

AS INTRODUCED IN THE RAJYA SABHA
ON THE 4TH FEBRUARY, 2022

Bill No. XXIII of 2021

THE LABOUR CODES (REPEAL) BILL, 2021

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BILL

to repeal certain enactments related to labour sector.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

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| 1. | (1) This Act may be called the labour Codes (Repeal) Act, 2021. | Short title and commencement. |
| | (2) It shall come into force at once. | |
| 5 | 2. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof. | Repeal of certain enactments. |

THE SCHEDULE

(See section 2)

REPEALS

Year	No.	Short Title	Extent of repeal
2019	29	The Code on Wages, 2019	The whole.
2020	35	The Industrial Relations Code, 2020	The whole.
2020	36	The Code on Social Security, 2020	The whole.
2020	37	The Occupational Safety, Health and Working Conditions Code, 2020	The whole.

STATEMENT OF OBJECTS AND REASONS

The Code on Wages, 2019 was enacted to repeal The Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976. The Code on Wages incorporates certain provisions of these Acts selectively to the sole advantage of the employers and distorting and diluting almost all the rights and protection related provisions for the workers and employees. It was also brought with pushing a major section of employees viz., Sales Promotion and Working Journalists out of the coverage of the Act and left to discretion of the employers so far as wage is concerned. The Code on Wages, 2019 did not incorporate the concrete formulae of Minimum Wage (based on 2700 calorie intake etc.) decided unanimously by 15th Indian Labour Conference along with the Supreme Court Judgment in the Raptakos Brett case in 1992, which was again unanimously recommended by 44th Indian Labour Conference and unanimously reiterated by 45th and 46th Indian Labour Conferences in which Govt. of India was a party. Although provision of tripartite Minimum Wage Advisory Board has been kept in the Code, provision has been so designed that the recommendation of the Board will not be binding on the Govt. Minimum wages can be an effective tool for addressing poverty and inequality. In India there are a number of issues and concerns with regard to the setting and implementation of minimum wages. However, there are well tested mechanism/formula that have been evolved over years, which also got consensus of all stakeholders, could be put in place to address these concerns and ensure that minimum wages have a substantial and beneficial impact on subsistence wage and low-paid workers. But the Code on Wages, 2019 didn't address these two main concerns—that is on fixation of minimum wage and strict implementation thereon. The fixation has been, deliberately, kept under the discretion of the governments and the Code dilutes, virtually to nullify, even the pre-existing enforcement mechanism which in turn facilitate the employers to evade from any legal obligations. It curbed the rights of the unions to have access to the balance sheet and other accounts of the company for the purpose of negotiation on payment of Bonus.

2. The Code while changing the designation of Inspector as Inspector cum Facilitator and restraining their regular and routinely mandated duties for regular inspection to verify the compliance of Act by the employers and allowing inspection only with the prior permission from the highest level of the appropriate government, virtually banned or crippled the system of inspection itself, thereby giving a complete go-bye to strong enforcement of the Act itself.

3. The Industrial Relations Code, 2020 repealed the Industrial Disputes Act, 1947; the Trade Unions Act, 1926; and the Industrial Employment (Standing Orders) Act, 1946. The Industrial Relations Code incorporates certain provisions of these Acts selectively to the sole advantage of the employers and distorting and diluting almost all the rights and protection related provisions for the workers and employees. The Industrial Relations Code will lead to the "hire and fire" regime at the will of employers and thereby adversely affect the industrial workers. Formation of trade unions will become more difficult and virtually impossible through imposition of numerous restrictive conditionalities stipulated in this Code. It intends to make the right to collective trade union actions including right to strike virtually banned through number of conditionalities. All these are being pushed through under the slogan of promoting growth and employment. This Code open-endedly empowered the executive to alter many substantive provisions of the enactment passed by Parliament through executive order without sanction of Parliament or through liberal grant of exemptions to employers.

4. The Code on Social Security, 2020 repealed 8 labour laws and enactments namely: the Employees' Compensation Act, 1923; the Employees' State Insurance Act, 1948; the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; The Maternity Benefit Act, 1961; the Payment of Gratuity Act, 1972; the Cine Workers Welfare Fund Act, 1981; the Building and Other Construction Workers Cess Act, 1996; and the Unorganized Workers

'Social Security Act, 2008'. The Code on Social Security incorporates certain provisions of these Acts selectively to the sole advantage of the employers and distorting and diluting most of the social security benefits and related provisions for the workers and employees.

5. In the name of extending social security to unorganized sector workers, it further dilutes and curbs whatever social security benefits being available to a section of workers of the organized sector. It gives relief to the employers in respect of their obligation towards social security contribution for the workers employed by them. The Code seeks to establish full control of the huge accumulation of social security funds with Employees Provident Fund Organisation and also Employees State Insurance Corporation, the Cess fund under Construction Workers Welfare Scheme, all belonging to workers only in which the Governments do not have any contribution whatsoever. Till now, these funds particularly with EPFO and ESIC were governed under the supervision of statutory tripartite committees. Although the Code has retained reference to such tripartite committees, but in much diluted format. The Code does not stipulate any substantive scheme and funding arrangement for universalizing the social security rights of all workers, particularly of the unorganized sector and left that task to be decided and undertaken by the Governments through executive exercise. This Code open-endedly empowered the executive to alter many substantive provisions of the enactment passed by Parliament through executive order without sanction of Parliament or through liberal grant of exemptions to employers. The Code seeks to repeal eight existing functional social security legislations on the plea of simplifying and rationalizing them but actually diluting them grossly to the detriment of the beneficiary workers' interests.

6. The Occupational Safety, Health and Working Conditions (OSHC) Code, 2019 proposed to repeal 13 labour laws and enactments namely: (i) The Factories Act, 1948; (ii) The Mines Act, 1952; (iii) The Dock Workers (Safety, Health and Welfare) Act, 1986; (iv) the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; (v) the Plantations Labour Act, 1951; (vi) the Contract Labour (Regulation and Abolition) Act, 1970; (vii) the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; (viii) the Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955; (ix) the Working Journalists (Fixation of Rates of Wages) Act, 1958; (x) the Motor Transport Workers Act, 1961; (xi) The Sales Promotion Employees (Conditions of Service) Act, 1976; (xii) the Beedi and Cigar Workers (Conditions of Employment) Act, 1966; and (xiii) the Cine Workers and Cinema Theatre Workers Act, 1981. The OSHWC Code incorporates certain provisions of these Acts selectively to the sole advantage of the employers and distorting and diluting almost all the rights and protection related provisions for the workers and employees. However, the code did not stipulate even the basic humane working condition of eight hours work in a day and left it to be decided by the appropriate governments. All these thirteen Acts that the Code subsumed invariably, have very categorically defined the working hours. The concepts like daily working hours, Weekly working hours, Period of work, Intervals for rest, over time duty and spread-over hours-which all are well defined in the Factories Act, 1948 and in all the relevant Acts are sought to be removed by this Code. It means internationally and universally accepted principle of "not more than eight hours working a day" is removed from the Code and has been thrown open to renegotiate and review by the appropriate governments.

7. The Code stripped the tripartite board on safety at the apex or at national level to deal on policy decisions on workplace safety. It also intends to make the rights of recognition of trade unions in any establishment to be decided by the concerned employer again through the provisions like "schemes as prescribed" or "rules as decided" etc by the appropriate Government, without any substantive say either of the workers or the trade unions. The Code completely does away with sector specific existing legislations having concrete sector specific provisions relating to working conditions in the particular sector/occupation/work-process and related issues in Plantation, Beedi and Cigar, mines, construction, motor transport, dock workers, sales promotion, working journalists etc on the plea of subsuming the same laws in the Code, but actually not doing so in respect of most of the workers' rights and protection related matters. The Contract Labour (Regulation and Abolition) Act, 1970 is also

subsumed by this Code by removing crucial provisions regarding responsibility and obligation of the Principal Employers for the protection of the interests and rights of the contract workers and diluting the power and role of the statutory tripartite board on the Contract labour etc. This will make already distressed condition of the contract workers who represent almost half of the productive workforce, miserable akin to slavery. This will provoke increasing replacement of regular workers by contract workers affecting finally the productivity and operational efficiency. The system of regular inspection of workplaces on working conditions and safety matter which is the lifeline of enforcement of all the enactments are thoroughly diluted and made toothless to promote violations of all the provisions of the law in the interest of the employers. The OSHWC Code also open-endedly empowered the executive to alter many substantive provisions of the enactment passed by Parliament through executive order without sanction of Parliament or through liberal grant of exemptions to employers.

8. In order to protect the interests of workers in labour sector, it has become imperative to repeal the said enactments.

Hence, this Bill.

ELAMARAM KAREEM

RAJYA SABHA

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to repeal certain enactments related to labour sector.

(Shri Elamaram Kareem, M.P.)