

### **"What are the changes in The Industrial Relations Code Bill, 2019, approved by the Union Cabinet this week? Why has industry welcomed it, and what are the issues that its critics have flagged?"**

The Union Cabinet on Wednesday approved The Industrial Relations Code Bill, 2019, which proposes to amalgamate The Trade Unions Act, 1926, The Industrial Employment (Standing Orders) Act, 1946, and The Industrial Disputes Act, 1947.

Last year, the government had floated a draft Note for the Cabinet along with The Labour Code on Industrial Relations Bill, for inter-ministerial consultations. This is the third Code in the government's proposed codification of central labour laws into four Codes.

Parliament has already approved The Code on Wages, 2019. The Occupational Safety, Health and Working Conditions Code was introduced in Lok Sabha in July, and is now with the Standing Committee on Labour, which has invited public comments on it. The draft of the Social Security Code has been circulated for public comments.

#### **Importance of the Bill**

Apart from offering some degree of flexibility on government permissions for retrenchment, the most important aspect of the Bill is that it presents the legal framework for ushering in the concept of 'fixed-term employment' through contract workers on a pan-India basis.

Currently, companies hire contract workers through contractors. With the introduction of fixed-term employment, they will be able to hire workers directly under a fixed-term contract, with the flexibility to tweak the length of the contract based on the seasonality of industry. These workers will be treated on a par with regular workers during the tenure of the contract.

The move to include it in a central law will help in wider reach, and states are expected to follow similar applicability. The government had tried a move last year to apply fixed-term employment across "central sphere establishments" (which are establishments under the authority of the central government, Railways, mines, oilfields, major ports, or any other central public sector undertaking) in all sectors, but it failed to elicit the desired results as states did not notify similar provisions for it. The Bill now ensures a pan-India impact of this move.

## Changes in the Bill

The threshold required for government permission for retrenchment has been kept unchanged at 100 employees, as against the proposal for 300 employees in an earlier draft of the Bill, which was opposed by trade unions.

Instead, the government has now provided flexibility for changing the threshold through notification. The rigidity of labour laws about laying off labour has often been cited by industry as the main reason limiting scalability and employment generation. At present, any company having 100 workers or more has to seek government approval for retrenchment.

The provision of fixed-term employment, which helps in the flow of social security benefits to all workers along with making it easier for companies to hire and fire, in The Industrial Relations Code Bill.

Last year, the government had included the category of 'Fixed Term Employment Workman' for all sectors in the Industrial Employment (Standing Orders) Act, 1946. This was only applicable to 'central sphere' establishments, and the states did not follow suit. Finance Minister Nirmala Sitharaman said Wednesday that workers under a fixed-term contract would be taken up depending upon the seasonality of the industry, but would be treated on a par with regular workers.

## Opposition to the Bill

While industry has welcomed the changes, others have said that the unclear provision regarding retrenchment would lead to uncertainty, and discretionary behaviour during implementation by the central or state government.

K R Shyam Sundar, labour economist and professor of Human Resources Management at XLRI, said this change tries to please both parties — the employers and the trade unions.

“The moment you provide flexibility for the applicability, then it leaves the matter to the discretion to the appropriate government (states or Centre). Then the clause can be misused. Any discretion in law leads to uncertainty, lack of clarity, discriminatory implementation, and provides scope for unnecessary usage. The government should be clear whether to increase the threshold or retain the threshold and face the consequences. This is a kind of appeasement to both sides, which will not actually provide relief to either of them,” Prof Sundar said.

Also, fixed-term employment needs to be introduced with adequate safeguards, otherwise it runs the risk of encouraging conversion of permanent employment into fixed-term employment, he said.

## Welcoming the Bill

Industry has welcomed the Bill since it has met their demand of providing flexibility in retrenchment. M S Unnikrishnan, Chairman, CII National Committee on Industrial Relations, and MD & CEO, Thermax Ltd, said that for more employment in the organised sector, industry would demand flexibility.

“The original laws were made at a time when one would join and retire from the same company. Earlier, there were so many interpretations, and simplifying so many laws into four Codes is a good thing. There is no intention of industry to exploit labour, but one cannot run the company to create employment — it has to be commercially viable. “Today we are competing with global players so there should be a level playing field. We want to protect employment as much as possible, when there is commercial viability. There is no unending amount of money available with anyone of us to continue to employ labour when business is not viable,” Unnikrishnan said.

Fixed-term employment will help in keeping salaries and facilities to workers such as PF, gratuity, and medical benefits, the same as those for permanent labour, he said, adding that inclusion in the central law will help in applicability of fixed-term employment uniformly across the country.

### Expected Questions (Prelims Exams)

#### 1. Consider the following statements related to the Labor Code Bill, 2019: -

1. It has been provided that if a company has 100 employees or more, then the government approval has to be taken for retrenchment.
2. This bill introduces a legal framework for the concept of fixed-term employment through contract workers on an all-India basis.

Which of the above statements are correct?

- (a) 1 and 2                      (b) 2 and 3  
(c) 1 and 3                      (d) 1, 2 and 3

### Expected Questions (Mains Exams)

- Q. **The Industrial Relations Code Bill, 2019, recently approved by the Union Cabinet, is considered an important step towards labor-employer relations in India. Present a critical analysis of this bill in the context of the proposed changes. (250 words)**

**Note:** Answer of Prelims Expected Question given on 21 Nov., is 1 (d), 2 (d).

Committed