

First Part (Chapter-I to VII)

Salient features of the IR Code, 2020 (Total XIV Chapters)

1. The Industrial Relation Code, 2020(in short IR Code) received the assent of president on 28thSeptember, 2020.
2. The date from which this code would be enforced,has not been notified so far.The code will become law of the land from the date it is notified for its enforcement.
3. In this code, 3 enactments have been subsumed namely:
 - (i) Trade Union Act;
 - (ii)Industrial Employment Standing Order Act, &
 - (iii)Industrial DisputesAct, 1947.
4. **Sec. 2[b]-Appropriate government:** Appropriate government of the contractor shall be decided on the basis of appropriate government of the Principal Employer.

**In case of dispute between contractor and contract labour in any establishment where such dispute arises, Central or State government, which has control over the establishment, shall be the appropriate government.*

5.**Sec. 2[l] - Employee:**The definition is almost similar to the definition of workman given in Industrial Dispute Act, 1947, except that two new category of managerial & administrative has been introduced. Apprentice under the Apprenticeship Act, 1961 has been expressly excluded from the definition. Only members of the Armed forces of the union has been expressly excluded from the definition of employee.In place of “workman” as used in case of Industrial Dispute Act, 1947, the term “employee” and “worker” has been used in the IR code.

6.**Sec. 2[m] - Employer:**It has been clarified in the definition of employee that in relation to contract labour, the contractor shall be the employer.In case of death of employer, legal representative of deceased employer shall become the employer. Rest ingredients remain the similar to the definition of employer in Industrial Dispute Act, 1947.

7. **Sec 2[o] - Fixed term employment:**For fixed term employment a written contract has to be there.Service condition of such employee shall not be less favourable than the permanent workers doing the same work or work of similar nature. They will be eligible for all statutory benefits available to permanent workers in proportion to the period of service rendered by them.

8. **Sec 2[p] - Industry:**Definition of industry has been widened.Concept of industry as envisaged in constitution bench judgement of Bangalore

Water Supply, has been incorporated in the definition i.e. *any systematic activity carried on by cooperation between an employer and worker employed directly or indirectly, for production, supply, or distribution of goods, or services with a view to satisfy human wants or wishes [not being wants or wishes which are spiritual or religious in nature]*.

It means persons employed with a view to satisfy wants and wishes which are spiritual or religious in nature, shall not be considered to be employed in industry. For example workers employed in temples and other religious and spiritual organisations.

Profit motive is not relevant. Three type of institutions have been excluded from the definition of industry namely:

- (i) Institution wholly or substantially engaged in charitable, social or philanthropic service;
- (ii) Any domestic service;
- (iii) Any activity of appropriate government relating to sovereign functions including activities carried on by the department of Central Govt. dealing with defence research, atomic energy and space;
- (iv) any other activity which may be notified by Central Government.

9. Sec. 2[q]- Industrial Dispute: Definition of Industrial dispute has been widened to include the dispute between individual worker and an employer connected with or arising out of discharge, dismissal, retrenchment or termination of service. Earlier this provision was incorporated by inserting section 2A in the Industrial Dispute Act 1947.

**Important to note that only worker and not employee can raise an industrial dispute.*

10. Sec. 2[zf] -Registered trade union are required to be registered under this code.

11. Sec. 2[zh] -Retrenchment: Under the definition of retrenchment, five types of termination of employment have been excluded from the definition of retrenchment. Under the previous definition only four types of employment were excluded from the definition of Retrenchment. New category of termination of service which has been excluded from the definition of retrenchment is "*termination of service of worker as a result of completion of tenure of fixed term employment*". It means termination of service of workers employed on "fixed term employment" shall not be retrenchment and no retrenchment compensation shall be payable in case of termination of a "fixed term employee".

12. **Sec. 2[zk]-Strike:**It has been clarified in the definition of strike that if 50% or more workers absent on the basis of common understanding, this conduct of the workers shall be considered as Strike.

13. **Sec. 2[zm] - Trade union dispute:**A dispute between two or more trade unions or dispute between members of the trade union.

14. **Sec. 2[zo] - Unfair labour practice:**means practices specified in the second schedule.

15. **Sec. 2[zq]-Wage:**Some important changes have been made in the definition of wages. The common part of old & new definition is “*All remuneration capable of being expressed in terms of money, which would be payable, if terms of employment expressed or implied were fulfilled, be payable to persons in respect of his employment or work done*”.

Under the new definition, three components have been expressly included in the definition of wage namely (i) Basic Pay, (ii) D.A. & (iii) Retaining Allowance, if any.

(i) Value of house accommodation or supply light, water, medical attendance (ii) Travelling concession (iii) Any commission payable on promotion of sale, which were earlier part of the wages under the Industrial Disputes Act, 1947 have been expressly excluded from the definition of wages. In the definition 11 items specified have been expressly excluded from the definition of wages in order to eliminate any ambiguity.

16. **Sec. 2[zr]-Worker:**Working journalist, sales promotion employees, have been included in the definition of worker. Individual worker who has been dismissed, discharged or retrenched or otherwise terminated, and in relation to whom industrial dispute is pending, shall also be considered as worker for the purpose of chapter III relating to trade union.

For the purpose of worker under chapter III (Trade Union) of the IR code:

(a) all persons employed in trade or industry;

(b) unorganised workers as defined under clause 2(m) of the Unorganised Workers Social Security Act, 2008, have also been included.

Chapter III - Trade Union

Section 6- For registration of Trade Union:minimum 10% of the workers or 100 workers, whichever is less, should be members of the

Trade Union on the date of application. This percentage/number shall at all times be there in the Trade Union subject to a minimum of seven.

Section 9 -Cancellation of registration: There are three grounds for cancellation. Third ground is Registrar may on complaint regarding any Trade Union, that members in the Trade Union has fallen below 10% of the total workers or 100 whichever is less. This is a more clear provision than the provision in the Trade Union Act, 1926.

Section 14 -Recognition: There was no provision of recognition of Trade Union under the Trade Union Act, 1926. Section 14(1) make it obligatory to have negotiating union in the industrial establishments for negotiating with the employer on prescribed matters.

Section 14(2): When there is only one union in the establishment, employer shall recognize such Trade Union as sole negotiating union of workers subject to criteria prescribed.

Section 14(3): When more than one Trade Union of workers are registered under this code in any industrial establishment, union having 51% or more workers on the muster roll in the industrial establishment, supporting the union concerned, shall be recognized by the employer as the sole negotiating union of workers.

Section 14(4): When none of union registered in any industrial establishment has 51% or more of workers on the muster roll, supporting any Trade Union, in that case employer of the industrial establishment shall constitute negotiating council for negotiation on matters prescribed. Negotiation council shall consist of representatives of such registered Trade Union which have support of minimum 20% of the total workers. Number of representative from Trade Union shall depend on the percentage of membership of the Trade Union concerned. There shall be one representative for each 20% and for remainder membership shall be decided at the rate of one member on each 20%.

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Chapter IV - Standing Order

Section 28: Certification of Standing Order shall be obligatory only for those industrial establishments wherein 300 or more workers are employed. Earlier for application of Standing Order minimum 100 workers were required to have been employed.

Section29: Model Standing Order shall be prescribed by Central Government.

Chapter VII – Mechanism for resolution of industrial disputes

Section 44 -Provision for constitution of Industrial Tribunal: There is no provision for constitution of Labour Court. In every Industrial Tribunal, there shall be one Judicial & one Administrative member.

Section 46 - Provision for constitution of National Industrial Tribunal: for adjudication of industrial disputes which involve questions of National importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in or affected by such disputes. There shall be one Judicial & one Administrative member. Judicial member shall preside.

Section 47- Decision of Tribunal or National Tribunal: shall be by consensus of members. If the members differ on any issue, they shall make a reference of the point of difference to appropriate Government. The appropriate Government shall thereafter, appoint Judicial member of other Tribunal or National Tribunal, who shall hear the point of reference and such point shall be decided according to majority of members of the Tribunal or National Tribunal.

Section 50 -Power to grant interim relief during pendency of industrial dispute: Unlike provisions under the erstwhile Industrial Disputes Act, 1947, the Tribunal or National Tribunal have been first time given power to grant interim relief as the circumstances require. While granting interim relief Tribunal or National Tribunal shall rely on the material on record and shall not take any fresh evidence.

Section 59 – Recovery of money due from employer: Section 59 is corresponding section of Section 33-C(1) & C(2) of the Industrial Disputes Act, 1947. Section 59 (1) corresponds to Section 33-C(1) of I.D. Act & Section 59 (2) corresponds to Section 33-C(2) of the I.D. Act.

There are 14 chapters in the I.R. Code, 2020. The salient features have been noted regarding Chapter-I to Chapter-VII. Remaining salient features noted under Chapter-VIII to XIV shall be informed in the second part.

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