

# ASSESSMENT ON THE INDUSTRIAL RELATIONS CODE, 2020 ("IR CODE")

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APRIL 2021

## Background

The Industrial Relations Code subsumes the three central labour acts named below ("Existing Law"):

1. The Trade Unions Act, 1926 ("TUA")
2. The Industrial Employment (Standing Orders) Act, 1946 ("IE(SOA)")
3. The Industrial Disputes Act, 1947 ("IDA")

### Legend

Meter	Meter
Procedural change	Substantive impact

### Executive Summary – Key highlights of the Industrial Relations Code –

#### Category

##### Grievance Redressal Committee ("GRC")

##### Summary of impact

It is mandatory to form a GRC composed of equal number of workers and representatives of the employer. Existing committees with similar names, however without representation of workers, adequate representation of women workers, etc., can no longer act as substitutes for the GRC – the formation of a GRC meeting the minimum conditions of the IR Code is now mandatory.

##### Highlights of revisions

1. A GRC is necessary and must be formed as follows:
  - a. It should be composed of a maximum of 10 persons in the following proportion – 50% being representatives of the employer and 50% being workers.
  - b. Female representation is a must and proportionate to the number of women workers amongst the total workers employed.
  - c. The chairperson of the GRC will be appointed annually with persons representing the employer and employee having the right to do so every alternate year.
2. A GRC is empowered to hear all grievances filed by workers within one year from the occurrence of the grievance.
3. Each grievance must be disposed within 30 days by majority decision of the GRC + the majority decision must also include at least 50% consent from workers on the GRC.
4. All appeals or grievances not closed within 30 days can be raised with conciliation officer.
5. The specific process and powers of the GRC are to be announced in the rules or further Government notifications.

##### Impact Meter



Category	
<b>Negotiating Union/Council</b>	<p><b>Summary of Impact</b></p> <p>1. A registered Trade Union with support of at least 51% workers will be the sole Trade Union with the power to negotiate on behalf of all workers and the employer must recognise this Union as the negotiating union for the employer. This may reduce the burden of having to negotiate with multiple Trade Unions.</p> <p>2. Recognition to a negotiating union or a council will be for three years, or five years if the employer and the Trade Unions mutually agree.</p> <p><b>Highlights of revisions</b></p> <p>1. It is now obligatory to recognise a registered Trade Union with support of at least 51% workers as the negotiating union for the industrial establishment i.e., such Trade Union will be the sole Trade Union with the power to negotiate on behalf of all workers.</p> <p><b>Scenario 1:</b>  <b>If an industrial establishment has only one registered Trade Union, such Union will be the employer's negotiating union.</b></p> <p><b>Scenario 2:</b>  <b>If the industrial establishment has multiple registered Trade Unions and one of them has the support of 51% workers, such Trade Union will be the employer's negotiating union.</b></p> <p>2. If there are multiple registered Trade Unions and no such Trade Union has the support of 51% of workers, then the employer is obliged to form a negotiating council with representatives of Trade Unions having the support of at least 20% of workers. Every Trade Union representing at least 20% of workers will be entitled to one representative in the council.</p> <p><b>Scenario 3:</b>  <b>If there are three registered Trade Unions having 50%, 40% and 10% workers, respectively, the employer will constitute a negotiating council consisting of representatives of the two Trade Unions having 50% and 40% workers. In such a scenario, three representatives will be selected from the Trade Union having 50% worker i.e., one representative for every 20% of its workers. And two representatives will be selected from the Trade Union having 40% worker i.e., one representative for every 20% of its workers.</b></p> <p>3. If there are multiple registered Trade Unions with each representing less than 20% of the workers or there are no Trade Unions, then the rules of the IR Code will specify how employers should recognise representatives who will be authorised to represent workers.</p> <p><b>Procedural change</b></p> 
<b>Prior notice for strikes and lock-out</b>	<p><b>Summary of Impact</b></p> <p>Advance notice is a must for strikes and lock-outs. Any such action without notice will be illegal.</p> <p><b>Highlights of revisions</b></p> <p>Lock-outs and strikes in factories or commercial establishments are permitted only with prior notice of 60 days.</p> <p><b>Impact Meter</b></p> 

Category	
Worker re-skilling fund	<p><b>Summary of Impact</b></p> <p>Companies must contribute an additional sum to the worker reskilling fund for every retrenched worker – this will be an additional cost to companies.</p> <p><b>Highlights of revisions</b></p> <p>For each worker retrenched under the statutory retrenchment provisions, companies must contribute an amount equal to 15 days (last drawn) wages of each such worker into a re-skilling fund set up by the Government.</p> <p><b>Impact Meter</b></p> <div style="background-color: yellow; width: 100%; height: 10px; border-radius: 5px;"></div>
Computation of Retrenchment compensation	<p><b>Summary of Impact</b></p> <p>There is no change in the process of computing retrenchment compensation. However, the new definition of Wages <u>may affect the computation of retrenchment compensation</u> for workers.</p> <p><b>Highlights of revisions</b></p> <p>1. In case of a retrenchment, a worker will have to be paid 15 days' average pay. Average pay will mean the wages payable to a worker, in three complete calendar months in case of a worker earning monthly wages. 2. The term Wages as defined in the IR Code (<a href="#">click here to refer to Point No. 1 in the Explanatory Note</a>) could result in either of the following interpretations –</p> <ul style="list-style-type: none"><li>a. Interpretation 1 (Liberal interpretation) – The retrenchment compensation may reduce.</li><li><b>Sample illustration –</b><ul style="list-style-type: none"><li>o Total Remuneration = INR 1000 (Part A (Wages) = INR 500 and Part B (HRA = INR 250 + Conveyance allowance = INR 250) = INR 500).</li><li>o Current practice – <u>Wages for the purpose of retrenchment compensation will be INR 1000.</u></li><li>o <u>New position per liberal interpretation – Wages for the purpose of retrenchment compensation will be INR 500.</u></li></ul></li><li>b. Interpretation 2 (Conservative interpretation) – The retrenchment compensation remains the same based on a conservative interpretation – because <u>Proviso 2</u> of the term Wages obliges wages to be computed and paid after including conveyance and travel allowance, house rent allowance, overtime allowance and remuneration payable under any settlement or court award.</li></ul> <p><b>Sample illustration –</b></p> <ul style="list-style-type: none"><li>o Total Remuneration = INR 1000 (Part A (Wages) = INR 500 and Part B (HRA = INR 250 + Conveyance allowance = INR 250) = INR 500).</li><li>o Current practice – <u>Wages for the purpose of retrenchment compensation will be INR 1000.</u></li><li>o <u>New position (like the current practice) – Wages for the purpose of retrenchment compensation will be INR 1000.</u></li></ul> <p>The interpretation arises due to the use of the term "payment of wages" in Proviso 2, which leads to a conservative view that since payment of wages includes computation of wages, Proviso 2 should apply. Admittedly, this goes against the construct of the entire provision. More clarity on this is expected once the rules are notified.</p> <p><b>Impact Meter</b></p> <div style="background-color: yellow; width: 100%; height: 10px; border-radius: 5px;"></div>

## Legend

Meter	Meter	Meter
Position similar to current law	Procedural change	Substantive impact

## Part A – Assessment

### Explanatory Notes –

#### 1. Meaning of Wages –

- a. The term 'Wages' is defined uniformly in the IR Code and the other (three) labour codes, but differently from Existing Law.
- b. The term 'Wages' defined in the IR Code is divided into the following parts –
  - i. Part A – which means all remuneration paid to employees including, amongst other components (on a non-exhaustive basis), basic pay, dearness allowance and retaining allowance;
  - ii. Part B (Exclusions) – which means 11 specific excluded components ("Excluded Components");
  - iii. Proviso 1 – where nine of the Excluded Components (specifically mentioned) exceed 50% of the total (gross) remuneration payable to an employee (viz.: Part A + Part B), the incremental amount exceeding 50%, will need to be considered as wages and included into Part A (Wages) for the purposes of computing the benefits under the IR Code;
  - iv. Proviso 2 – which obliges conveyance and travel allowance, house rent allowance, overtime allowance and remuneration payable under any settlement or court award to be considered to form part of Wages (Part A) for the purposes of equal wages to all genders and payment of wages; and
  - v. Explanation – which explains that where wages are paid in kind, then the value of up to 15% of the wages paid in kind will be considered to form part of Wages (Part A) and used for the purposes of computing the benefits under the IR Code.

#### 2. Meaning of 'Worker' and 'Employee' –

The IR Code defines a 'Worker' and 'Employee' differently. The material differences between the terms are as below –

- i. 'Employee' includes all persons employed in an establishment including in a supervisory, managerial and administrative capacity + 'Worker'.
- ii. 'Worker' excludes semi-skilled work + persons employed in a supervisory (where wages exceed INR 18,000 per month), managerial and administrative capacity.
- iii. Where a provision in the IR Code deals solely with a 'Worker', the rights and benefits (i.e., those granted to 'Worker' under the IR Code) for persons not considered as 'Worker' will be determined by their service conditions (e.g., employment agreement), the employer's policies, certified standing orders, and where relevant the local state level Shops and Establishment Acts.

3. Please ([click here](#)) to review a short comparison of judicial dispute resolution process under Existing Law and IR Code.

Category	
Bi-Partite Forums	<p><b>Headline</b></p> <p>Works Committee</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>DA (Section 3) – The employer can be required to constitute a works committee, with equal representation of employer and workmen by the appropriate Government if the industrial establishment employs 100 or more workmen. This works committee will promote measures to maintain good relations between the employers and the workmen.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 3 – Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p> <p><b>Impact Meter</b></p> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
Bi-Partite Forums	<p><b>Headline</b></p> <p>Grievance Redressal Committee</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 9C) –</p> <ol style="list-style-type: none"> <li>1.An industrial establishment, with 20 or more workmen, must have at least 1 grievance redressal committee (<b>GRC</b>).</li> <li>2.GRC will have maximum 6 members, with equal number of men and women, as far as possible and the chairperson shall be selected from persons representing the employer and employee alternatively every year.</li> <li>3.GRC has to complete its proceedings within 30 days.</li> <li>4.Appeal to the decision is to be made to the employer, to be disposed off within one month.</li> <li>5.There is no need for redressal committee under this provision If there is an already established grievance redressal mechanism</li> </ol>

**Category****Summary of position under Industrial Relations ("New Position")**

## Section 4 –

1. The IR Code mandates constitution and functioning of GRC for industrial establishments with 20 or more workers, with:
2. Maximum 10 members, with equal representation of employer and workers.
3. Representation of women members proportionate to number of women workers.
4. Chairperson selected from persons representing the employer and employee alternatively every year.
5. Limitation of making application is set as one year from the cause of action.
6. Limitation period for completing its proceedings is retained as 30 days.
7. Majority decision must be in agreement by majority representative of workers.
8. Appeal to the decision can be filed within 60 days to the conciliation officer through the Trade Union.
9. After 45 days of filing this appeal, the worker may make an application directly to the Tribunal.
10. Any discharge, dismissal, retrenchment or termination of services will be an industrial dispute and in this case an application has to be made to the tribunal within two years.

**Material variances Existing Law vs. New Position**

1. Unlike the Existing Law, the IR Code does not mention that if an establishment has an alternate Grievance Redressal Mechanism (GRM) that such GRM would suffice instead of a GRC.
2. Maximum number of members has increased from six to 10.
3. Appeal will be made to conciliation officer and not to the employer.
4. Workers are permitted to make application to the Tribunal after 45 days of filing application to the conciliation officer.
5. Limitation to raise a grievance is set as one year from the date of cause of action

**Impact Meter****Impact of variance**

If a company employs 20 or more workers, it is mandatory to form a GRC composed of equal number of workers and representatives of the employer. Existing committees with similar names but without representation of workers, adequate representation of women employees, etc., can no longer act as substitutes for the GRC – for the formation of a GRC meeting the minimum conditions of the IR Code is now mandatory.

**Trade Unions****Headline**

Registrar of Trade Unions

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 3) –

Registrar, Addl. Registrar and Deputy Registrar of Trade Unions will be appointed by the State Government

**Category**

	<p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 5 – Same as the Existing Law. Also, Joint Registrar may be appointed.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p> <p><b>Impact Meter</b></p> <div style="width: 25%; height: 10px; background-color: #0070C0; border: 1px solid black;"></div> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
<b>Trade Unions</b>	<p><b>Headline</b></p> <p>Criteria for registration</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA (Section 4, 9A) – Criteria for registration of Trade Union:</p> <ol style="list-style-type: none"><li>1.Seven or more members of a Trade Union may apply for registration. These 7 members are to be associated with the Trade Union at all times.</li><li>2.At least 10% of the workmen or 100 workmen of the industrial establishment, whichever is less are members of the Trade Union.</li><li>3.It is mandatory that a registered Trade Union shall have at least 10% of the workmen or 100 workmen at all time as its members, (subject to a minimum of seven workmen being its members)</li></ol> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 6 – Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p> <p><b>Impact Meter</b></p> <div style="width: 25%; height: 10px; background-color: #0070C0; border: 1px solid black;"></div> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>

**Category****Trade Unions****Headline**

Provisions to be contained in constitution or rules of Trade Union

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 6) –

Trade Unions will be registered subject to constitution of the executive and rules in accordance with the provisions of the law.

**Summary of position under Industrial Relations ("New Position")**

Section 7 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Trade Unions****Headline**

Application for registration, alteration of name and procedure thereof.

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 5, 7) –

For registration of a Trade Union, the application will be accompanied by an affidavit-declaration, rules of the Trade Union.

An already existing Trade Union for over a year will have to furnish a general statement of assets and liabilities also.

The registrar can call for further information or ask to alter the name of the Trade Union and refuse registration if not complied with.

**Summary of position under Industrial Relations ("New Position")**

Section 8 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Category****Trade Unions****Headline**

Registration of Trade Union and cancellation thereof.

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 8, 9, 10) –

1. Registrar will enter particulars related to the Trade Unions in the register and will issue a certificate of registration to the Trade Union. Trade Union
1. The registration, however, may be withdrawn or cancelled by the registrar by giving two months advance notice to the Trade Union:
  2. on the application by the Trade Union itself;
  3. any information received by him regarding contravention of the rules; or
  4. if the Trade Union falls below the minimum requirement of membership.

**Summary of position under Industrial Relations ("New Position")**

Section 9 –

Same as the Existing Law.

Trade Unions registered before the commencement of IR Code will be deemed to have been registered under the IR Code on submission of statement that the executive is formed in accordance with the IR Code and rules of the Trade Union.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Trade Unions****Headline**

Appeal against non-registration or cancellation of registration

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 11) –

Appeal against refusal to register or cancellation of registration will go to the High Court, in case of Trade Union within Presidency-town or Labour Court or any Industrial Court, according to jurisdiction, or City Civil Court otherwise.

**Summary of position under Industrial Relations ("New Position")**

Section 10 –

An appeal against non-registration or cancellation will be made to the Tribunal within a prescribed period.

**Material variances Existing Law vs. New Position**

Appeals against non-registration or cancellation of Trade Unions must be made to the Tribunal.

**Category**

	<p><b>Procedural change</b></p> <div style="background-color: yellow; width: 100px; height: 10px; border: 1px solid black; margin-bottom: 10px;"></div> <p><b>Impact of variance</b></p> <p>No impact on companies since this is a procedural change related to the registration of Trade Unions by workers.</p>
<b>Trade Unions</b>	<p><b>Headline</b></p> <p>Communication to Trade Union and change in its registration particulars</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA (Section 12) – Trade Unions' registered address of Head office will be used for all communications and notices. Notice of change of address will be given to the registrar within 14 days.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 11 – In addition to Existing Law, the IR Code required the Trade Union to inform the registrar of any change in constitution, rules or if the membership of the union falls below 10% of the total workers or 100 workers, whichever is less</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>Registered Trade Unions must inform registrar if the membership of the union falls below 10% of the total workers or 100 workers, whichever is less.</p> <p><b>Procedural change</b></p> <div style="background-color: yellow; width: 100px; height: 10px; border: 1px solid black; margin-bottom: 10px;"></div> <p><b>Impact of variance</b></p> <p>No impact on companies since this is a procedural change related to notice by Trade Unions to the registrar.</p>
<b>Trade Unions</b>	<p><b>Headline</b></p> <p>Incorporation of a registered Trade Union</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA (Section 13) – Every Trade Union will be a body corporate by the name under which it is registered.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 12 – Same as the Existing Law</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p>

Category	
	<p><b>Impact Meter</b></p> <div style="border: 1px solid yellow; width: 100px; height: 10px; background-color: #0070C0;"></div>
	<p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
Trade Unions	<p><b>Headline</b></p> <p>Certain Acts not to apply to registered Trade Unions</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA (Section 14) – The following Acts will not apply to a registered Trade Union.</p> <ul style="list-style-type: none"> <li>• the Societies Registration Act;</li> <li>• Co-operative Societies Act; and</li> <li>• Companies Act will not apply to any registered Trade Unions.</li> </ul> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 13 – Same as the Existing Law. In addition to the existing position, the Multi-State Co-operative Societies Act, 2002 also does not apply to registered Trade Unions.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>Multi-State Co-operative Societies Act, 2002 would not apply to registered Trade Unions.</p> <p><b>Impact Meter</b></p> <div style="border: 1px solid yellow; width: 100px; height: 10px; background-color: #0070C0;"></div>
	<p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
Trade Unions	<p><b>Headline</b></p> <p>Recognition of negotiating union or negotiating council</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 14 –</p> <ol style="list-style-type: none"> <li>1. Every industrial establishment with a registered Trade Union will have a negotiating union or a negotiating council to negotiate with the employer as follows:             <ol style="list-style-type: none"> <li>a. If there is only one registered Trade Union, such Trade Union will be the sole negotiating union.</li> <li>b. If more than one Trade Union is registered, the Trade Union with 51% or more workers on the muster roll of that industrial establishment supporting that Trade Union will be the negotiating union.</li> </ol> </li> </ol>

**Category**

- c. If no such union with majority support exists, then the employer will constitute a negotiating council which will consist of Trade Unions with support of over 20% of the total workers on the muster roll.
- 2. If negotiation is agreed by majority of the representatives of the Trade Unions, then the agreement is said to have been reached.
- 3. Recognition to a negotiating union or council will be valid for three years or a further period not exceeding five years (as mutually agreed by the employer and the Trade Union).

**Material variances Existing Law vs. New Position**

New provision.

Negotiating union and Negotiating council has been introduced for managing negotiations between Trade Unions and the employer.

**Impact Meter****Impact of variance**

[Click here](#) to review summary of assessment and impact.

**Trade Unions****Headline**

Objects of general fund, composition of separate fund and membership fee of Trade Union.

**Summary of position under Existing Law ("Existing Law")**

TUA (section 15, 16) –

- 1.General fund of the Trade Union can be utilised for specific objects such as payment of salaries, administrative expenses, legal proceedings, trade disputes, compensation of members for loss, etc.
- 2.A separate fund may be constituted for promoting civic and political interests of its members.
- 3.Non-contribution by any workman to the separate fund under Point 2 above will not deny benefit to the workman from general fund.

**Summary of position under Industrial Relations ("New Position")**

Section 15 –

Same as the Existing Law. However, the specific objects for which the Fund is to be utilised will be prescribed in rules.

**Material variances Existing Law vs. New Position**

No material variance, however, objects for which the general fund is to be utilised will be prescribed

**Impact Meter****Impact of variance**

No change in impact on companies.

**Category****Trade Unions****Headline**

Immunity from civil suit in certain cases

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 18) –

A registered Trade Union or any office-bearer or member will have immunity from any suit or legal proceeding in any civil court with respect to an act done in relation to industrial dispute.

**Summary of position under Industrial Relations ("New Position")**

Section 16 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Trade Unions****Headline**

Criminal conspiracy in furtherance of objects of Trade Union

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 17) –

Member of a registered Trade Union cannot be held for criminal conspiracy with respect to any agreement made between the members for the purpose of furthering an object of the Trade Union, unless it is an agreement to commit an offence.

**Summary of position under Industrial Relations ("New Position")**

Section 17 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Category****Trade Unions****Headline**

Enforceability of agreements

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 19) –

No agreement between the members of a registered Trade Union will be void or voidable only because the objects of the agreement will restrain the trade.

**Summary of position under Industrial Relations ("New Position")**

Section 18 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Trade Unions****Headline**

Right to inspect books of Trade Union

**Summary of position under Existing Law ("Existing Law")**

TUA (Section 20) –

Books of accounts and list of members can be inspected by any member of the Trade Union.

**Summary of position under Industrial Relations ("New Position")**

Section 19 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

## Category

### Trade Unions

#### Headline

Rights of minor to membership of Trade Union

#### Summary of position under Existing Law ("Existing Law")

TUA (Section 21) –  
A minor can be a member of the registered Trade Union if he has attained the age of 15 years.

#### Summary of position under Industrial Relations ("New Position")

Section 20 –  
A minor can be a member of the registered Trade Union if he has attained the age of 14 years and is employed in a non-hazardous industry

#### Material variances Existing Law vs. New Position

Membership of Trade Union is allowed for lower age employed in non-hazardous industry.

#### Procedural change



#### Impact of variance

No impact on companies since this is related to the membership of adolescent to the Trade Unions.

### Trade Unions

#### Headline

Disqualification of office-bearers of Trade Unions.

#### Summary of position under Existing Law ("Existing Law")

TUA (Section 21A) –  
If a person:

- is under 18 years of age or
- has been convicted for an offence involving moral turpitude and sentenced to imprisonment less than 5 years ago,

He will not be a member of the executive or an office-bearer of a registered Trade Union.

#### Summary of position under Industrial Relations ("New Position")

Section 21 –  
In addition to the Existing Law, it bars membership to persons disqualified:

- by the order of the Tribunal or
- on account of being a member of the council of minister or a person holding an office of profits.

#### Material variances Existing Law vs. New Position

The IR Code provides additional grounds for disqualification.

#### Procedural change



#### Impact of variance

No impact on the companies since this is a related to the disqualification of officer bearers of Trade Unions

## Category

### Trade Unions

#### Headline

Adjudication of disputes of Trade Unions.

#### Summary of position under Existing Law ("Existing Law")

No corresponding provision.

#### Summary of position under Industrial Relations ("New Position")

Section 22 –

Only the Tribunal will adjudicate upon the following disputes between:

1. two Trade Unions.
2. Member(s) and the Trade Union.
3. Worker(s) and trade Union on refusal of admission as member(s).
4. Federation of Trade Unions and authorised office-bearers.

#### Material variances Existing Law vs. New Position

New provision.

#### Procedural change



#### Impact of variance

No impact on the companies since this is related to adjudication of disputes related to Trade Unions.

### Trade Unions

#### Headline

Proportion of office-bearers to be connected with industry.

#### Summary of position under Existing Law ("Existing Law")

TUA (Section 22) –

Office-bearers in every registered Trade Union in an unorganised sector will be at least 50% of the persons actually employed in an establishment or an industry with which the Trade Union is connected. In all other cases this will be one-third of the total number

#### Summary of position under Industrial Relations ("New Position")

Section 23 –

Same as the Existing Law

#### Material variances Existing Law vs. New Position

No material variance.

#### Impact Meter



#### Impact of variance

No change in impact on companies.

## Category

### Trade Unions

#### Headline

Change of name, amalgamation, notice of change and its effect

#### Summary of position under Existing Law ("Existing Law")

TUA (Section 23, 24, 25, 26) –

1. Change in name of any registered Trade Union will require consent of at least two-third of members.
2. Two or more registered Trade Unions can amalgamate if the votes of at least 50 % members of each Trade Union is recorded and at least 60% are in favour of such amalgamation.
3. The notice of change of name or amalgamation will be signed by the secretary and seven members and will be sent to the registrar. In case of deceiving name registrar will refuse to register the change of name.

#### Summary of position under Industrial Relations ("New Position")

Section 24 –

Same as the Existing Law, except that the manner of amalgamation of Trade Unions will be as prescribed by the Government.

#### Material variances Existing Law vs. New Position

The manner of amalgamation of Trade Unions will be prescribed.

#### Impact Meter



#### Impact of variance

No impact on companies since this is related to the functioning of Trade Unions.

### Trade Unions

#### Headline

Dissolution

#### Summary of position under Existing Law ("Existing Law")

TUA (Section 27) –

Notice of dissolution signed by the secretary and seven members will be sent within 14 days to the registrar.

#### Summary of position under Industrial Relations ("New Position")

Section 25 –

Same as the Existing Law.

#### Material variances Existing Law vs. New Position

No material variance.

#### Impact Meter



#### Impact of variance

No impact on companies since this is related to functioning of Trade Unions.

## Category

### Trade Unions

#### Headline

Annual returns

#### Summary of position under Existing Law ("Existing Law")

TUA (Section 28) –  
Trade Union will forward to the registrar audited accounts of year ending 31st December. Any alterations in the rules will be sent to the registrar within 15 days. Registrar has the power to inspect records of Trade Unions.

#### Summary of position under Industrial Relations ("New Position")

Section 26 –  
Same as the Existing Law.

#### Material variances Existing Law vs. New Position

No material variance.

#### Impact Meter



#### Impact of variance

No change in impact on the companies.

### Trade Unions

#### Headline

Recognition of Trade Unions at Central and State level

#### Summary of position under Existing Law ("Existing Law")

No corresponding provision.

#### Summary of position under Industrial Relations ("New Position")

Section 27 –  
Central and the State Governments are vested with power to recognise a Trade Union or a federation of Trade Unions as Central Trade Union or State Trade Union, respectively, and any dispute regarding such recognition will be decided by prescribed authority by such government

#### Material variances Existing Law vs. New Position

New provision.

#### Procedural change



#### Impact of variance

IR Code does not provide clarity on the role of the Central or State Trade Unions, more clarity is expected once the rules are notice.

However, no impact on companies since this is a procedural change related to the recognition of Trade Unions by the Government.

Category	
<b>Standing Orders</b>	<p><b>Headline</b></p> <p>Application of this Chapter</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IE(SO)A (Section 1, 13B) – Applies to industrial establishments where 100 or more workmen are employed or were employed in the past twelve months.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 28 – It will apply where 300 or more workers are employed or were employed in the past twelve months.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>Certified standing orders are needed where 300 or more workers are employed by an industrial establishment (as against 100 or more presently).</p> <p><b>Procedural change</b></p>  <p><b>Impact of variance</b></p> <p>Certified standing orders are needed where 300 or more workers are employed (as against 100 or more presently).</p> <p>The model standing orders and the procedural rules for such standing orders under the IR Code will be announced in due course.</p> <p>Pending the rules and model orders, the impact on a company can be assessed as follows -</p> <ol style="list-style-type: none"> <li>1. Unless current exemptions made by the Government are extended or new exemptions are notified, the company must have standing orders in place + these standing orders must meet the requirements of the model orders + the negotiating union or council (where applicable) must be consulted + the standing orders must also be certified by the certifying authority.</li> <li>2. If a company's current standing orders are in conformity with the model standing orders, there will be no impact. These standing orders will be deemed approved after they are notified to the certifying officer (approval is not necessary).</li> </ol> <p>All changes to standing orders must be discussed with the negotiating union or council (where applicable) + be approved by the certifying authority</p>
<b>Standing Orders</b>	<p><b>Headline</b></p> <p>Making of model standing orders by Central Government and temporary application.</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IE(SO)A (Section 12A) – Central Government will make model standing orders that will be applicable to all establishments until the formal procedure to prepare and certify or adopt the model standing order is concluded.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 29 – Same as the Existing Law.</p>

**Category****Material variances Existing Law vs. New Position**

No material variance.

**Impact Meter****Impact of variance**

No change in impact on companies.

**Standing Orders****Headline**

Preparation of draft Standing orders by employer and procedure for certification.

**Summary of position under Existing Law ("Existing Law")**

IE(SO)A (Section 3.4.5) –

1. Employers will prepare draft standing orders within six months based on the model standing orders.
2. The draft will be accompanied by a statement giving particulars of the workmen employed and the Trade Union to which they belong.
3. A group of employers can also submit a joint draft of standing orders.
4. A copy of the draft will be sent to the Trade Union by the certifying officer, objections or suggestions will be submitted by the Trade Union within 15 days.
5. After due process, it will be certified and sent within seven days to the employer and the Trade Union.

State Amendment (Karnataka) –

1. The employer will have to consult the Trade Unions before forwarding the copy to the certifying officer.
2. If there is a dispute between employer and Trade Union, draft of the employer will be submitted to the certifying officer.

**Summary of position under Industrial Relations ("New Position")**

Section 30 –

1. Employers will prepare draft standing orders within six months from the date of commencement of the IR Code based on the model standing orders.
2. After preparation of the draft standing order, the employer will have to consult Trade Unions or negotiating union or negotiating council, as the case may be, and thereafter forward the draft of the standing order to the certifying officer electronically or otherwise.
3. In case the employer adopts the model standing order of the Central government, it will be deemed to have been already certified and only the information in this regard will be forwarded by the employer to the certifying officer. Only if required will the certifying officer direct the employer to amend the standing order and such modifications will then have to be made by the employer within the prescribed time limit.
4. A notice will be issued to the Trade Union or negotiating union or negotiating council, as the case may be, by the certifying officer in case of modifications.
5. The procedure will be completed by the certifying officer within the period of 60 days from receiving the draft standing order for modifications.
6. Within seven days thereafter, the certifying officer will send the certified standing orders to the employer and the Trade Union or negotiating union.
7. A group of employers can also submit a joint draft of standing orders.
8. In case of standing orders existing on the date of the commencement of IR Code and which are not inconsistent with the provisions, will continue and deemed to be certified standing orders under the IR Code.

**Category****Material variances Existing Law vs. New Position**

Existing (certified or adopted) standing orders can continue in force unless the Government announces new (model) standing orders under the IR Code, if any.

Draft standing offer can be forwarded to the certifying officer electronically.

All new standing orders or revisions to existing standing orders must involve participation (and approval) of negotiating union.

**Impact Meter****Impact of variance**

Refer impact detailed at Sr. No. 26 above.

**Standing Orders****Headline**

Certifying officer and appellate authority to have powers of Civil Court

**Summary of position under Existing Law ("Existing Law")**

IE(SO)A (Section 11) –

Certifying officer and appellate authority will be deemed to be a civil court under CPC.

**Summary of position under Industrial Relations ("New Position")**

Section 31 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance.

**Impact Meter****Impact of variance**

No impact on companies.

**Standing Orders****Headline**

Appeals

**Summary of position under Existing Law ("Existing Law")**

IE(SO)A (Section 6) –

An appeal from the order passed by the certifying officer can be filed by the employer, workmen or Trade Union or other prescribed representatives of the workmen with the appellate authority within 30 days of receiving the order.

**Summary of position under Industrial Relations ("New Position")**

Section 32 –

Appeals must be filed within 60 days against order passed by the certifying officer + appeals can be filed by the employer, Trade Union, negotiating union or council, or representative body of workers (where there is no trade union).

**Category****Material variances Existing Law vs. New Position**

Negotiating union or council, or representative body of workers (where there is no trade union) can also file appeals + limitation period for appeals has been extended to 60 days as against 30 days under the Existing Law.

**Procedural change****Impact of variance**

The procedure to appeal against orders of the certifying officer have been relaxed to an extent by extending the period within which appeals can be filed.

**Standing Orders****Headline**

Date of operation of standing orders and its availability.

**Summary of position under Existing Law ("Existing Law")**

IE(SOA) (Section 7,9) –

Standing order will come into operation 30 days after the authenticated copy is sent by the certifying authority to the employer and negotiating union or seven days after sent by the appellate authority, if an appeal is preferred. Employers will have to post the text of the certified standing order in English and language understood by the majority workmen on a special board for the purpose at the entrance and all departments where the workmen are employed.

**Summary of position under Industrial Relations ("New Position")**

Section 33 –

Same as the Existing Law. However, the rules will specify the language and manner in which the standing orders need to be displayed.

**Material variances Existing Law vs. New Position**

The manner of displaying the information will be notified.

**Procedural change****Impact of variance**

Rules will provide further procedural details.

**Standing Orders****Headline**

Register of Standing Orders.

**Summary of position under Existing Law ("Existing Law")**

IE(SOA) (Section 8) –

Certifying officer will maintain a register for all standing orders. A copy can also be obtained by a person on paying prescribed fee.

**Summary of position under Industrial Relations ("New Position")**

Section 34 –

Same as the Existing Law. However, under the IR Code, the certifying officer will file a copy of standing orders in a register or upload the same in electronic form or in such other form as may be prescribed.

**Category****Material variances Existing Law vs. New Position**

Copies of standing orders can also be filed electronically or in any other manner as may be prescribed

**Procedural change****Impact of variance**

No impact on companies as this deals with the process to be followed by the certifying officer.

**Standing Orders****Headline**

Duration and modification of standing orders.

**Summary of position under Existing Law ("Existing Law")**

IE(SO)A (Section 10) –

1. Unless agreed upon by the employer and the workmen or the Trade Union or any other body representative, standing orders cannot be modified until six months after the previous modification.
2. Any such modified can be made by application to the certifying officer.

**Summary of position under Industrial Relations ("New Position")**

Section 35 –

Same as the Existing Law. Additionally, negotiating union is now permitted to approve changes on behalf of all workers.

**Material variances Existing Law vs. New Position**

Negotiating union or council is permitted to approve changes on behalf of all workers.

**Procedural change****Impact of variance**

Changes to standing orders can now be passed with approval from the negotiating union or council (in addition to approval workers or representative body of workers) which will be treated as approval from all workers.

**Standing Orders****Headline**

Oral evidence in contradiction of standing orders not admissible

**Summary of position under Existing Law ("Existing Law")**

IE(SO)A (Section 12) –

Any oral evidence which varies or contradicts certified standing order will not be admitted in any court.

**Summary of position under Industrial Relations ("New Position")**

Section 36 –

Same as the Existing Law.

## Category

### Material variances Existing Law vs. New Position

No material variance

### Impact Meter



### Impact of variance

No change in impact on companies.

## Standing Orders

### Headline

Interpretation, etc., of standing orders.

### Summary of position under Existing Law ("Existing Law")

IE(SO)A (Section 13A) –  
Any question pertaining to application or interpretation of the standing orders will be decided by the Labour Court.

### Summary of position under Industrial Relations ("New Position")

Section 37 –  
Question of application or interpretation under IR Code will be decided by the Tribunal.

### Material variances Existing Law vs. New Position

Change in judicial forum with respect to questions arising pertaining to application or interpretation of standing orders.

### Procedural change



### Impact of variance

No impact on companies since this is a procedural change dealing with the powers of the Tribunal.

## Standing Orders

### Headline

Time-limit for completing disciplinary proceedings and liability to pay subsistence allowance

### Summary of position under Existing Law ("Existing Law")

IE(SO)A (Section 10A) –  
In case of a suspended workman pending investigation and inquiry, the employer will have to pay subsistence allowance to the workman for the period of his suspension and pending investigation or inquiry as:

- 1.50 % of the wages for the first 90 days of the suspension.
2. For the remaining period of suspension, 75% of the wages, if delay in inquiry process is not due to the workman.

Appeal can be filed to Labour Court. Subsistence allowance if beneficial in any State will override this provision.

### Summary of position under Industrial Relations ("New Position")

Section 38 –

Same as the Existing Law, but disciplinary proceedings must be completed ordinarily within 90 days from the date of suspension.

**Category****Material variances Existing Law vs. New Position**

IR Code sets a limitation period for concluding disciplinary proceedings.

**Procedural change****Impact of variance**

The new time limit will mean that companies must complete disciplinary proceedings for workers within 90 days (while continuing to pay the subsistence allowance).

Additionally under the new resolution process formulated by the IR Code appeals against the disciplinary proceedings will need to be adjudicated by the GRC unless the rules specify a separate appeal process.

**Standing Orders****Headline**

Power to exempt

**Summary of position under Existing Law ("Existing Law")**

IE(SO)A (Section 14) –  
Any Industrial establishment may be exempted by the appropriate Government.

**Summary of position under Industrial Relations ("New Position")**

Section 39 –  
Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance.

**Impact Meter****Impact of variance**

No impact on companies, unless exempted.

Impact on existing exemptions can be assessed once the Government notification is announced

**Notice of Change****Headline**

Notice of change

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 9A) –

1. Any change to the conditions of service can be made by the employer only after providing a notice to the workmen to this effect in the prescribed manner. And any such cannot be effected within 21 days of providing such notice.
2. However, no such notice is required:
  - a. when the change is to give effect to any settlement or award; or
  - b. civil services, defence, railways workmen.

**Category****Summary of position under Industrial Relations ("New Position")**

Section 40 –

Same as the Existing Law. However, the IR Code adds two additional grounds for exemptions from providing prior notice, viz. shift change required in an emergent situation after consultation with the GRC or change to give effect to Government orders.

**Material variances Existing Law vs. New Position**

Condition of prior notice for change in service conditions is exempted on additional grounds, i.e., shift change in emergent situation and where change is necessary to give effect to Government orders.

**Procedural change****Impact of variance**

The IR Code now (additionally) permits companies to change service conditions of workers in two expedient scenarios i.e.

- i. shift change required in an emergent scenario (e.g., to deal with a natural calamity which may affect part of the production etc.) provided the GRC is consulted, where applicable (the IR Code is presently silent on requiring approval from the GRC); and
- ii. where there is a Government order.

**Notice of Change****Headline**

Power of appropriate Government to exempt

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 9B) –

Government can exempt industrial establishments or workmen employed in an industrial establishment from the provision of providing prior notice of change as above in Section 9A.

**Summary of position under Industrial Relations ("New Position")**

Section 41 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance.

**Impact Meter****Impact of variance**

No change in impact on companies, unless exempted under the IR Code.

Impact on existing exemptions can be assessed once the Government notification is announced.

**Category****Voluntary reference of disputes to arbitration****Headline**

Voluntary reference of disputes to arbitration

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 10A) –

1. An industrial dispute can be referred to arbitration on written agreement between the employer and the workmen.
2. Arbitrator(s) and Umpire (if any) will be agreed upon in the agreement.
3. This agreement will be forwarded to the Government and the conciliation officer.
4. If the Government is satisfied that both parties making reference represent majority, it will issue a notification and employers and the workmen who are not parties to the arbitration agreement but are concerned to the dispute will also be allowed to make their case before the arbitrator(s).
5. The arbitrator(s) will submit the arbitration award to the appropriate Government.
6. The appropriate Government may prohibit any strike or lock-out in connection with the dispute which has been referred to arbitration.

**Summary of position under Industrial Relations ("New Position")**

Section 42 –

1. Same as the Existing Law.
2. Additionally, it provides that:
  - a. in case of an industrial dispute not related to dismissal of an individual worker, the workers will be represented by
    - o the negotiating union or council,
    - o in the absence of a negotiating union or council, by the Trade Union, or
    - o in the absence of a Trade Union, by the chosen representatives.
  - b. in case of industrial disputes related to dismissal of an individual worker, the worker will be represented in person or through an authorised representative.

**Material variances Existing Law vs. New Position**

No material variance. However, the IR Code recognizes the authorised representatives permitted to represent workers before the arbitrator

**Procedural change****Impact of variance**

No impact on companies, since this is a procedural change concerning the authorised representatives permitted to represent workers before the arbitrator. The rules will likely clarify the specific details of the process to appoint representatives of the workers

**Mechanism for Resolution of Industrial Disputes****Headline**

Conciliation officers

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 4) –

Conciliation officers for mediation and settlement of industrial disputes are to be appointed by the Government.

**Category****Summary of position under Industrial Relations ("New Position")**

Section 43 –  
Same as the Existing Law

**Material variances Existing Law vs. New Position**

No material variance.

**Impact Meter****Impact of variance**

No impact on companies.

**Mechanism for Resolution of Industrial Disputes****Headline**

Industrial Tribunal

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 5, 6, 7, 7A) –  
Existing Law provides for Boards of Conciliation, Courts of Inquiry, Labour courts and tribunals as different level of adjudicating authorities.

**Summary of position under Industrial Relations ("New Position")**

Section 44 –  
1. Industrial tribunal under the IR Code will be constituted with one judicial member and one administrative member.  
2. Division bench will decide the cases related to:  
a. The application and interpretation of standing orders.  
b. Discharge or dismissal of workers.  
c. Illegality of a strike or lock-out.  
d. Retrenchment of workmen and closure of establishment  
e. Trade Union disputes.  
3. All the other cases will be decided by a single member benc

**Material variances Existing Law vs. New Position**

The industrial dispute resolution mechanism has changed. Concept of Conciliation Board, Labour Courts, Courts of Inquiry and Tribunal have been abolished and are replaced by Industrial Tribunal.

**Procedural change****Impact of variance**

No direct impact on companies. However, the litigation forums for industrial disputes have been reformed under the IR Code.

[Click here for details of litigation forums under Existing Law and IR Cod](#)

Category	
<b>Mechanism for Revolution of Industrial Disputes</b>	<p><b>Headline</b></p> <p>Finality of constitution of Tribunal</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provisions.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 45 – Appointment of a judicial member or an administrative member cannot be questioned in any manner.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>New provision</p> <p><b>Impact Meter</b></p> <div style="width: 100px; height: 10px; background-color: #f0a0a0; border: 1px solid black; margin-bottom: 5px;"></div> <p><b>Impact of variance</b></p> <p>No impact on companies since this is related to the finality of constitution of the Industrial Tribunals.</p>
<b>Mechanism for Revolution of Industrial Disputes</b>	<p><b>Headline</b></p> <p>National Industrial Tribunal</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 7B) –</p> <ol style="list-style-type: none"> <li>1. One or more National Tribunals will be constituted to adjudicate upon the matters:             <ul style="list-style-type: none"> <li>◦ of national importance; or</li> <li>◦ of such nature where the industrial establishments situated in more than one State are likely to be affected.</li> </ul> </li> <li>2. It will consist of one person, who is or has been a High Court judge.</li> <li>3. Central Government may appoint two persons as assessors to advise the National Tribunal.</li> </ol> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 46 – Same as Existing Law. However, it will consist of a judicial member and an administrative member. The IR Code is silent on appoint of assessors to advise the National Tribunal</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>The National Tribunal will have a different constitution.</p> <p><b>Procedural change</b></p> <div style="width: 100px; height: 10px; background-color: #f0a0a0; border: 1px solid black; margin-bottom: 5px;"></div> <p><b>Impact of variance</b></p> <p>No impact on companies since this is related to the manner in which the National Tribunal will be constituted.</p>

## Category

### Mechanism for Revolution of Industrial Disputes

#### Headline

Decision of Tribunal or National Industrial Tribunal

#### Summary of position under Existing Law ("Existing Law")

No corresponding provisions.

#### Summary of position under Industrial Relations ("New Position")

Section 47 –

If there is difference in opinion between the members of the Tribunal or the National Industrial Tribunal the appropriate government will appoint a judicial member of another Tribunal or National Industrial Tribunal to hear the case additionally and shall be decided according to the majority views of the members.

#### Material variances Existing Law vs. New Position

New provision

#### Procedural change



#### Impact of variance

No direct impact on companies However, in the event where in an industrial dispute related to the companies, the members of a Tribunal have difference of opinion in the matter, such an industrial dispute will be adjudicated upon by a judicial member of another tribunal. Hence, we have graded this as amber in terms of risk assessment.

### Mechanism for Revolution of Industrial Disputes

#### Headline

Disqualifications for members of Tribunal and National Industrial Tribunal

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 7C) –

A person will not be the presiding officer of a Labour Court, Tribunal or National Tribunal if he has attained the age of 65 years or is connected to an industrial dispute or an industry in question.

#### Summary of position under Industrial Relations ("New Position")

Section 48 –

Same as the Existing Law for Tribunals or National Industrial Tribunal.

#### Material variances Existing Law vs. New Position

The National Tribunal will have a different constitution.

#### Impact Meter



#### Impact of variance

No impact on companies since this is related to the qualifications necessary to become members of tribunals.

Category	
<b>Mechanism for Revolution of Industrial Disputes</b>	<p><b>Headline</b></p> <p>Procedure and powers of arbitrator, conciliation officer, Tribunal and National Industrial Tribunal</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 11) –</p> <ul style="list-style-type: none"> <li>1.The Conciliation Board, Labour Court, Tribunal and National Tribunal will have to powers of the Civil Court.</li> <li>2.A conciliation officer, member of Conciliation Board, Labour Court, Tribunal or National Tribunal may enter the premise to which the dispute relates.</li> <li>3.A conciliation officer can enforce the attendance of any person or inspect any document.</li> </ul> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 49 –</p> <ul style="list-style-type: none"> <li>1.The conciliation officer, Industrial Tribunal and National Tribunal will have to powers of the Civil Court.</li> <li>2.A conciliation officer, or a person authorised by the Industrial Tribunal or National Industrial Tribunal may enter the premise to which the dispute relates.</li> <li>3.A conciliation officer can enforce the attendance of any person or inspect any document.</li> </ul> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance as essentially the powers of the new authorities under the IR Code remain the same.</p> <p><b>Impact Meter</b></p> <div style="width: 100px; height: 10px; background-color: #f0e68c; border: 1px solid #ccc; border-radius: 5px; margin-bottom: 5px;"></div> <p><b>Impact of variance</b></p> <p>No impact on companies since this is related to the powers of the adjudicating bodies.</p>
<b>Mechanism for Revolution of Industrial Disputes</b>	<p><b>Headline</b></p> <p>Powers of Tribunal and National Industrial Tribunal to give appropriate relief in case of discharge or dismissal of worker</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 11A) –</p> <p>Labour courts and Tribunals can set aside the order of discharge, dismissal or termination and direct reinstatement or give relief including award of any lesser punishment.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 50 –</p> <p>Same as the Existing Law, except that such powers are now exercised by the Industrial Tribunal and National Industrial Tribunal. Additionally, the Tribunals are empowered to grant interim relief to the worker as the case may require.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <ul style="list-style-type: none"> <li>1.Reformed dispute resolution mechanism.</li> <li>2.Tribunals are empowered to grant interim relief to workers in case of discharge or dismissal.</li> </ul>

**Category****Procedural change****Impact of variance**

No direct impact on companies however, companies must take note that if a worker is dismissed or discharged by the company, the Tribunal may grant interim stay on such discharge or dismissal.

[Click here](#) for details on the new judicial process for disputes under the IR Code.

**Mechanism for Revolution of Industrial Disputes****Headline**

Transfer of pending cases

**Summary of position under Existing Law ("Existing Law")**

No corresponding provision. This is a transitional provision.

**Summary of position under Industrial Relations ("New Position")**

Section 51 –

All cases pending before the Labour court, Tribunals and the National Tribunal under the IDA will be transferred to the Tribunal and National Industrial Tribunal under the IR Code from the date of commencement of the IR Code. Such cases may start afresh or from the stage they were pending, as it may deem fit.

**Material variances Existing Law vs. New Position**

This is a transitional provision.

**Procedural change****Impact of variance**

No impact on companies, since this is only a procedural change permitting the Government to transfer existing cases to the new Industrial Tribunal and National Industrial Tribunal that will be constituted under the IR Code. Any pending industrial disputes of a company will be transferred accordingly, hence, we have graded this as amber in terms of risk assessment.

**Mechanism for Revolution of Industrial Disputes****Headline**

Adjustment of services of presiding officers under repealed Ac

**Summary of position under Existing Law ("Existing Law")**

No corresponding provision. This is a transitional provision.

**Summary of position under Industrial Relations ("New Position")**

Section 52 –

Presiding officers of any adjudicating forum under the IDA will continue as the judicial member of the Tribunals under the IR Code for the remaining period of their office.

**Category****Material variances Existing Law vs. New Position**

This is a transitional provision.

**Impact Meter****Impact of variance**

No impact on companies, since this is related to the adjustment of tenures of presiding officers

**Mechanism for Revolution of Industrial Disputes****Headline**

Conciliation and adjudication of dispute

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 12) -

1. Conciliation officer will hold proceedings on:
  - a. an industrial dispute or an apprehension of it; or
  - b. Dispute related to public utility service and notice for strike or lock-out.
2. A report of the settlement, or even in case of no settlement will be sent to the Government within 14 days. If satisfied that there is a case, Government can refer it to the Labour Court, Tribunal or National Tribunal.

**Summary of position under Industrial Relations ("New Position")**

Section 53 -

1. Conciliation officer will hold proceedings on:
  - a. an industrial dispute or an apprehension of it; or
  - b. dispute on a notice of strike or lock-out.
2. No such proceeding can be held after two years since the industrial dispute arose.
3. The conciliation officer will send the report within 45 days from the date of commencement of the proceedings or a shorter period, if so prescribed. However, in case where has received a notice of strike or lockout under Section 62, such report shall be sent within 14 days from the date of commencement of the proceedings.
4. In case of unsettled matters, any party can make an application to the Tribunal within 90 days from the date of the report.

**Material variances Existing Law vs. New Position**

1. Under the IR Code, the time period for completing conciliation proceedings and submission of reports have been extended to 45 except in case of a dispute pertaining to notice of strike or lockout.
2. Period of limitation has been set to two years for initiating conciliation proceedings.
3. Application to the Tribunal is permitted in cases where no settlement was reached and can be made directly by the parties.

**Procedural change****Impact of variance**

The conciliation process has been amended such that there is a period of limitation of two years to initiate such process + application can be made directly by the concerned party where no settlement was reached.

## Category

### Mechanism for Revolution of Industrial Disputes

#### Headline

Reference to and functions of National Industrial Tribunal

#### Summary of position under Existing Law ("Existing Law")

No corresponding provision.

#### Summary of position under Industrial Relations ("New Position")

Section 54 –

The Central Government can refer an industrial dispute to a National Industrial Tribunal when the dispute involves question of national importance or when the industrial establishments situated in more than one state are likely to be interested or affected. Proceedings will be held expeditiously

#### Material variances Existing Law vs. New Position

New provision. However, while there was no separate provision mentioning reference of such disputes to the National Industrial Tribunal, even under the Existing Law this was covered under the provision which spoke of the constitution of National Industrial Tribunal (Please refer to Sr. No. 44).

#### Impact Meter



#### Impact of variance

No impact on companies since this is related to recognition the new National Industrial Tribunal

### Mechanism for Revolution of Industrial Disputes

#### Headline

Form of award, its communication and commencement

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 16,17A) –

1. The report of the Board or the Court and award of the Tribunal will be communicated to the parties and the Government.
2. The award (including arbitration award) will become enforceable after 30 days from the date of communication.
3. However, the Government on public grounds affecting national economy or social justice can declare that the award may not become enforceable even after 30 days.
4. Within 90 days the Government will make an order rejecting or modifying the award and place it before the legislature or the parliament, as the case may be, and after 15 days of this the award will become enforceable.

#### Summary of position under Industrial Relations ("New Position")

Section 55 –

Same as the Existing Law.

#### Material variances Existing Law vs. New Position

No material variance

#### Impact Meter



#### Impact of variance

No change in impact on companies.

**Category****Mechanism for Revolution of Industrial Disputes****Headline**

Payment of full wages to worker pending proceedings in higher Courts

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 17B) –

If an employer has filed an appeal in the High Court or the Supreme Court against the award of a Tribunal that directs the reinstatement of a workman, the employer will be liable to pay him full wages last withdrawn by him including maintenance allowance, if any, during the pendency of the appeal, unless ordered otherwise by the Court.

**Summary of position under Industrial Relations ("New Position")**

Section 56 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance.

**Impact Meter****Impact of variance**

No change in impact on companies.

**Mechanism for Revolution of Industrial Disputes****Headline**

Persons on whom settlements and awards are binding

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 18) –

All settlements and awards will be binding on the Parties of the dispute

**Summary of position under Industrial Relations ("New Position")**

Section 57 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

## Category

### Mechanism for Revolution of Industrial Disputes

#### Headline

Period of operation of settlements and awards

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 19) –

1. With respect to a Settlement:
  - a. It will come into operation on a mutually agreed date or the date of signature, if no such mutually agreed date is provided.
  - b. It will be binding for a mutually agreed period or a period of six months, if no such period is provided.
  - c. Even after of such period, it shall continue to remain binding until a two-month notice is given by a party to another the intention to terminate the settlement.
2. With respect to an Award:
  - a. It will remain in operation for one year, extendable up till one year but only up till three years by the Government.
  - b. Even after of such period, it shall continue to remain binding until a two-month notice is given by a party to another the intention to terminate the award.
  - c. On an application or on its own motion the appropriate Government can refer an award to the Labour Court if there is a material change in the circumstances

#### Summary of position under Industrial Relations ("New Position")

Section 58 –

Same as the Existing Law. However, reference of an award by the appropriate Government where there is a material change in the circumstances will now be made to the Tribunal (instead of the Labour Court)

#### Material variances Existing Law vs. New Position

Reference of an award by the Government can be made to the Tribunal as against the Labour Court under Existing Law.

#### Procedural change



#### Impact of variance

No direct impact on companies, since the change is only with respect to the forum to which the reference of the award is made.

### Mechanism for Revolution of Industrial Disputes

#### Headline

Recovery of money due from employer

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 33C) –

1. Recovery can be made from the employer if any money is due to a workman related to lay-off, dismissal or retrenchment by making an application to the appropriate Government.
2. The appropriate Government will issue a certificate if satisfied, for the amount that is to be recovered and due to a workman and the collector will recover this amount as an arrear of land revenue.
3. The application must be made by the workman, his representative or a legal heir in writing and within one year from the date on which the money become due.
4. Any dispute regarding the computation of the money due will be decided by the Labour Court within three months. It may appoint a Commissioner for this purpose.
5. A single application for recovery can be made by many workmen employed under the same employer.

**Category****Summary of position under Industrial Relations ("New Position")**

Section 59 –  
Same as the Existing Law. However, the dispute on computation of the money due will now be decided by the Tribunal

**Material variances Existing Law vs. New Position**

No material variance.

**Procedural change****Impact of variance**

No direct impact on companies, since the change is only with respect to the forum to which the reference of the dispute on computation of money due is made.

**Mechanism for Revolution of Industrial Disputes****Headline**

Commencement and conclusion of proceedings

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 20) –

1. A conciliation proceeding is deemed to have commenced:
  - o on the date on which a notice of strike or lock-out is received by the Conciliation Officer or
  - o On the date of the order referring the dispute to the Board and is deemed to be concluded when:
    - o the memorandum of settlement is signed or
    - o failure of conciliation is reported by the conciliation officer to the appropriate Government or report of the or
    - o reference is made to a Labour Court or Tribunal or National Industrial Tribunal.
2. Proceedings before an arbitrator or a Labour Court or Tribunal or National Industrial Tribunal is deemed to have commenced on the date of filling application or appeal or reference of the dispute and is deemed to be concluded when the award becomes enforceable.

**Summary of position under Industrial Relations ("New Position")**

Section 60 –  
Same as the Existing Law, however, the conciliation proceedings will be deemed to commence from the day the first meeting is held by the conciliation officer.

**Material variances Existing Law vs. New Position**

Date of commencement of a conciliation proceedings will begin from the date of the first meeting.

**Procedural change****Impact of variance**

No impact on companies since this is only a procedural change which redefines the commencement date for conciliation proceedings.

Category	
<b>Mechanism for Resolution of Industrial Disputes</b>	<p><b>Headline</b></p> <p>Certain matters to be kept confidential</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 21) – All information acquired during an inquiry or investigation in relation to a Trade Union or business which is not otherwise available to Trade Union will be treated as confidential on the written request by such Trade Union or business.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 61 – Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p> <p><b>Impact Meter</b></p> <div style="width: 100px; height: 10px; background-color: #0070C0; border: 1px solid #0070C0; margin-bottom: 5px;"></div> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
<b>Strikes and Lock-outs</b>	<p><b>Headline</b></p> <p>Prohibition of strikes and lock-outs</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 22, 23) –</p> <ol style="list-style-type: none"> <li>1. An employee in a public utility service cannot go on a strike:             <ol style="list-style-type: none"> <li>a. without giving six weeks prior notice to the employer; or</li> <li>b. within 14 days of giving such notice; or</li> <li>c. before the expiry of the date of the strike specified in the notice; or</li> <li>d. during the pendency of a conciliation proceeding and seven days after its conclusion; or</li> <li>e. during the pendency and two months after the conclusion of the proceedings of a tribunal and arbitration</li> <li>f. when these settlement or award is in operation.</li> </ol> </li> <li>2. An employer cannot lock-out any workman in a public utility service:             <ol style="list-style-type: none"> <li>a. without giving a six week notice to the workman</li> <li>b. within 14 days of giving such notice</li> <li>c. before the expiry of the date of the strike specified in the notice; or</li> <li>d. during the pendency of a conciliation proceeding and seven days after the conclusion of it.</li> <li>e. during the pendency and two months after the conclusion of the proceedings of a tribunal and arbitration or when these settlement or award is in operation.</li> </ol> </li> <li>3. Employer will also send the notice for strike or lock-out to the authority within five days.</li> </ol> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 62 –</p> <ol style="list-style-type: none"> <li>1. Same as the Existing Law, but this now applies to all industrial establishments i.e., factories, commercial establishments etc.</li> <li>2. Additionally, strikes or lock-outs are only permitted with prior advance notice of 60 days.</li> </ol>

**Category****Material variances Existing Law vs. New Position**

The provision is no longer limited only to public (Governmental) utilities and will apply to all industrial establishments + notice period has increased to sixty days as against six weeks under the Existing Law.

**Impact Meter****Impact of variance**

Lock-outs (or strikes) in factories or commercial establishments are permitted only with prior notice of 60 days. Action taken without notice is illegal.

**Strikes and Lock-outs****Headline**

Illegal strikes and lock-outs

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 24) –  
Any strike or lock-out which does not satisfy the above conditions in section will be illegal.

**Summary of position under Industrial Relations ("New Position")**

Section 63 –  
Same as the Existing Law, but this now applies to all industrial establishments i.e., factories, commercial establishments etc

**Material variances Existing Law vs. New Position**

The provision is no longer limited only to public (Governmental) utilities and will apply to all industrial establishments + prior notice is mandatory.

**Procedural change****Impact of variance**

Lock-outs (or strikes) in factories or commercial establishments are permitted only with prior notice of 60 days. Action taken without notice is invalid.

**Strikes and Lock-outs****Headline**

Prohibition of financial aid to illegal strikes or lock-outs.

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 25) –  
Financial aid of illegal strikes and lock-outs is prohibited.

**Summary of position under Industrial Relations ("New Position")**

Section 64 –  
Same as the Existing Law, but this now applies to all industrial establishments i.e., factories, commercial establishments etc.

**Material variances Existing Law vs. New Position**

The provision is no longer limited only to public (Governmental) utilities and will apply to all industrial establishments + prior notice is mandatory.

## Category

	<p><b>Procedural change</b></p>  <p><b>Impact of variance</b></p> <p>Lock-outs (or strikes) in factories or commercial establishments are permitted only with prior notice of 60 days. Action taken without notice is invalid</p>
<b>Lay-off, Retrenchment and Closure</b>	<p><b>Headline</b></p> <p>Application of sections 67 to 69</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 25A) – Provisions related to:</p> <ul style="list-style-type: none"> <li>• Rights of workmen laid-off for compensation under Section 25C,</li> <li>• Employer's duty to maintain muster rolls under Section 25D, and</li> <li>• Workmen not entitled to compensation in certain cases in case of layoff under Section 25E</li> </ul> <p>will only apply to a factory, mine or plantation with 50 to 99 workmen or where work is of a seasonal character.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 65 – Provisions related to:</p> <ul style="list-style-type: none"> <li>• Rights of worker laid-off for compensation under Section 67,</li> <li>• Employer's duty to maintain muster rolls under Section 68, and</li> <li>• Workers not entitled to compensation in certain cases in case of layoff under Section 69,</li> </ul> <p>will only apply to a factory, mine or plantation with 50 to 299 workers or where work is of a seasonal character.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance except that the threshold of workers for applicability is now between 50 – 299 workers (as against 50 – 99 workers under the Existing Law).</p> <p><b>Procedural change</b></p>  <p><b>Impact of variance</b></p> <p>These provisions will apply only to factories, mines and plantations employing 50 – 299 workers. There is no impact on other establishments.</p>
<b>Lay-off, Retrenchment and Closure</b>	<p><b>Headline</b></p> <p>Definition of continuous service</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 25B)</p> <ol style="list-style-type: none"> <li>1. Continuous service will mean uninterrupted service including absence due to sick leave, accident, legal strike or lock-out or cessation of work, not due to the workmen fault.</li> <li>2. When workman is not in continuous service for one year, he will be deemed to be in continuous service if he has worked under the employer for at least 190 days in a mine or 240 days in any other case in the preceding 12 months. Similarly, where workman is not in continuous service for a period of six months it, he will be deemed to be in continuous service if he has worked for at least 95 days in a mine and 120 days in any other case.</li> </ol>

**Category**

	<p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 66 – Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p> <p><b>Impact Meter</b></p> <div style="width: 20%; height: 10px; background-color: #0070C0; border: 1px solid #D9E1F2;"></div> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
<b>Lay-off, Retrenchment and Closure</b>	<p><b>Headline</b></p> <p>Rights of workers laid off for compensation, etc.</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 25C) –</p> <ol style="list-style-type: none"><li>Employer will pay compensation equivalent to 50% of the total basic wages and dearness allowance to a workman whose name on muster roll for one continuous year if he is laid off.</li><li>If he is laid off for more than 45 days, no compensation will be paid for any period beyond 45 days, if mutually agreed between the workman and the employer. If he is retrenched after 45 days of lay-off, this compensation for being laid-off will be adjusted against his retrenchment compensation.</li></ol> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 67 – Same as the Existing Law</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance except that the threshold of workers for applicability is now between 50 – 299 workers (as against 50 – 99 workers under the Existing Law).</p> <p><b>Procedural change</b></p> <div style="width: 100%; height: 10px; background-color: #FFB703; border: 1px solid #D9E1F2;"></div> <p><b>Impact of variance</b></p> <p>This provisions will apply only to factories, mines and plantations employing 50 – 299 workers.</p> <p>The impact of the new definition of 'wages' may mean that lay-off payouts change based on a company's current practices. <a href="#">Click here</a> to refer to sample calculations.</p> <p>No impact on other establishments.</p>

**Category****Lay-off,  
Retrenchment and  
Closure****Headline**

Duty of an employer to maintain muster rolls of worker

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 25D) –  
An employer must maintain a muster roll of all the workmen.

**Summary of position under Industrial Relations ("New Position")**

Section 68 –  
Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance except that the threshold of workers for applicability is now between 50 – 299 workers (as against 50 – 99 workers under the Existing Law).

**Procedural change****Impact of variance**

These provisions will apply only to factories, mines and plantations employing 50 – 299 workers. There is no impact on other establishments.

**Lay-off,  
Retrenchment and  
Closure****Headline**

Workers not entitled for compensation in certain cases.

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 25E) –  
The employer is not liable to pay any compensation to a workman who:

- has been laid off but refuses to accept any alternative employment;
- does not present himself at the establishment at least once a day; or
- has been laid off due to a strike or slowing down of production.

**Summary of position under Industrial Relations ("New Position")**

Section 69 –  
Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance except that the threshold of workers for applicability is now between 50 – 299 workers (as against 50 – 99 workers under the Existing Law).

**Procedural change****Impact of variance**

These provisions will apply only to factories, mines and plantations employing 50 – 299 workers. There is no impact on other establishments.

**Category****Lay-off,  
Retrenchment and  
Closure****Headline**

Conditions precedent to retrenchment of workers

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 25F) –

Employer can retrench a workman only:

1. with prior one month's written notice indicating the reasons for retrenchment or wages for one month and
2. the workman has been paid retrenchment compensation, i.e., 15 days' average pay for every completed year of continuous service or in excess of six months.
3. if notice is served to the appropriate Government as prescribed.

**Summary of position under Industrial Relations ("New Position")**

Section 70 –

Same as the Existing Law. However, the appropriate Government has the power to modify number of days (viz. 15 days) for compensation on average pay.

**Material variances Existing Law vs. New Position**

No material variance, except that the appropriate Government has powers to modify the number of days for computing retrenchment compensation.

However, the impact of the provision may be altered by the interpretation of the definition of wages.

**Impact Meter****Impact of variance**

No impact on companies by the provision itself, unless the State government modifies the number of days to be taken into account for calculating the retrenchment compensation.

However, the new definition of 'Wages' under the IR Code, may alter the impact of this provision.

[Click here](#) to refer to assessment of impact

**Lay-off,  
Retrenchment and  
Closure****Headline**

Procedure for retrenchment

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 25G) –

The retrenchment should ordinarily take place on the first come, last go basis.

**Summary of position under Industrial Relations ("New Position")**

Section 71 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

Category	
<b>Lay-off, Retrenchment and Closure</b>	<p><b>Headline</b></p> <hr/> <p>Reemployment of retrenched worker</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>IDA (Section 25H) – Where a workman has been retrenched and the employer plans to hire someone in the same position, the retrenched workmen will get priority for re-employment over other persons.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <hr/> <p>Section 72 – Same as the Existing Law, but obligation to re-employ retrenched worker will expire at the end of one year from the date of retrenchment of such worker.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>Obligation to re-employ retrenched worker expires after one year (as against indefinitely under the Existing Law).</p> <p><b>Procedural change</b></p>  <p><b>Impact of variance</b></p> <hr/> <p>Beneficial impact on companies because the obligation to re-employ a retrenched worker is no longer indefinite and is capped to one year</p>
<b>Lay-off, Retrenchment and Closure</b>	<p><b>Headline</b></p> <hr/> <p>Compensation to workers in case of transfer of establishment</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>IDA (Section 25FF) – In case of transfer of ownership or management of an establishment, every workman who has been in continuous service of at least one year will receive notice and compensation as if he is being retrenched, unless:</p> <ul style="list-style-type: none"> <li>• his services are uninterrupted by such transfer; or</li> <li>• the new terms and conditions of his service are not in any way less favourable for him than immediately before the transfer; or</li> <li>• the new employer is liable to pay the retrenchment compensation under the transfer agreement.</li> </ul> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <hr/> <p>Section 73 – Same as the Existing Law</p> <p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>No material variance</p> <p><b>Impact Meter</b></p>  <p><b>Impact of variance</b></p> <hr/> <p>No change in impact on companies.</p>

## Category

**Lay-off,  
Retrenchment and  
Closure**

### Headline

Sixty days' notice to be given of intention to close down any undertaking

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 25FFA) –

An employer intending to close down an undertaking will give at least 60 days prior notice to the appropriate Government. The appropriate Government may exempt any undertaking from this provision under exceptional circumstances as accident in the undertaking or death of the employer.

No such prior notice is required to be given with respect to an undertaking which employs or had employed less than 50 workmen in the preceding 12 months.

#### Summary of position under Industrial Relations ("New Position")

Section 74 –

Same as the Existing Law. Additionally, exemption from notice may be granted on grounds of an extra-ordinary situation, such as natural calamity.

#### Material variances Existing Law vs. New Position

IR Code provides extra-ordinary situation as an additional ground for exemption from giving notice of closure of undertaking.

#### Procedural change



#### Impact of variance

Addition of 'extra-ordinary situation' as a ground for claiming exemption from the mandatory prior notice of 60 days in case of closure of an undertaking is a beneficial provision.

While 'extra-ordinary situation' is not defined in the IR Code, and is possible to have many interpretations, the section gives reference to 'natural calamity and the like'. Therefore, the most likely interpretation of 'extra-ordinary situation' would be a force majeure event.

**Lay-off,  
Retrenchment and  
Closure**

### Headline

Compensation to workers in case of closing down of undertakings

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 25FFF) –

1. A workman will be entitled to notice and compensation as if he was being retrenched in the event of closing down the establishment.
2. If it is due to unavoidable circumstances (which is not merely financial difficulties, accumulation of undisposed stocks, expiry of lease or license granted, exhaustion of minerals), compensation will not be more than three month's average pay.
3. In case of exhaustion of minerals, no notice or compensation will be given if an alternative employment is provided within the radius of 20 kms and the services remain uninterrupted.
4. In case of construction work, if it is closed down as a result of completion of the work within two years, no notice or compensation will be given.

#### Summary of position under Industrial Relations ("New Position")

Section 75 –

Same as the Existing Law.

## Category

	<p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p> <p><b>Impact Meter</b></p> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
<b>Lay-off, Retrenchment and Closure</b>	<p><b>Headline</b></p> <p>Effect of laws inconsistent with this Chapter</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 25J) – In case of any other law or standing orders that are inconsistent with these provisions pertaining to lay-off, retrenchment and closure, the workman will receive more favourable benefits. However, lay-off and retrenchment will be according to these provisions.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 76 – Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p> <p><b>Impact Meter</b></p> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
<b>Special provisions relating to Lay-off, Retrenchment and Closure in certain establishments</b>	<p><b>Headline</b></p> <p>Application of this Chapter</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 25K) – Special provisions relating to lay-off, retrenchment and closure will apply to factory, mine and plantation in which 100 or more workmen are employed.</p> <p>However, this provision was amended to mean 300 workmen in Andhra Pradesh, Assam and Jammu &amp; Kashmir.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 77 – Special provisions relating to lay-off, retrenchment and closure will apply to factory, mine and plantation in which over 300 workers or such higher number as may be notified by the appropriate Government are employed.</p>

**Category****Material variances Existing Law vs. New Position**

No material variance, except that the threshold of workers for applicability has increased to 300 or more.

**Procedural change****Impact of variance**

This provision will now apply only to factories, mines and plantations with 300 or more workers (as against the current threshold of 100 or more workers).

**Special provisions relating to Lay-off, Retrenchment and Closure in certain establishments****Headline**

Prohibition of lay-off

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 25M) –

1. Prior permission of the appropriate Government is a mandatory requirement for an employer to lay-off a workman whose name is on the muster roll.
2. Permission may be granted or refused by the appropriate Government after making an inquiry and giving reasonable opportunity of being heard to the employer, the workmen and persons interested in lay-off. If the appropriate Government fails to communicate such approval or refusal within 60 days from the date of application, it shall be deemed to have been granted.
3. The Government may review its order either on its own motion or on application made by the employer or any workman. However, the Government may exempt an establishment in case of accident or death of the employer.
4. If the employer offers any alternative employment as provided in the IR Code, the workman shall not deem to be laid off

**Summary of position under Industrial Relations ("New Position")**

Section 78 –

Same as the Existing Law. Such an application can be made electronically.

**Material variances Existing Law vs. New Position**

No material variance, except that the threshold of workers for applicability has increased to 300 or more.

**Procedural change****Impact of variance**

This provision will now apply only to factories, mines and plantations with 300 or more workers (as against the current threshold of 100 or more workers).

No impact on other establishments.

**Special provisions relating to Lay-off, Retrenchment and Closure in certain establishments****Headline**

Conditions precedent to retrenchment of workers to which Chapter X applies.

**Category****Summary of position under Existing Law ("Existing Law")**

- 1.IDA (Section 25N) –In an industrial establishment which employees 100 or more workmen, the following conditions before any lay-off or retrenchment have to be fulfilled:
  - a.A three-month prior notice in writing specifying the reasons for retrenchment has to be given to the workman. Or, alternatively, payment of wages for three months.
  - b.Prior permission of the appropriate Government has been obtained.
- 2.With respect to the permission of the appropriate Government to retrench workman, the same process as mention in Sr. No. 76 above will apply.
- 3.If permission is granted, the workman will be entitled to compensation equivalent to 15 day's average pay of every completed year of continuous service or in excess of six months.

**Summary of position under Industrial Relations ("New Position")**

Section 79 –  
Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance, except that the threshold of workers for applicability has increased to 300 or more.

**Procedural change****Impact of variance**

This provision will now apply only to factories, mines and plantations with 300 or more workers (as against the current threshold of 100 or more workers).  
No impact on other establishments.

**Special provisions relating to Lay-off, Retrenchment and Closure in certain establishments****Headline**

Procedure for closing down an industrial establishment

**Summary of position under Existing Law ("Existing Law")**

- 1.IDA (Section 25O) – An employer (except an undertaking set up for construction work) must seek a prior permission from the Government at least 90 days before he intends to close down.
- 2.With respect to the permission of the appropriate Government for closure, the same process as mention in Sr. No. 76 above will apply.
- 3.If permission is granted, the workman will be entitled to compensation equivalent to 15 day's average pay of every completed year of continuous service or in excess of six months.

**Summary of position under Industrial Relations ("New Position")**

Section 80 –  
Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance, except that the threshold of workers for applicability has increased to 300 or more.

Category	
<b>Special provisions relating to Lay-off, Retrenchment and Closure in certain establishments</b>	<p><b>Procedural change</b></p>  <p><b>Impact of variance</b></p> <p>This provision will now apply only to factories, mines and plantations with 300 or more workers (as against the current threshold of 100 or more workers). No impact on other establishments</p>
<b>Special provisions relating to Lay-off, Retrenchment and Closure in certain establishments</b>	<p><b>Headline</b></p> <p>Duty of an employer to maintain muster rolls of workers</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 25D) – An employer must maintain a muster roll of all the workmen.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 81 – Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance, except that the threshold of workers for applicability has increased to 300 or more.</p> <p><b>Procedural change</b></p>  <p><b>Impact of variance</b></p> <p>This provision will now apply only to factories, mines and plantations with 300 or more workers (as against the current threshold of 100 or more workers). No impact on other establishments.</p>
<b>Special provisions relating to Lay-off, Retrenchment and Closure in certain establishments</b>	<p><b>Headline</b></p> <p>Certain provisions of Chapter IX to apply to industrial establishment to which this Chapter applies</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 25S) – Principles of continuous service, first come last go, priority for re-employment of retrenched workman, compensation to workman in case of transfer of establishment will also apply to establishments under this chapter.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 82 – Same as the Existing Law.</p>

Category	
	<p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>No material variance</p> <p><b>Impact Meter</b></p> <div style="text-align: center;"> </div> <p><b>Impact of variance</b></p> <hr/> <p>No change in impact on companies.</p>
<b>Worker Re-skilling Fund</b>	<p><b>Headline</b></p> <hr/> <p>Worker reskilling fund</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <hr/> <p>Section 83 – Government will set up a worker re-skilling fund to which the employer will make contribution equal to 15 days wages last drawn by the worker (or wages for such number of days as notified by the appropriate Government) immediately before the retrenchment, which will be credited from the fund to the worker's account within 45 days of this retrenchment.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>New provision.</p> <p><b>Impact Meter</b></p> <div style="text-align: center;"> </div> <p><b>Impact of variance</b></p> <hr/> <p>Contribution to the 'worker reskilling fund' will be an additional cost to companies as it will have to make a contribution (equal to 15 days wages) also to the fund for each 'worker' retrenched under IR Code.</p> <p><u><a href="#">Click here</a></u> to refer to sample calculations.</p>
<b>Worker Re-skilling Fund</b>	<p><b>Headline</b></p> <hr/> <p>Prohibition of unfair labour practice.</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>IDA (Section 25T) – No employer, workman or a Trade Union will engage in any unfair labour practices listed in the Fifth Schedule.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <hr/> <p>Section 84 – Same as the Existing Law.</p>

Category	
	<p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>No material variance</p> <p><b>Impact Meter</b></p> <div style="width: 20%; background-color: #e67e22; height: 10px; margin-bottom: 5px;"></div> <p><b>Impact of variance</b></p> <hr/> <p>No change in impact on companies.</p>
<b>Offences and Penalties</b>	<p><b>Headline</b></p> <hr/> <p>Power of officers of appropriate Government to impose penalty in certain cases</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <hr/> <ol style="list-style-type: none"> <li>1. Section 85 -The appropriate Government can hold an enquiry and impose penalties for non-compliance with certain provisions of the IR Code.</li> <li>2. On failure to pay the penalty within 90 days, a person will be punishable with fine between INR 50,000- INR 2,00,000.</li> </ol> <p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>New provision.</p> <p><b>Impact Meter</b></p> <div style="width: 100%; background-color: #e67e22; height: 10px; margin-bottom: 5px;"></div> <p><b>Impact of variance</b></p> <hr/> <p>Parallel enquiry can be initiated by the Government in addition to the due course of enquiry by authorities provided under the IR Code.</p>
<b>Offences and Penalties</b>	<p><b>Headline</b></p> <hr/> <p>Penalties</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>IDA, IE(SO)A and TUA provides for penalties as follows:</p> <p>For employer:</p> <ol style="list-style-type: none"> <li>a. Penalty for lay-off and retrenchment without prior permission: imprisonment up to 1 month or fine up to INR 1000 or both. Penalty for closure: imprisonment up to 6 months or fine up to INR 5000 or both.</li> <li>b. Compounding amount for lay-off and retrenchment at 25 day's wages last drawn by each workman. For closure: 60 day's wages last drawn by each workman.</li> <li>c. No corresponding provision against Point No. c. under the New Position.</li> <li>d. No corresponding provision against Point No. d. under the New Position.</li> <li>e. Failure to submit draft or modified standing orders: fine up to INR 5000, additional INR 200 per day for continuing offence.</li> <li>f. Contravention of certified standing orders: fine up to INR 100.</li> <li>g. For continuing offence: additional fine up to INR 25 per day.</li> <li>h. Action in furtherance of an illegal lock-out: fine up to INR 1000 or imprisonment up to 1 month or both.</li> </ol>

**Category**

- For any person:
- a. Unfair labour practices: imprisonment up to six months or fine up to INR 1000 or both.
  - b. Compounding amount: by each workmen INR 150 per day and each employer INR 300 per day, but not exceeding the prescribed amount.
  - c. False entry or omission from annual returns, statement or rules: fine between up to INR 500.
  - d. Deceive by giving incorrect copies of rules of a registered and an unregistered Trade Union: fine between up to INR 200.
  - e. Who instigates or incites to participate in an illegal strike or lock-out: fine up to INR 1000 or imprisonment up to 6 months or both.
  - f. For giving financial aid to illegal strikes and lock-outs: fine up to INR 1000 or imprisonment up to 6 months or both.
  - g. For breach of settlement or award: fine or imprisonment up to 6 months or both.
  - h. For a continuing offence additional fine up to INR 200.
  - i. For disclosing confidential information: fine up to INR 1000 or imprisonment up to 6 months or both.

## Trade Union

- a. For default of giving any notice or sending any statement as required: fine up to INR 5 per day, additional INR 5 for each week for continuing default.

## For any workman

- a. Action in furtherance of an illegal strike: fine up to INR 50 or imprisonment up to 1 month or both.

For any provision not covered above: fine up to INR 100.

**Summary of position under Industrial Relations ("New Position")**

## Section 86 –

## For employer:

- a. Penalty for lay-off, retrenchment and closure without prior permission: fine between INR 1,00,000- INR 10,00,000.
- b. On subsequent offence: fine between INR 5,00,000 - INR 20,00,000 or imprisonment up to 6 months or both.
- c. Non-payment of compensation to the workers in case of lay-off, retrenchment, transfer of establishment and closing of the establishment; fine between INR 50,000 - INR 2,00,000.
- d. On subsequent offence: fine between INR 1,00,000- INR 5,00,000 or imprisonment up to 6 months or both.
- e. Failure to submit draft or modified standing orders: fine between INR 50,000 - INR 2,00,000, additional Rs. 2000 per day for continuing offence.
- f. Contravention of certified standing orders: fine between INR 1,00,000 - INR 2,00,000.
- g. For subsequent offence: fine between INR 2,00 ,000 - INR 4,00,000 or imprisonment up to 3 months or both.
- h. Action in furtherance of an illegal lock-out: fine between INR 50,000- INR 1,00,000 or imprisonment up to 1 month or both.

## For any person:

- a. Unfair labour practice: fine between INR 10,000 – INR 2,00,000.
- b. On subsequent offence: fine between INR 50,000 – INR 5,00,00 or imprisonment up to 3 months or both.
- c. False entry or omission from annual returns, statement or rules: fine between INR 2,000 – INR 20,000.
- d. Deceive by giving incorrect copies of rules of a registered and an unregistered Trade Union: fine between INR 5,000 - INR 20,000.
- e. Who instigates or incites to participate in an illegal strike or lock-out: fine between INR 10,000 – INR 50,000 or imprisonment up to 1 month or both.
- f. For giving financial aid to illegal strikes and lock-outs: fine between INR 10,000 – INR 50,000 or imprisonment up to 1 month or both.
- g. For breach of settlement or award: fine INR 20,000 - INR 2,00,000 or imprisonment up to 3 months or both.
- h. For a continuing offence additional fine up to INR 1000 per day.
- i. For disclosing confidential information: fine up to INR 20,000 or imprisonment up to 1 month or both.

**Category**

Trade Union

- a. For default of giving any notice or sending any statement as required: fine between INR 1,000- INR 10,000, additional INR 50,000 per day for continuing default.

For any worker:

- o Action in furtherance of an illegal strike: fine between INR 1,000 – INR 10,000 or imprisonment up to 1 month or both.

For any provision not covered above: fine up to INR 1,00,000

**Material variances Existing Law vs. New Position**

1. Penalties have been enhanced for all offences.
2. Separate penalty for non-payment of compensation to the workers in case of lay-off, retrenchment, transfer of establishment and closing of the establishment and for any subsequent offense of the same nature has been introduced.

**Procedural change****Impact of variance**

1. Non-payment of compensation to the workers in case of lay-off, retrenchment, transfer of establishment and closing of the establishment will attract fines between INR 50,000 to INR 2,00,000. A subsequent offence would attract fine between INR 1,00,000- INR 5,00,000 or imprisonment up to 6 months or both.
2. Contravention of any other provision would attract a fine up to INR 1,00,000.

**Offences and Penalties****Headline**

Cognizance of offences

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 34)  
TUA (Section 33) –

No Court will take cognizance of an offence unless made by an authority appointed by the Government and no Court inferior to Metropolitan Magistrate or Judicial Magistrate of the First Class will try the offences.

**Summary of position under Industrial Relations ("New Position")**

Section 87 –  
Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

Category	
Offences and Penalties	<p><b>Headline</b></p> <p>Offences by companies</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA (Section 32) – If the offender is the company, person responsible for conduct of business as well as the company will be deemed guilty of the offence, unless such person proves that it was committed without his knowledge. It will include Director, Manager, Secretary or any other officer of the company.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 88 – Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p> <p><b>Impact Meter</b></p> <p><b>Impact of variance</b></p> <p>No change in impact on companies.</p>
Offences and Penalties	<p><b>Headline</b></p> <p>Composition of offences</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision certain States have provided for compounding of offences, such as the State of Jammu and Kashmir and Ladakh under the IDA (Section 31A) and for the State of Uttar Pradesh (Section 13C) and Chhattisgarh under IE(SO)A (Section 17B)</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 89 –</p> <ol style="list-style-type: none"> <li>1. The IR Code allows compounding for the sum of:             <ol style="list-style-type: none"> <li>a. 50% of the maximum penalty for offences that are punishable with fine only, and</li> <li>b. 75% of the maximum penalty for offences punishable with imprisonment up to one year or with fine.</li> </ol> </li> <li>2. The compounded amount will be credited to Social Security Fund established for unorganised, gig and platform workers under the Social Security Code, 2020.</li> <li>3. Offences of the same nature committed for the second time within three years will not be compounded.</li> <li>4. Failure to comply with an order relating to compounding will lead to additional fine of 20% of maximum penalty provided for the offence.</li> </ol> <p><b>Material variances Existing Law vs. New Position</b></p> <p>New provision.</p> <p><b>Procedural change</b></p> <p><b>Impact of variance</b></p> <p>Compounding of offences reduces criminal liability by permitting non-compliances to be settled through fines, albeit enhanced fines.</p>

**Category****Miscellaneous****Headline**

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 33) –

1. During the pendency of any proceedings with respect to notice of change of service conditions of a workman before the conciliation officer or an arbitrator or any Labour Court or Tribunal, no employer will alter the service conditions so as to prejudice the workman in such dispute or discharge or punish such workman for any misconduct connected with dispute, except with express written permission of the authority.
2. However, in accordance with the standing orders or terms of contract he may do so with matters unconnected to the dispute, with payment of wages for one month in case of dismissal.
3. Employer cannot take action against any protected workman (i.e., office bearer of a Trade Union) during the pendency of any proceedings. Protected person in every establishment will be one percent of the total number of workmen employed, subject to a minimum of five and not more than 100 protected workmen.

**Summary of position under Industrial Relations ("New Position")**

Section 90 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Miscellaneous****Headline**

Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceeding

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 33A) –

An employee can file a complaint to conciliation officer, Board, arbitrator, Labour Court or a Tribunal against the employer if the employer contravenes the provisions mentioned above in Sr. no. 88 (i.e., alters the service conditions or punishes or discharges the workman during the pendency of a related industrial dispute).

**Summary of position under Industrial Relations ("New Position")**

Section 91 – Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

## Category

### Miscellaneous

#### Headline

Power to transfer certain proceedings

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 33 B) –

1. Government can withdraw proceedings pending before a Labour Court, Tribunal or National Tribunal and transfer it to another jurisdiction. Order of transfer will specify if the trial will be de novo or from the stage before transfer.
2. Certain proceedings pending before the Tribunal or National Tribunal may also be transferred to a Labour Court.

#### Summary of position under Industrial Relations ("New Position")

Section 92 –

1. Same as the Existing Law, except this will now apply to only Industrial Tribunals and National Industrial Tribunals.
2. The Central Government may transfer a case from the Industrial Tribunal to a National Industrial Tribunal.
3. The Central Government may empower a Tribunal constituted by the State Government to entertain cases where the appropriate Government is the Central Government.

#### Material variances Existing Law vs. New Position

Variation in procedure of transfer of proceedings from one Tribunal to the other.

#### Procedural change



#### Impact of variance

No impact on companies since this relates to the powers of the Government to transfer proceedings.

### Miscellaneous

#### Headline

Protection of persons

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 35) –

No person will be put to any disadvantage or expelled from any Trade Union or any society for refusing to participate in an illegal strike or lock-out.

#### Summary of position under Industrial Relations ("New Position")

Section 93 –

Same as the Existing Law.

#### Material variances Existing Law vs. New Position

No material variance

#### Impact Meter



#### Impact of variance

No change in impact on companies.

## Category

### Miscellaneous

#### Headline

Representation of parties

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 36) –

- 1.A workman in a dispute may be represented by a member of a Trade Union or a federation of Trade Unions or by any other workman as prescribed.
- 2.An employer in a dispute may be represented by an Officer of an Association of an Employer, federation of Association of Employer or any other prescribed employer.
- 3.Unless with consent of the other parties or leave of a Labour Court or Tribunal, no party will be represented by a legal practitioner.

#### Summary of position under Industrial Relations ("New Position")

Section 94 –

Same as the Existing Law.

#### Material variances Existing Law vs. New Position

No material variance

#### Impact Meter



#### Impact of variance

No change in impact on companies.

### Miscellaneous

#### Headline

Removal of doubts in interpretation of award or settlement

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 36A) –

Any interpretation of any provision of an award or settlement will be referred to the Labour Court, Tribunal or the National Industrial Tribunal by the appropriate government.

#### Summary of position under Industrial Relations ("New Position")

Section 95 –

Same as the Existing Law.

#### Material variances Existing Law vs. New Position

No material variance

#### Impact Meter



#### Impact of variance

No change in impact on companies.

## Category

### Miscellaneous

#### Headline

Power to exempt

#### Summary of position under Existing Law ("Existing Law")

IDA (Section 36 B) –

The appropriate Government may exempt an industrial establishment/ undertakings or any class of industrial establishments/ undertakings from all or any provision of this Act on satisfaction that adequate provisions exists for investigation and settlement of industrial disputes.

#### Summary of position under Industrial Relations ("New Position")

Section 96 –

1. The appropriate Government may exempt an industrial establishment/ undertakings or any class of industrial establishments/ undertakings from all or any provision of this Code if it is satisfied that adequate provisions exist to fulfil the objects of the IR Code.
2. If the appropriate Government is satisfied that it is necessary to do so in public interest, it may exempt any new industrial establishment/ undertakings or any class of new industrial establishments/ undertakings from the provision of the IR Code.

#### Material variances Existing Law vs. New Position

1. While such power to provide exemption from the provision of any or all provisions of the Act was only provided under IDA, the IR Code expands this application to all the provisions under the entire IR Code.
2. Exemptions in public interest to new establishments/undertakings is now expressly permitted as an additional right of the Government

#### Procedural change



#### Impact of variance

No change in impact on companies unless exemption granted to any of its new industrial establishments/undertakings.

### Miscellaneous

#### Headline

Jurisdiction of civil courts barred

#### Summary of position under Existing Law ("Existing Law")

No corresponding provision.

#### Summary of position under Industrial Relations ("New Position")

Section 97 –

No Civil Court will have jurisdiction to entertain any matter under this Code.

#### Material variances Existing Law vs. New Position

New provision.

#### Procedural change



#### Impact of variance

All disputes and reliefs under the IR Code can only be brought before the Industrial Tribunal formed under the IR Code. Civil courts will no longer have any jurisdiction e.g., applications for injunctions against illegal strikes cannot be entertained by a civil court.

**Category****Miscellaneous****Headline**

Protection of action taken in good faith

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 37) –

Protection is granted to any person from any legal proceedings against an act done in good faith.

**Summary of position under Industrial Relations ("New Position")**

Section 98 –

Same as the Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Miscellaneous****Headline**

Power of appropriate Government to make rules

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 38)

IE(SO)A (Section 15) –

Appropriate Government is empowered to make rules.

TU (Section 29) –

Appropriate Government can make regulations for the Act.

**Summary of position under Industrial Relations ("New Position")**

Section 99 –

Same as the Existing Law

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Category****Miscellaneous****Headline**

Delegation of powers

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 39)

IE (SO) (Section 14A) – The appropriate Government may delegate its powers to an officer or subordinate authority.

**Summary of position under Industrial Relations ("New Position")**

Section 100 –

Same as Existing Law.

**Material variances Existing Law vs. New Position**

No material variance

**Impact Meter****Impact of variance**

No change in impact on companies.

**Miscellaneous****Headline**

Power to amend Schedules

**Summary of position under Existing Law ("Existing Law")**

IDA (Section 40) –

Central and State Government is empowered to amend the Schedules under Act.

**Summary of position under Industrial Relations ("New Position")**

Section 101 –

Power to amend Schedules vests with only Central Government.

**Material variances Existing Law vs. New Position**

No power to State Government to amend Schedules.

**Procedural change****Impact of variance**

No impact on companies as this is related the Powers of the Central Government to amend the Schedules provided in the IR Code.

Category	
Miscellaneous	<p><b>Headline</b></p> <p>Amendment of Act 7 of 2017</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 102 – It provides for necessary amendments in the Finance Act, 2017 to provide reference to the IR Code in place of the IDA.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>N/A</p> <p><b>Impact Meter</b></p> <div style="width: 20%; height: 10px; background-color: #0070C0; border: 1px solid black;"></div> <p><b>Impact of variance</b></p> <p>N/A</p>
Miscellaneous	<p><b>Headline</b></p> <p>Power to remove difficulties</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Section 103 – Within three years from the commencement of the IR Code and only after laying before each House of Parliament, the Central Government may make provisions by order to remove difficulty with regards to the provisions of the IR Code.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>N/A</p> <p><b>Impact Meter</b></p> <div style="width: 20%; height: 10px; background-color: #0070C0; border: 1px solid black;"></div> <p><b>Impact of variance</b></p> <p>N/A</p>
Miscellaneous	<p><b>Headline</b></p> <p>Repeal and savings</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p>

**Category****Summary of position under Industrial Relations ("New Position")**

Section 104 –

The IR Code repeals:

- a. The Trade Unions Act, 1926.
- b. The Industrial Employment (Standing Orders) Act, 1946.
- c. The industrial Disputes Act, 1947.

**Material variances Existing Law vs. New Position**

New provision.

**Impact Meter**

N/A

**Impact of variance**

N/A

## Part B – Annexure- Assessment of the Definitions

Category	
<b>Definitions</b>	<p><b>Headline</b></p> <p>Appellate Authority</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IE(SO)A –</p> <p>Means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act:</p> <p>Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963, that court or authority shall be deemed to be the appellate authority.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means an authority appointed by the appropriate Government to exercise such functions in such area as may be specified by that Government by notification in the Official Gazette.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Appropriate Government</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA –</p> <p>Means, in relation to Trade Unions whose objects are not confined to one State, the Central Government, and in relation to other Trade Unions, the State Government.</p> <p>IE(SO)A –</p> <p>Means in respect of industrial establishments under the control of the Central Government or a Railway administration or in a major port, mine or oil-field, the Central Government, and in all other cases, the State Government:</p> <p>Provided that where any question arises as to whether any industrial establishment is under the control of the Central Government, that Government may, either on a reference made to it by the employer or the workman or a Trade Union or other representative body of the workmen, or on its own motion and after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties;</p> <p>IDA –</p> <p>Means</p> <ol style="list-style-type: none"> <li>1.in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning a Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948, or the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956, or the Employees State Insurance Corporation established under section 3 of the Employees State Insurance Act, 1948, or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, or the</li> </ol>

## Part B – Annexure- Assessment of the Definitions

### Category

#### **Summary of position under Existing Law ("Existing Law")**

Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956, or the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956, or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962, or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963, or the Food Corporation of India established under section 3 or a Board of Management established for two or more contiguous States under section 16 of the Food Corporations Act, 1964, or the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994<sup>55</sup> of 1994, or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India the National Housing Bank established under section 3 of the National Housing Bank Act, 1987, or an air transport service, or a banking or an insurance company, a mine, an oil-field, a Cantonment Board, or a major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and

2. in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.

#### **Summary of position under Industrial Relations ("New Position")**

##### Means

1.in relation to any industrial establishment or undertaking carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government including establishments of the contractors for the purposes of such establishment, corporation, other authority, public sector undertakings or any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, as the case may be, the Central Government.

Explanation. — For the purposes of this clause, the Central Government shall continue to be the appropriate Government for central public sector undertakings even if the holding of the Central Government reduces to less than fifty per cent. equity in that public sector undertaking after the commencement of this Code.

1.in relation to any other industrial establishment, including State public sector undertakings, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government.

## Part B – Annexure- Assessment of the Definitions

### Category

	<p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment;</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p> <p>For 'contractors' in any Governmental establishment, Appropriate Government means the Central Government.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Arbitrator</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA –</p> <p>Includes an umpire.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Includes an umpire.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Average Pay</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA –</p> <p>Means the average of the wages payable to a workman—</p> <p class="list-item-l1">1.in the case of monthly paid workman, in the three complete calendar months,</p> <p class="list-item-l1">2.in the case of weekly paid workman, in the four complete weeks,</p> <p class="list-item-l1">3.in the case of daily paid workman, in the twelve full working days, preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means the average of the wages payable to a worker, —</p> <p class="list-item-l1">1.in the case of monthly paid worker, in three complete calendar months;</p> <p class="list-item-l1">2.in the case of weekly paid worker, in four complete weeks;</p> <p class="list-item-l1">3.in the case of daily paid worker, in twelve full working days, preceding the date on which the average pay becomes payable, if the worker had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a worker during the period he actually worked.</p>

## Part B – Annexure- Assessment of the Definitions

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	<p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Award</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under section 10A.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means an interim or a final determination of any industrial dispute or of any question relating thereto by any Industrial Tribunal referred to in section 44 or National Industrial Tribunal referred to in section 46 and includes an arbitration award made under section 42.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Banking Company</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means a banking company as defined in section 5 of the Banking Companies Act, 1949, having branches or other establishments in more than one State, and includes the Export-Import Bank of India, the Industrial Reconstruction Bank of India, the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989, the Reserve Bank of India, the State Bank of India, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a banking company as defined in section 5 of the Banking Regulation Act, 1949 and includes the Export-Import Bank of India, the Industrial Reconstruction Bank of India, the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989, the Reserve Bank of India, the State Bank of India, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>

## Part B – Annexure- Assessment of the Definitions

Category	
Definitions	<p><b>Headline</b></p> <p>Certifying Officer</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IE(SO)A –</p> <p>Means a Labour Commissioner or a Regional Labour Commissioner, and includes any other officer appointed by the appropriate Government, by notification in the Official Gazette, to perform all or any of the functions of a Certifying Officer under this Act.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any officer appointed by the appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p>
Definitions	<p><b>Headline</b></p> <p>Closure</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA –</p> <p>Means the permanent closing down of a place of employment or part thereof.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means the permanent closing down of a place of employment or part thereof.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Conciliation Officer</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA –</p> <p>Means a conciliation officer appointed under this Act.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a conciliation officer appointed under section 43.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>

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Category	
<b>Definitions</b>	<p><b>Headline</b></p> <p>Conciliation Proceeding</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means any proceeding held by a conciliation officer or Board under this Act.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any proceeding held by a conciliation officer under this Code.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Controlled Industry</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Employee</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed by an industrial establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government but does not include any member of the Armed Forces of the Union.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>New provision.</p>

## Part B – Annexure- Assessment of the Definitions

Category
<b>Definitions</b>
<p><b>Headline</b></p> <hr/> <p>Employer</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>IE(SO)A –</p> <p>Means the owner of an industrial establishment to which this Act for the time being applies, and includes—</p> <ul style="list-style-type: none"> <li>1.in a factory, any person named under clause (f) of sub-section (1) of section 7, of the Factories Act, 1948, as manager of the factory;</li> <li>2.in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;</li> <li>3.in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment.</li> </ul> <p>IDA –</p> <p>Means</p> <ul style="list-style-type: none"> <li>1.in relation to an industry carried on by or under the authority of any department of the Central Government or a State Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;</li> <li>2.in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority.</li> </ul> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <hr/> <p>Means a person who employs, whether directly or through any person, or on his behalf or on behalf of any person, one or more employee or worker in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified by the head of the department in this behalf or where no authority is so specified, the head of the department, and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,—</p> <ul style="list-style-type: none"> <li>1.in relation to an establishment which is a factory, the occupier of the factory as defined in clause (n) of section 2 of the Factories Act, 1948 and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the said Act, the person so named;</li> <li>2.in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director; such manager or managing director;</li> <li>3.contractor; and</li> <li>4.legal representative of a deceased employer.</li> </ul> <p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>Occupier of a factory and contractor are now expressly identified as employers.</p>
<b>Definitions</b>
<p><b>Headline</b></p> <hr/> <p>Executive</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>TUA –</p> <p>Means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;</p> <p>IDA –</p> <p>Means in relation to a Trade Union, means the body, by whatever name called, to which the management of the affairs of the Trade Union is entrusted.</p>

## Part B – Annexure- Assessment of the Definitions

Category	
	<p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Same as the Existing Law.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Fixed term employment</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means the engagement of a worker on the basis of a written contract of employment for a fixed period: Provided that—</p> <ul style="list-style-type: none"> <li>a.his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;</li> <li>b.he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and</li> <li>c.he shall be eligible for gratuity if he renders service under the contract for a period of one year.</li> </ul> <p><b>Material variances Existing Law vs. New Position</b></p> <p>New provision.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Industry</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—</p> <ul style="list-style-type: none"> <li>i.any capital has been invested for the purpose of carrying on such activity; or</li> <li>ii.such activity is carried on with a motive to make any gain or profit, but does not include—</li> </ul> <ul style="list-style-type: none"> <li>a.institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or</li> <li>b.any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or</li> <li>c.any domestic service; or</li> <li>d.any other activity as may be notified by the Central Government.</li> </ul>

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	<p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>Broad definition which basically includes all commercial and business activity and excludes only charitable organisations (etc.), the Government and domestic workers.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <hr/> <p>Industrial Dispute</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>IDA – Means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.</p> <p>TUA – Trade dispute means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <hr/> <p>Means any dispute or difference between employers and employers or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person and includes any dispute or difference between an individual worker and an employer connected with, or arising out of discharge, dismissal, retrenchment or termination of such worker.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <hr/> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <hr/> <p>Industrial Establishment or undertaking</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <hr/> <p>IE(SO)A – Means</p> <ul style="list-style-type: none"> <li>i.an industrial establishment as defined in clause of section 2 of the Payment of Wages Act, 1936, or</li> <li>ii.a factory as defined in clause (m) of section 2 of the Factories Act, 1948, or</li> <li>iii.a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (9 of 1890), or</li> <li>iv.the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen.</li> </ul> <p>IDA – Means an establishment or undertaking in which any industry is carried on: Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,</p>

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### Category

- a.if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking, such unit shall be deemed to be a separate industrial establishment or undertaking;
- b.if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking.

### Summary of position under Industrial Relations ("New Position")

Means an establishment or undertaking in which any industry is carried on:  
Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then, —

- (i) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking which is not carrying on or aiding the carrying on of any such activity, such unit shall be deemed to be a separate industrial establishment or undertaking;
- (ii) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking.

### Material variances Existing Law vs. New Position

Same as the definition under IDA. No material variance

### Definitions

#### Headline

Insurance Company

### Summary of position under Existing Law ("Existing Law")

IDA –

Means an insurance company as defined in section 2 of the Insurance Act, 1938, having branches or other establishments in more than one State.

### Summary of position under Industrial Relations ("New Position")

Means a company as defined in section 2 of the Insurance Act, 1938.

### Material variances Existing Law vs. New Position

No material variance.

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Category	Headline
<b>Definitions</b>	<p><b>Lay-off</b></p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means (with its grammatical variations and cognate expressions) the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.</p> <p>Explanation. — Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:</p> <p>Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:</p> <p>Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means (with its grammatical variations and cognate expressions) the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason, to give employment to a worker whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.</p> <p>Explanation. —Every worker whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:</p> <p>Provided that if the worker, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:</p> <p>Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>

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Category	
Definitions	<p><b>Headline</b></p> <p>Lock-out</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Major Port</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Metro Railway</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means the metro railway as defined in sub-clause (i) of clause (1) of section 2 of the Metro Railways (Operation and Maintenance) Act, 2002.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>New provision.</p>

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Category	
Definitions	<p><b>Headline</b></p> <p>Mine</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>National Tribunal</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means a National Industrial Tribunal constituted under section 7B.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a National Industrial Tribunal constituted under section 46.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Negotiating Union or Negotiating Council</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means the negotiating union or negotiating council referred to in section 14.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>New provision.</p>

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Category	
Definitions	<p><b>Headline</b></p> <p>Notification</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision in the subsumed Acts but it has been consistently defined in other Acts.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a notification published in the Official Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Office-bearer</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA – Means, in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor.</p> <p>IDA – Means in relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>In relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Prescribed</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA &amp; IDA – Means prescribed by regulations made under this Act.</p> <p>IE(SO)A – Means prescribed by rules made by the appropriate Government under this Act.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means prescribed by rules made under this Code.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>

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Category	
Definitions	<p><b>Headline</b></p> <p>Railway</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA –</p> <p>Means a railway company as defined in section 3 of the Indian Railways Act, 1890.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means the railway as defined in clause (31) of section 2 of the Railways Act, 1989.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Registered Office</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA –</p> <p>Means that office of a Trade Union which is registered under this Act as the head office thereof.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means that office of a Trade Union which is registered under this Code as the head office thereof.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Registered Trade Union</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA –</p> <p>Means a Trade Union registered under this Act.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a Trade Union registered under this Code.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>

## Part B – Annexure- Assessment of the Definitions

### Category

#### Definitions

##### **Headline**

Registrar

##### **Summary of position under Existing Law ("Existing Law")**

TUA –  
Means

- 1.a Registrar of Trade Unions appointed by the appropriate Government under section 3, and includes any Additional or Deputy Registrar of Trade Unions; and
- 2.in relation to any Trade Union, the Registrar appointed for the State in which the head or registered office, as the case may be, of the Trade Union is situated.

##### **Summary of position under Industrial Relations ("New Position")**

Means a Registrar of Trade Unions appointed by the State Government under section 5.

##### **Material variances Existing Law vs. New Position**

No material variance.

#### Definitions

##### **Headline**

Retrenchment

##### **Summary of position under Existing Law ("Existing Law")**

IDA –

Means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- a.voluntary retirement of the workman; or
- b.retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- c.termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- d.termination of the service of a workman on the ground of continued ill-health.

##### **Summary of position under Industrial Relations ("New Position")**

Means the termination by the employer of the service of a worker for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- a.voluntary retirement of the worker; or
- b.retirement of the worker on reaching the age of superannuation; or
- c.termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- d.termination of service of the worker as a result of completion of tenure of fixed term employment; or
- e.termination of the service of a worker on the ground of continued ill-health.

##### **Material variances Existing Law vs. New Position**

No material variance.

## Part B – Annexure- Assessment of the Definitions

Category	
Definitions	<p><b>Headline</b></p> <p>Settlement</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA –</p> <p>Means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and to the conciliation officer.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Standing Orders</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IE(SO)A –</p> <p>Means rules relating to matters set out in the Schedule.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means orders relating to matters set-out in the First Schedule.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
Definitions	<p><b>Headline</b></p> <p>Strike</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA –</p> <p>Means a cessation of work by a body of persons employed in any industry acting in combination or a concerned refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal, under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment and includes the concerted casual leave on a given day by fifty per cent. or more workers employed in an industry.</p>

## Part B – Annexure- Assessment of the Definitions

Category	
	<p><b>Material variances Existing Law vs. New Position</b></p> <p>Same as the Existing Law. Additionally, the IR Code specifies that the mass casual leave by 50% or more workers will be considered a strike.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Trade Union</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>TUA –</p> <p>Means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:</p> <p>Provided that this Act shall not affect—</p> <ul style="list-style-type: none"> <li>i. any agreement between partners as to their own business;</li> <li>ii. any agreement between an employer and those employed by him as to such employment; or</li> <li>iii. any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.</li> </ul> <p>IE(SO)A –</p> <p>Means a Trade Union for the time being registered under the Indian Trade Unions Act, 1926.</p> <p>IDA –</p> <p>Means a Trade Union registered under the Trade Unions Act, 1926.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:</p> <p>Provided that the provisions of Chapter III of this Code shall not affect—</p> <ul style="list-style-type: none"> <li>i. any agreement between partners as to their own business; or</li> <li>ii. any agreement between an employer and those employed by him as to such employment; or</li> <li>iii. any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.</li> </ul> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Trade Union dispute</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union inter se.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>New provision.</p>

## Part B – Annexure- Assessment of the Definitions

Category	
<b>Definitions</b>	<p><b>Headline</b></p> <p>Tribunal</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means an Industrial Tribunal constituted under section 7A and includes an Industrial Tribunal constituted before the 10th day of March 1957, under this Act.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means an Industrial Tribunal constituted under section 44.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Unfair Labour Practice</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>IDA – Means any of the practices specified in the Fifth Schedule.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Means any of the practices specified in the Second Schedule</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Unorganised Sector</p> <p><b>Summary of position under Existing Law ("Existing Law")</b></p> <p>No corresponding provision in the subsumed Acts. However, it is defined in Unorganised Workers' Social Security Act, 2008.</p> <p><b>Summary of position under Industrial Relations ("New Position")</b></p> <p>Shall have the same meaning as assigned to it in clause (l) of section 2 of the Unorganised Workers' Social Security Act, 2008.</p> <p><b>Material variances Existing Law vs. New Position</b></p> <p>No material variance.</p>
<b>Definitions</b>	<p><b>Headline</b></p> <p>Wages</p>

## Part B – Annexure- Assessment of the Definitions

### Category

#### Summary of position under Existing Law ("Existing Law")

IDA –

Means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes—

i.such allowances (including dearness allowance) as the workman are for the time being entitled to;

ii.the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

iii.any travelling concession;

iv.any commission payable on the promotion of sales or business or both;

but does not include—

a.any bonus;

b.any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

c.any gratuity payable on the termination of his service.

IE(SO)A –

The meaning assigned to it under clause (rr) of Section 2 of the Industrial Disputes Act, 1947.

#### Summary of position under Industrial Relations ("New Position")

Means all remuneration, whether by way of salary, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes, —

i.basic pay;

ii.dearness allowance;

iii.retaining allowance, if any,

but does not include—

a.any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

b.the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

c.any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

d.any conveyance allowance or the value of any travelling concession;

e.any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

f.house rent allowance;

g.remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

h.any overtime allowance;

i.any commission payable to the employee

j.any gratuity payable on the termination of employment; or

k.any retrenchment compensation or other retirement benefit payable to the employee or any ex-gratia payment made to him on the termination of employment:

Provided that, for calculating the wage under this clause, if any payments made by the employer to the employee under sub-clauses (a) to (l) exceeds one-half, or such other per cent. as may be notified by the Central Government, of all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed to be remuneration and shall be accordingly added in wages under this clause:

## Part B – Annexure- Assessment of the Definitions

### Category

Provided that, for calculating the wage under this clause, if any payments made by the employer to the employee under sub-clauses (a) to (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed to be remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages the emoluments specified in sub-clauses (d), (f), (g) and (h) shall be taken for computation of wage.

Explanation. —Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee.

### Material variances Existing Law vs. New Position

Please click here to refer note.

### Definitions

#### Headline

Worker

#### Summary of position under Existing Law ("Existing Law")

IDA –

Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- i.who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or
- ii.who is employed in the police service or as an officer or other employee of a prison; or
- iii.who is employed mainly in a managerial or administrative capacity; or
- iv.who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

IE(SO)A –

The meaning assigned to it under clause (s) of Section 2 of the Industrial Disputes Act, 1947.

#### Summary of position under Industrial Relations ("New Position")

Means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- a.who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or
- b.who is employed in the police service or as an officer or other employee of a prison; or
- c.who is employed mainly in a managerial or administrative capacity; or
- d.who is employed in a supervisory capacity drawing wages exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time

## Part B – Annexure- Assessment of the Definitions

### Category

Provided that for the purposes of Chapter III, "worker"—  
1. means all persons employed in trade or industry; and includes the worker as defined in clause (m) of section 2 of the Unorganised Workers' Social Security Act, 2008.

#### **Material variances Existing Law vs. New Position**

The new definition has expanded the scope of a worker to include:

1. Working journalists
2. Sales promotion employees

Also, persons in supervisory capacity (with wages up to INR 18,000 per month), or managerial or administrative capacities are not considered as 'Worker'.

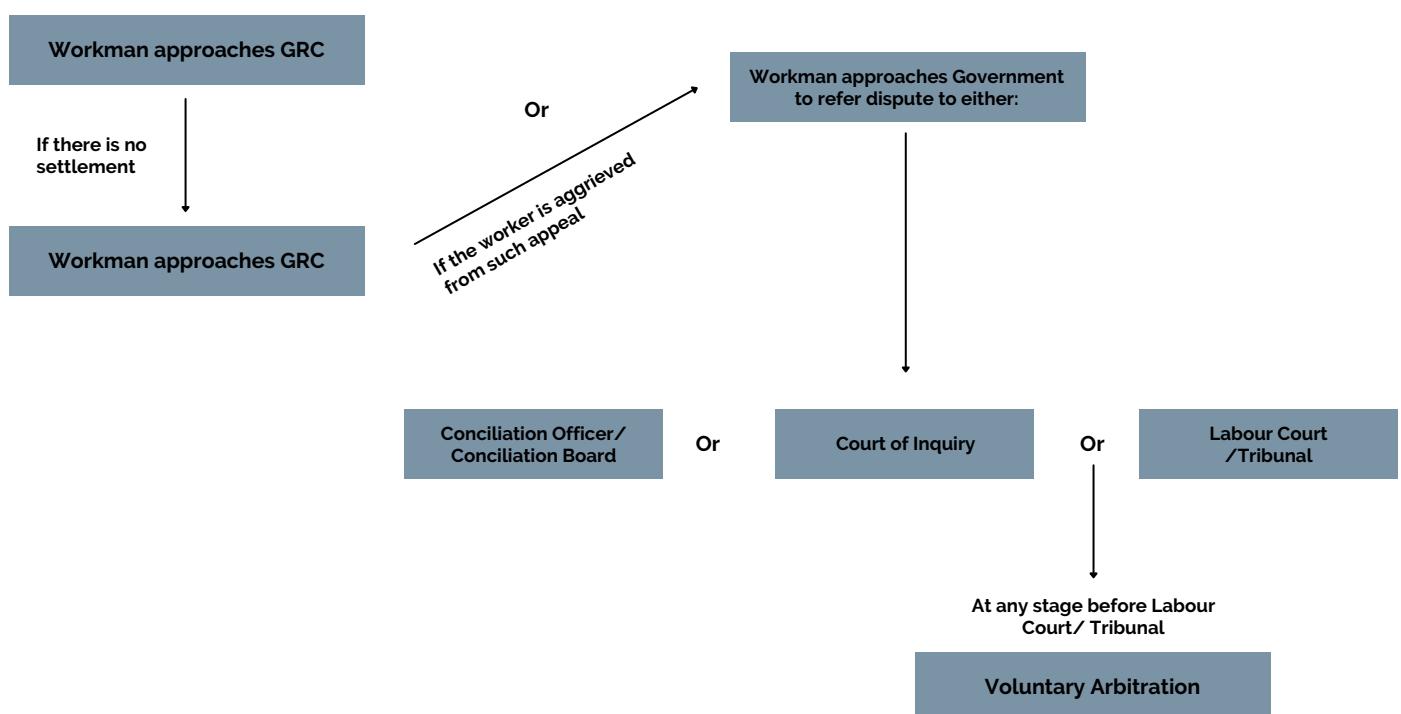
For the purposes of provision related to Trade Unions, a worker means all Employees (as defined in the IR Code).

### Part C – Comparison (overview) of judicial dispute resolution process under Existing Law and IR Code

#### 1. Under the Existing Law:

- i. It is not compulsory for the worker to approach the GRC and the worker could directly approach the Government to refer the disputes to the Conciliation Officer/ Conciliation Board/Court of Inquiry/Labour Courts/Tribunals.
- ii. Appropriate Government has the power to refer the industrial dispute (on its own or on an application) to either:
  - Conciliation Officer or Board of conciliation, for settlement; or
  - Inquiry committee, to discover reason for the dispute; or
  - Labour Court or Tribunal, according to the nature of the dispute.

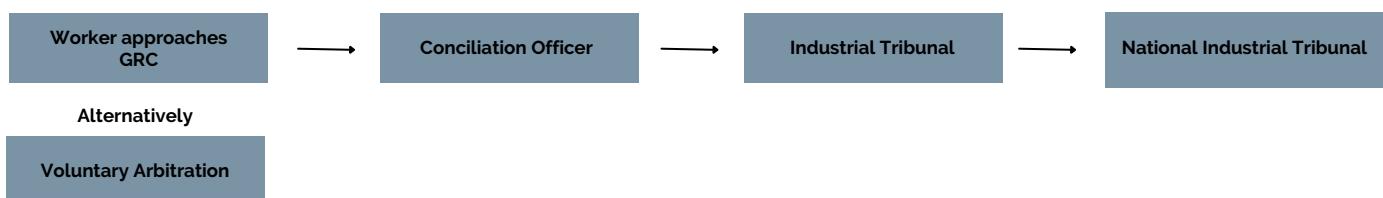
#### Settlement of an Industrial Dispute under the Existing Law:



#### 2. Under the IR Code Law:

- i. The IR Code places emphasis on conciliation and negotiation in the first instance.

#### Settlement of an Industrial Dispute under the IR Code:



## Part D - Sample Illustrations

Sample Illustration		Meaning of Wages for the purpose of computing lay-off compensation, retrenchment compensation and contribution to worker re-skilling fund			
Illustration 1 - Sample Salary Break up					
<b>Particulars</b> - Paid universally to all employees and is not in the form of a reimbursement.					
(I) Fixed Remuneration	Amounts in INR	Compensation	Existing Law	New Position	
(a) Basic Salary	9000	Lay-off compensation	I (a) - INR 9000	I (a) - (d) INR 20000	I (a) - (d) INR 10000
(b) House Rent Allowance	5000	Retrenchment compensation	I (a) - INR 9000	I (a) - (d) INR 20000	I (a) - (d) INR 20000
(c) Conveyance Allowance	5000	Contribution to worker re-skilling fund	NA	NA	I (a) - (d) INR 10000
<b>(II) Performance Bonus/ Variable Pay</b>	<b>1,000</b>				
<b>Total Salary</b>	<b>21,000</b>				

Illustration 2 - Sample salary break-up					
Illustration 2 - Sample salary break-up					
<b>Particulars</b> - Paid universally to all employees and is not in the form of a reimbursement					
(I) Fixed Remuneration	Amounts in INR	Compensation	Existing Law	New Position	
(a) Basic Salary	6000	Lay-off compensation	I (a) - INR 6000	I (a) - (d) INR 13500	I (a) - (d) INR 8500
(b) House Rent Allowance	3000	Retrenchment compensation	I (a) - INR 6000	I (a) - (d) INR 13500	I (a) - (d) INR 13500
(c) Conveyance Allowance	2000	Contribution to worker re-skilling fund	NA	NA	I (a) - (d) INR 13500
<b>(II) Performance Bonus/ Variable Pay</b>	<b>1500</b>				
<b>Total Salary</b>	<b>15,000</b>				

Illustration 3 - Sample salary break-up					
Illustration 3 - Sample salary break-up					
<b>Particulars</b> - Paid universally to all employees and is not in the form of a reimbursement					
(I) Fixed Remuneration	Amounts in INR	Compensation	Existing Law	New Position	
(a) Basic Salary	8000	Lay-off compensation	I (a) - INR 8000	I (a) - (d) INR 23000	I (a) - (d) INR 8000
(b) House Rent Allowance	9000	Retrenchment compensation	I (a) - INR 8000	I (a) - (d) INR 23000	I (a) - (d) INR 23000
(c) Conveyance Allowance	6000	Contribution to worker re-skilling fund	NA	NA	I (a) - (d) INR 23000
<b>(II) Performance Bonus/ Variable Pay</b>	<b>1000</b>				
<b>Total Salary</b>	<b>24,000</b>				

**Notes:**

1. This assessment –
  - a. is BTG's comparative analysis of the IR Code in its present form against current law. Since this is a new legislation interpretation of the provisions of the IR Code may evolve or change after coming into force;
  - b. covers key highlights along with the summary position of each provision under the IR Code and analysis of possible impact to establishments from the same. No draft rules have been taken into consideration while preparing this assessment.
  - c. may also undergo a change when the formal rules ("Rules") and administrative notifications ("Notifications") applicable to the IR Code are announced.

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Arjun Paleri is a Partner in our employment team who specialises in advising foreign clients on their employment practices and issues in India. He also has extensive experience in-house roles including a long tenure with a technology company with global operations.

“

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We received tremendous service. I was very impressed with the knowledge of their lawyers, the quality of their advice, and their efforts to assist us with a difficult acquisition. I would highly recommend BTG to anyone seeking legal service in India.

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The way BTG delivers the task within the timeline is amazing. They are a great support to us in legal & compliance matters.

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