Infringement as Urgency:

The Hon’ble Supreme Court underscored that intellectual property infringement constitutes a “continuing wrong,” whereby each instance of manufacture or sale gives rise to a fresh cause of action. Consequently, delay in approaching the court does not negate urgency where the infringing activity continues. Referring to *Midas Hygiene Industries Private Ltd. & Anr. v. Sudhir Bhatia & Ors.*, (2004) 3 SCC 90, the Hon’ble Supreme Court reiterated that delay cannot deprive an intellectual property proprietor of injunctive relief against dishonest adopters. In the present case, Novenco’s pleadings demonstrated ongoing manufacture and sale of infringing fans, resulting in continuous erosion of its statutory rights and commercial goodwill, thereby establishing a clear case of urgency.

C. Public Interest and Market Integrity:

The Hon’ble Supreme Court further observed that the enforcement of intellectual property rights implicates public interest, as the presence of deceptive or infringing goods in the market erodes consumer confidence and distorts market integrity. This public-facing dimension of intellectual property protection, the Hon’ble Supreme Court noted, independently reinforces the element of urgency in cases involving



ongoing infringement.

D. Misapplication by the High Court:

The Hon'ble Supreme Court concluded that the Hon'ble High Court erred by examining the merits of the dispute, the timelines, and prior correspondence, rather than limiting its inquiry to whether the plaint *prima facie* disclosed a plausible need for urgent interim relief. The Hon'ble Supreme Court also noted that compelling mediation in the face of ongoing infringement would effectively permit the wrongful conduct to persist, thereby undermining the purposes of intellectual property protection as well as the intent of Section 12A of CCA.

Conclusion:

The Hon'ble Supreme Court held that actions alleging ongoing patent and design infringement are inherently urgent, given the continuing nature of the wrong and the public interest in preventing consumer deception. The Hon'ble Court reaffirmed that delay in instituting the suit does not dilute urgency where infringing activities continue unabated. Consequently, the orders of the Single Judge and the Division Bench of the Hon'ble High Court were set aside, and Commercial Suit No. 13 of 2024 was restored for adjudication on merits.

This judgment clarifies the contours of Section 12A of CCA, confirming that the requirement of pre-institution mediation cannot supersede the substantive rights of intellectual property owners confronting ongoing infringement, and strikes a balance between the encouragement of mediation and the imperative of timely judicial intervention.



INDIA'S LABOUR LAW REFORM: UNDERSTANDING THE NEW LABOUR CODES

Introduction:

For more than seven (7) decades, India's labour market was governed by numerous laws introduced over time to deal with specific industrial and employment issues. This led to a fragmented legal system with over forty (40) central laws and more than one hundred (100) state laws. Important terms such as "workman," "wages," "employee," and "establishment" were defined differently across these laws, causing confusion, disputes, and a heavy compliance burden. As a result, employers often had to maintain multiple records and file separate returns under different laws, even when much of the required information was the same.

India has now undertaken a sweeping reform of its labour regulatory framework by consolidating twenty-nine (29) national labour laws into four (4) comprehensive labour codes ("Codes"):

- Code on Wages, 2019;
- Code on Social Security, 2020;
- Occupational Safety, Health and Working Conditions Code, 2020; and
- Industrial Relations Code, 2020.

These Codes are designed to create a uniform and simplified regime applicable to all employers irrespective of organisation size, and all employees regardless of their role or wage levels. The objective of the new codes is simplification of compliance and enhancement of ease of doing business across sectors.

Although the Codes have received Presidential assent and have been published in the Official Gazette, their substantive provisions are yet to be fully brought into force. Both the Central and various State Governments are still required to notify the final rules necessary for operational implementation. Until this process is complete, the existing labour laws continue to apply.

i. The Code on Wages, 2019:

The Code on Wages, 2019 ("Code on Wages") is a landmark Indian labour law that consolidates and repeals four (4) pre-existing central laws: the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, and the Equal Remuneration Act, 1976. It provides a unified framework to regulate payment of wages, minimum wage standards, bonus distribution, and equal remuneration for men and women, simplifying compliance and promoting fair labour practices across India.



It establishes a unified framework for wage regulation, applying universally to all establishments and employees in both organized and unorganized sectors, regardless of wage ceilings or scheduled employments. The Code on Wages received presidential assent on August 08, 2019, with major provisions coming into effect on November 21, 2025 as part of the implementation of India's four (4) new labour Codes.

Key Provisions and Major Changes

- a. **Universal Minimum Wages-** The Code on Wages extends the right to minimum wages to all workers, replacing the earlier system that applied only to specified "scheduled employments." It empowers the Central Government to fix a national floor wage, with scope for regional variations, and mandates that minimum wages notified by State Governments cannot be set below this floor. Minimum wages may be differentiated based on skill level (unskilled, semi-skilled, skilled, and highly skilled), geographical area, and the nature of work. The Code on Wages also requires periodic revision of minimum wages at intervals not exceeding five (5) years.
- b. **Uniform Definition of 'Wages'-** The Code on Wages introduces a standard definition of "wages," comprising basic pay, dearness allowance, and retaining allowance, while excluding specified components such as house rent allowance, overtime payments, and commissions. To prevent excessive structuring of salary through exclusions, the Code on Wages provides that excluded allowances and other components cannot exceed 50% of the total remuneration; any amount beyond this threshold is treated as wages. This uniform definition brings consistency in the computation of statutory entitlements such as provident fund contributions, bonus, gratuity, and overtime.
- c. **Timely Payment and Mode-** The Code on Wages mandates payment of wages within specified timelines, such as by the seventh day of the following month for employees paid on month on month basis. It also promotes payment through electronic modes, including bank transfers and other digital payment methods recognized under the Code, to ensure transparency and timely disbursement.
- d. **Overtime Pay-** The Code on Wages provides that any work performed beyond prescribed normal working hours entitles the worker to overtime wages at a rate not less than twice the normal rate of pay, with this entitlement applied uniformly across sectors.
- e. **Bonus Eligibility-** The Code on Wages continues to apply bonus provisions to establishments employing twenty (20) or more workers. Eligible employees are entitled to a minimum statutory bonus of 8.33% of wages or Rs. 100/- (Rupees Hundred Rupees Only), whichever is higher, subject to the availability of allocable surplus, with the maximum bonus capped at 20% of wages. The introduction of a uniform definition of "wages" may affect both eligibility and the quantum of bonus payable for certain employees.



- f. Non-Discrimination- The Code on Wages prohibits discrimination on the ground of gender, including against transgender persons, in matters of recruitment, wages, and other conditions of employment for the same or similar work.
- g. Deductions from Wages- The Code on Wages limits total deductions from an employee's wages, including fines, advances, and deductions for absence from duty, to a maximum of 50% of the wages payable.
- h. Enforcement Mechanism- The Code on Wages replaces the conventional inspectorate system with Inspector-cum-Facilitators, who are tasked not only with inspection and enforcement but also with advising employers and workers to promote compliance. It introduces a strengthened penalty framework, including fines of up to Rs. 1,00,000/- (Rupees One Lakh Only) and imprisonment for serious violations, along with provisions allowing for compounding of certain offences. The Code on Wages also mandates the constitution of Central and State Advisory Boards with balanced representation of stakeholders, including a requirement that at least one-third of the members be women.

These reforms are designed to simplify compliance for employers, reduce fragmentation in labour laws, ensure fair and timely payment of wages, promote gender equality, and extend protection to millions of workers in the unorganized sector. Although the Code on Wages came into effect on November 21, 2025, its full implementation depends on the notification of detailed Central and State rules, which are either in progress or have already been issued in several states, such as Maharashtra, Karnataka, and Kerala.

ii. The Code on Social Security, 2020:

The Code on Social Security, 2020 ("Code on Social Security") is a comprehensive Indian labour law that consolidates and repeals nine pre-existing central laws related to social security, including the Employees' Compensation Act, 1923, the Employees' State Insurance Act, 1948, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, 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, 1981, the Building and Other Construction Workers Welfare Cess Act, 1996, and the Unorganised Workers' Social Security Act, 2008. The Code on Social Security provides a unified framework for social security benefits, welfare measures, and protections for both organised and unorganised sector workers across India.

The Code on Social Security seeks to provide social security benefits to all workers, including those in the organized, unorganized, gig, and platform sectors. It received Presidential assent on 28 September 2020, with key provisions coming into effect on November 21, 2025 as part of the implementation of India's four new labour codes.



Key Provisions, Highlights, Thresholds, and Limits

- a. **Expanded Coverage-** The Code on Social Security applies to all establishments and workers, though certain social security schemes may have eligibility thresholds. It formally recognizes gig and platform workers, providing them access to benefits such as health insurance, maternity support, provident fund, and old-age protection through notified schemes. Fixed-term contract employees are entitled to social security benefits on a pro-rata basis similar to permanent employees. Once coverage is established, it continues even if the workforce falls below the threshold.
- b. **Uniform Definition of 'Wages'-** The Code on Social Security aligns with the definition under the Code on Wages, where basic pay along with dearness and retaining allowances must constitute at least 50% of total remuneration. Components excluded from wages, such as house rent allowance and overtime, are capped at 50% of total pay; any excess is treated as wages. This standardization affects calculations for provident fund, Employees' State Insurance ("ESI"), gratuity, and other benefits, potentially increasing employer obligations.
- c. **Employees' Provident Fund ("EPF") and Pension-** The EPF and pension provisions apply to establishments with twenty (20) or more employees and are now extended nationwide without any industry-specific restrictions. Both the employer and employee typically contribute 10–12% of wages, with the employer's share often being 12%, as per the notified rates. Fixed-term employees are also covered and eligible for pension benefits, ensuring that social security extends beyond permanent staff.
- d. **Employees' State Insurance-** The ESI scheme applies to establishments with ten (10) or more employees and is extended to hazardous occupations even if the workforce is smaller. It is now applicable nationwide, with optional coverage for plantations. Employer contributions are around 4.75% of wages, while employee contributions are approximately 1.75%, subject to notification. The scheme provides benefits including sickness, maternity, disability, and medical care, with an expanded definition of family to cover parents-in-law, widowers, and grandparents, subject to income limits.
- e. **Gratuity-** Under the Code on Social Security, 2020, gratuity provisions apply to factories, shops, and other establishments employing ten (10) or more workers. Permanent employees become eligible after completing five (5) years of continuous service, while fixed-term employees now qualify for pro-rata gratuity after just one (1) year, a significant reform promoting parity. No service period is required in cases of death or disablement. The gratuity amount is calculated as fifteen (15) days' wages (based on the last drawn salary) for each completed year of service, using the formula $(\text{last drawn wages} \times 15 / 26) \times \text{years of service}$, with pro-rata payment for fractional years and it is capped at Rs. 20,00,000/- (Rupees Twenty Lakhs Only) for private sector employees. Employers must pay the gratuity within thirty (30) days of it becoming due, failing which interest at 10% per annum may apply.



- f. Maternity Benefits- The maternity benefits provisions apply to establishments with ten (10) or more employees. Women employees who have worked at least eighty (80) days in the twelve (12) months preceding the expected date of delivery are eligible. Eligible employees are entitled to full average daily wages for twenty-six (26) weeks for the first and second child, and twelve (12) weeks for the third child or more, or in cases of adoption or commissioning mothers. Additional benefits include medical bonuses and leave in the event of miscarriage.
- g. Employees' Compensation (Work Injury- Applicable to establishments not covered under ESI, employees who suffer injuries or death at work are entitled to compensation calculated according to prescribed schedules; for example, permanent disablement is compensated at 50% of the employee's monthly wages multiplied by a specific factor. The employer is fully responsible for providing the compensation.
- h. Unorganised Workers, Gig, and Platform Workers- Workers in the unorganised sector, as well as gig and platform workers, must register on the designated portal to access social security schemes such as health insurance, accident cover, and old-age pension. The Central and State Governments are responsible for framing these schemes, and contributions may involve platform aggregators, typically around 1–2% of turnover.
- i. Other Highlights- Workers above 40 years are entitled to free annual health check-ups. Compliance is overseen by Inspector-cum-Facilitators, who combine advisory and enforcement roles. Penalties have been enhanced, with provisions for compounding certain offences. National and State Social Security Boards are established to provide advisory support, ensuring representation from various stakeholders.

These reforms simplify compliance, promote universal coverage, and modernise benefits while aligning with the new wage structure. Full implementation relies on Central and State rules (progressively notified post November 21, 2025).

iii. Recognition of Gig and Platform Workers:

The Code on Social Security marks a historic step by formally recognizing gig and platform workers in India's labour law for the first time. Previously excluded from most social security schemes, these workers, including delivery partners, ride-hailing drivers, and freelancers, are now integrated into the national social security system alongside unorganised sector workers.

Key definitions include:

- Gig Worker: Performs work outside a traditional employer-employee relationship.
- Platform Worker: A gig worker who connects with customers via an online platform.
- Aggregator: Platforms connecting workers with customers (e.g., Swiggy, Uber).



Key Features and Benefits:

- a. Mandatory Registration- Workers are required to register on the Aadhaar-based e-Shram portal to obtain a Universal Account Number, which enables portable access to social security benefits. To date, over thirty-one (31) crore unorganised workers, including around five (5) lakh gig and platform workers, have completed registration.
- b. Social Security Schemes- The schemes provide coverage for life and disability, accident insurance, health and maternity benefits, old-age protection/pension, and skill development. They can be integrated with existing programs like AB-PMJAY, offering up to Rs. 5,00,000/- (Rupees Five Lakhs Only) of annual health coverage per family.
- c. Funding-The Social Security Fund is financed through contributions from Aggregators (1–2% of their turnover, capped at 5% of payouts to workers), along with support from Central and State governments, optional worker contributions, and corporate social responsibility funds.
- d. Portability- Social security benefits are portable across platforms, jobs, and states, ensuring continuity for fixed-term and inter-state migrant workers.
- e. Governance- A National Social Security Board provides advisory support on schemes for gig and platform workers, while some states have established additional welfare boards to oversee local implementation.
- f. The social security framework for gig and platform workers applies universally, with no employee thresholds, and registration on the e-Shram portal has been ongoing since November 21, 2025. Some states have also introduced parallel mechanisms to support implementation. Full access to benefits depends on the notification of specific schemes, compliance by Aggregators, and awareness campaigns. This shift moves gig worker welfare from voluntary platform policies to mandatory, government-backed protections, aiming to cover millions in the gig economy, projected to reach 2.35 crore workers by 2029–30.

iv. The Occupational Safety, Health and Working Conditions Code, 2020

The Occupational Safety, Health and Working Conditions Code, 2020 (“OSH Code”) is a comprehensive labour law that consolidates and repeals thirteen (13) central laws, including the Factories Act, 1948; Contract Labour (Regulation and Abolition) Act, 1970; Mines Act, 1952; Dock Workers Act, 1986; Building and Other Construction Workers Act, 1996; Plantations Labour Act, 1951; Motor Transport Workers Act, 1961; and others covering sales promotion employees, journalists, and cine workers. It establishes uniform standards for occupational safety, health, welfare, and working conditions across sectors such as factories, mines, plantations, construction, transport, and more. The OSH Code received Presidential assent on September 28, 2020, with major provisions coming into



effect on November 21, 2025 alongside India's four (4) new labour Codes.

Key Provisions and Highlights

- a. **Applicability-** The OSH Code generally applies to establishments employing ten (10) or more workers. Specific chapters address sectors such as factories, mines, docks, construction, plantations, contract labour, and inter-state migrant workers. Certain provisions also extend to hazardous or life-threatening activities, even if they involve fewer workers.
- b. **Registration and Licensing of Factories-** Registration and licensing now apply to factories employing twenty (20) or more workers with power and forty (40) or more without power [increased from the previous thresholds of ten (10) and twenty (20), respectively]. A single all-India licence is valid for five (5) years and includes deemed approval mechanisms.
- c. **Licensing of Contract Labour-** Licensing is required for establishments or contractors employing fifty (50) or more contract workers in the preceding twelve (12) months [increased from the previous threshold of twenty (20)]. Contractors with fewer than fifty (50) workers are exempt.
- d. **Working Hours and Overtime-** The maximum daily working hours range from eight (8) to twelve (12) hours, with a maximum of forty-eight (48) hours per week. Overtime must be paid at twice the normal wage rate, and the government may set flexible total working hours. Worker consent is required for overtime.
- e. **Welfare Facilities-** The OSH Code mandates welfare facilities such as canteens for establishments with one hundred (100) or more workers, crèches for fifty (50) or more workers where women are employed, and first-aid or ambulance rooms based on worker strength. Certain sectors are also required to provide rest rooms or shelters for workers.
- f. **Health and Safety Duties-** Employers are required to provide a hazard-free workplace at no cost, conduct free annual health check-ups for eligible workers, and maintain safety committees in hazardous units. The National Occupational Safety and Health Advisory Board sets uniform standards, and special rules apply for hazardous processes, including exposure limits and medical surveillance.
- g. **Inter-State Migrant Workers-** The OSH Code provides enhanced protections for inter-state migrant workers, including journey allowances and portability of benefits, often without strict eligibility thresholds.
- h. **Annual Leave and Holidays-** Workers are entitled to paid annual leave after completing one hundred and eighty (180) days of service, in addition to national and festival holidays.



- i. Enforcement- Inspector-cum-Facilitators are responsible for overseeing compliance, performing both advisory and enforcement roles. The OSH Code introduces single registration and single returns to simplify compliance. Penalties have been enhanced, and provisions exist for compounding offences.
- j. Other Highlights- The OSH Code provides a uniform definition of wages aligned with the Code on Wages and extends coverage to audio-video production and newspaper establishments. Employer duties include ensuring non-discrimination, maintaining safe systems of work, and providing information on workplace hazards.

The OSH Code simplifies compliance through single registration and licensing, promotes ease of doing business by raising thresholds for smaller units, enhances worker safety with universal standards and free health checks, and extends coverage to new sectors. Full implementation depends on Central and State rules, which are being progressively notified after November 21, 2025.

v. The Industrial Relations Code, 2020

The Industrial Relations Code, 2020 (“**IR Code**”) consolidates the Trade Unions Act, 1926, Industrial Employment (Standing Orders) Act, 1946, and Industrial Disputes Act, 1947, providing a modern framework for trade unions, employment conditions, dispute resolution, strikes, lock outs, layoffs, retrenchments, and closures. It applies to all industrial establishments, with thresholds for standing orders and layoffs/closures set at three hundred (300)+ workers, continuing even if numbers later fall. Key features include certified standing orders, government permission for layoffs, retrenchment compensation and reskilling funds, recognition of fixed-term employment with pro-rata benefits, 14-day notice for strikes/lock outs, trade union recognition, grievance committees, faster dispute resolution via two (2) member tribunals, uniform definitions of ‘worker’ and ‘wages’, and enhanced enforcement with higher penalties. The IR Code balances worker protection with employer flexibility, promoting industrial harmony and ease of doing business, with full implementation dependent on Central and State rules post November 21, 2025.

Key Provisions, Highlights, Thresholds, and Limits

- a. Applicability- The IR Code applies to all industrial establishments, including factories, mines, plantations, and other undertakings. Specific thresholds govern standing orders, lay-offs, retrenchments, closures, and other obligations. Once coverage is triggered by worker strength, it continues even if the number of workers later falls below the thresholds.
- b. Standing Orders- The IR Code applies to industrial establishments with three hundred (300) or more workers on any day in the preceding twelve (12) months, increased from one hundred (100) to ease compliance for the smaller units. It requires certification of



standing orders covering service conditions such as classification, shifts, attendance, and termination, with model standing orders provided by the Central Government.

- c. Lay-off, Retrenchment, and Closure- For non-seasonal establishments with three hundred (300) or more workers [average per working day in the preceding twelve (12) months], prior government permission is required for layoffs, retrenchments, or closures, up from the previous threshold of one hundred (100). The Appropriate Government may further raise this threshold via notification. Employers must provide retrenchment compensation of fifteen (15) days' average pay per completed year of service (or pro-rata) and contribute an equivalent of fifteen (15) days' last drawn wages per retrenched worker to a worker re-skilling fund.
- d. Fixed-Term Employment ("FTE")- The IR Code provides formal recognition of fixed-term employment, entitling FTE workers to the same benefits as permanent employees, including wages, gratuity, and social security, on a pro-rata basis, except that they are not eligible for retrenchment compensation or notice at the end of the fixed term.
- e. Strikes and Lock-outs- The IR Code requires fourteen (14) days' prior notice for strikes or lock outs in all industrial establishments, expanded from only public utilities, with the notice valid for up to sixty (60) days. Strikes or lock outs are prohibited during conciliation, arbitration, or tribunal proceedings. The definition of strike has been broadened to include mass casual leave by more than 50% of workers.
- f. Trade Unions and Collective Bargaining- The IR Code provides that a trade union with 51% or more support will be recognized as the sole negotiating union; otherwise, a negotiating council comprising unions with 20% or more support is formed. Additionally, a grievance redressal committee is mandatory in establishments with twenty (20) or more workers, with a maximum of ten (10) members.
- g. Dispute Resolution- Under the IR Code, conciliation is mandatory before adjudication, and two (2) member Industrial Tribunals are established to ensure faster resolution. Individual disputes, including discharge, dismissal, retrenchment, or termination of a single worker, now qualify as industrial disputes, allowing the worker to approach the tribunal directly in certain cases. All disputes must be raised within two (2) years.
- h. Uniform Definition of 'Worker' and 'Wages'- The IR Code aligns with other labour codes by providing a uniform definition of 'worker' and 'wages'. The broad definition of worker includes supervisory roles up to certain wage limits, while the definition of wages caps exclusions at 50%.
- i. Enforcement- The IR Code designates Inspector-cum-Facilitators to oversee compliance. Penalties have been enhanced, with fines of up to ₹10 lakh for illegal lay-offs, retrenchments, or closures, and provisions allow for compounding of offences.



These reforms aim to balance worker protections (faster dispute resolution, FTE benefits) with employer flexibility (higher thresholds, easier restructuring for smaller units), promoting industrial harmony and ease of doing business. Full operationalization depends on Central and State rules, which are being notified post November 21, 2025.

Conclusion:

In summary, the four (4) Labour Codes represent a transformative overhaul of India's labour regulatory framework by consolidating numerous fragmented legislations into a unified and coherent structure aimed at promoting transparency, uniformity, and ease of compliance. Collectively, the Codes expand social security coverage, modernise workplace safety and employment standards, streamline industrial dispute resolution, and extend statutory protections to a broader spectrum of workers, including those engaged in emerging and non-traditional forms of employment. Although their full operationalisation remains contingent upon the notification of state-specific rules, the new framework marks a significant step towards fostering balanced industrial relations, strengthening worker welfare, and enhancing ease of doing business across sectors.



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