

POST-COVID WORKFORCE MANAGEMENT

In conversation with Rajnarayan Ramakrishna, Senior Vice President and Chief Human Resources Officer, Titan Industries; Dr Prince Augustin, Executive Vice President – Group Human Capital & Leadership Development, Mahindra & Mahindra; Rashmi Pradeep, Partner, General Corporate Practice, Cyril Amarchand Mangaldas

In September 2020, Parliament passed wide-ranging amendments to India’s labour laws, completing the process of merging 44 separate Central laws into four labour codes: on Wages, Social Security, Industrial Relations and Occupational Safety and Health. How will these change the path for companies in managing their workforce? At a broader level, with the boundaries between home and the workplace eroding, what considerations and risks do CHROs need to keep in mind to remain both compliant and efficient in a post-Covid world? The answers, it would seem, require both – management acumen and a nuanced understanding of the regulatory framework. At an online session of the India CHRO Forum, Rajnarayan Ramakrishna, Senior Vice President and Chief Human Resources Officer at Titan Industries, Dr Prince Augustin, Executive Vice President – Group Human Capital & Leadership Development at Mahindra & Mahindra, and Rashmi Pradeep, Partner in the General Corporate Practice of Cyril Amarchand Mangaldas, shared their diverse perspectives on critical workforce-related challenges, the impact of the new labour codes on business and what these codes mean for CHROs.

THE CATAPULT INTO WFH

The new dynamics of work

The coronavirus-led lockdown provided an opportunity for companies to discard their age-old operating models and leapfrog into a new mode of work from home (WFH). Contrary to what might have been expected, the response was remarkably smoothly. Despite the many benefits, remote work has presented a few challenges, to which organisations have responded with commendable speed and vigour.

Covid containment and business continuity at M&M: a joint effort

For vehicle-maker **Mahindra & Mahindra (M&M)**, it was a huge priority to manage the ‘hostage mindset’ of its many ‘locked-up’ employees and keep them in a positive frame of mind. The other key priority was to create safe conditions for its 10,000-15,000 blue-collar workers to return to work. M&M ramped up employee engagement, supported by strong, continuous communication and robust online training frameworks. It also established strict health and safety protocols, including ‘zoning’ the workforce, and worked hard to safely transport in 3,000-4,000 people from different parts of Maharashtra. The IR department collaborated with hospitals and doctors to respond to any emergencies, while the logistics department ensured alignment with M&M’s outsourcing partners (as much as 50% of the company’s work is outsourced). Supporting all of these efforts was strong employee trust and cooperation.

Digital transformation on the fly...

Covid-19 has sparked a massive adoption of digital technologies, including consumer-facing, videoconferencing and e-Commerce applications. The retail sector has seen a radical shift from brick-and-mortar to online, upending the very nature of customer interactions. For luxury-goods maker **Titan**, automation, reskilling, and protecting employees’ mental health are all critical issues, as is productivity. Titan foresees 60% of its workforce operating from home when things return

...and the future of work at Titan

THE NEW LABOUR CODES AND THEIR IMPLICATIONS

In conversation with Rashmi Pradeep, Partner, General Corporate Practice, Cyril Amarchand Mangaldas and Abe Abraham, Partner Designate, Employment Practice, Cyril Amarchand Mangaldas

In September 2020, Parliament approved wide-ranging amendments to the Indian labour laws. Essentially, dozens of separate federal laws were merged into four Labour Codes, on Wages, Social Security (SS), Industrial Relations (IR) and Occupational Safety & Health (OSH). The codes have received Presidential assent, and the draft rules have been published in the Official Gazette, inviting stakeholder comments. From tweaking definitions and making them consistent across the Codes, to introducing fresh concepts, such as gig work and platform workers, they incorporate multiple complexities that will impact businesses in both the short- and the long term. At IMA India's half-day workshop in January 2020 on the Labour Codes, Rashmi Pradeep, Partner, General Corporate Practice, and Abe Abraham, Partner Designate, Employment Practice at Cyril Amarchand Mangaldas, provided insights into the new laws and highlighted critical issues that businesses need to remain cognisant of as the Codes come into effect.

FROM 29, TO 4

Four Codes...

Effectively, the Codes subsume 29 different Central legislations:

...on Wages...

- The Wage Code incorporates 4 laws: the Equal Remuneration Act, the Payment of Wages Act, the Bonus Act and the Minimum Wages Act.

...Industrial relations...

- The IR Code subsumes 3: the Industrial Disputes Act, the Trade Unions Act and the IESO Act.

...occupational safety and health...

- The OSH Code merges 13 laws: the Factories Act, the Interstate Migrant Workers Act, and the Contract Labour Regulation Abolishing Act, the BOCW Act, as well as sector-specific laws.

...and social security

- The SS Code subsumes 9: the EPF Act, the ESI Act, the Employee Compensation Act, the Gratuity Act, the BOCW Cess Act and the Maternity Benefit Act.

All 4 are slated for implementation by April 2021

The Codes do not affect any state laws, though the two overlap and interact at various instances. They will not necessarily come into effect concurrently and may even be implemented in a staggered manner. Different chapters under a Code may come into effect on different days. However, the intent is to make all Codes effective by April 2021. Necessary actions will have to be taken by the state governments to comply with these intended timelines.

ENSURING A CONSISTENCY OF DEFINITIONS

Eliminating a multiplicity of definitions...

A primary demand of industry has been to remove the multiplicity of definitions that exist across different laws. Currently, varying definitions of the same concept across laws make compliance highly challenging. However, under the new Codes, certain key concepts have been given consistent definitions, including:

SALIENT FEATURES: OCCUPATIONAL SAFETY & HEALTH CODE

Some of the key provisions/ amendments under the Occupational Safety and Health Code include:

The OSH Code covers all employees...

...except management

It applies to all establishments including IT/ ITeS...

...and factories...

It includes building and other construction workers...

...as well as inter-state migrant workers...

- **Worker:** The definition of Worker is the same as under the IR Code. An employee must qualify as a worker to be covered under the OSH Code. Currently, under the Factories Act, *anyone* connected with a manufacturing process is classified as a Worker. Under the OSH Code, managerial employees are excluded. Also, anyone connected with providing inputs to a manufacturing process, such as technical, operational, semi-skilled/ skilled manual fieldworkers, are considered as Workers.
- **Factory and establishment:** OSH rules must be followed by all establishments across India. The definition of establishment under the OSH Code also includes IT/ ITeS sector if the threshold of 10 or more workers is met. There are two parts to the definition of a Factory:
 - For purposes of registration, a unit that undertakes manufacturing processes and employs 10 or more workers.
 - For all other purposes, a unit that undertakes manufacturing processes with the aid of power and employs 20 or more workers; or without the aid of power and employs 40 or more workers.
- **Occupier:** Anyone who has ultimate control over the affairs of the establishment. All Directors, barring Independent Directors, are deemed to be occupiers.
- **BOC Worker/ Inter-state Migrant Worker:** The OSH Code largely retains the definitions of BOC workers and inter-state migrant workers, with some amendments:
 - *BOC Worker:* As in the current BOCW Act, a Worker is anyone who is connected to building and construction or related activities. The BOCW Act exempts two types of work – any work under the Factories Act, and any self-use residential project valued at up to Rs 10 lakhs. The OSH Code retains these exemptions but has increased the value limit of self-use residential project to Rs 50 Lakhs.
 - *Interstate Migrant Worker:* The OSH Code defines an inter-state migrant worker as one who comes from a different state, but now also includes direct recruits hailing from outside the state, along with third-party employees who are brought from one state to the other by a contractor. Beyond a wage threshold of Rs 18,000 per month, a worker will not be treated as an inter-state migrant worker. This may impact IT/ITeS companies, because recruitment happens across states, and in some cases, employees travel between states for work. These rules apply to establishments engaging 10 or more inter-state migrant workers, and the following requirements must be fulfilled: