

Govt to overhaul contract labour system, allow liberal hiring of workers

Updated at September 21, 2020 06:09 IST

The National Democratic Alliance government has sought to liberalise the contract labour system in the country through labour codes introduced in Parliament on Saturday by giving companies a free hand to hire such workers, along with an easier licensing regime.

The Code on Occupational Safety, Health (OSH) and Working Conditions Bill, 2020, facilitates hiring contract workers across the board for companies, even though it has introduced the concept of core and non-core activities in the functioning of a unit. It has also sought to bring more companies out of the purview of the contract labour law by increasing the threshold of its applicability, based on the size of firms.

Contract workers are outside the purview of retrenchment or layoff and trade union laws, making such arrangements attractive to businesses.

The Code on Industrial Relations Bill, 2020, has a provision allowing industries to hire workers on a fixed-term contract “on the basis of requirement and without restriction on any sector”, without the help of contractors. The government has not placed any cap on the tenure of such fixed-term contracts or the number of times it can be renewed, as is the norm in developing economies such as China and Vietnam. In fact, the government has scrapped a proposal disallowing firms to convert its existing workforce into fixed-term workers.

The proposed OSH code states that “employment of contract labour in core activities of any establishment is prohibited”. Core activity will be defined as “any activity for which the establishment is set up and includes any activity which is essential or necessary to such activity”.

But for firms, activities such as sanitation work, security services, canteen and catering services, gardening, housekeeping and laundry services will not be treated as ‘core’ unless these are set up only for such purposes. A senior labour ministry official said that in doing so, the government has accepted the recommendations of the parliamentary standing committee on labour led by Bhartruhari Mahtab. To give an example, Maruti Suzuki will not be able to hire contract workers for production of cars, which will be seen as its core activity, but will be allowed to do so for managing its canteen, housekeeping roles or security services.

But a careful reading of the proposed OSH code showed that even for core activities, firms will be free to hire workers on contract, if they “ordinarily” use contractors for such recruitment. Even “any sudden increase in volume of work” can be a reason for employing contract workers in core activities. “The present law is framed in a way that it assumes that a company will have equal expertise and competence in managing all kinds of work for running its operations. There are certain activities that need to be outsourced and it’s a practice being followed in many countries. In modern-day world, companies do need to focus on their core operations. We are now catching up with the rest of the world,” Chairman of the Confederation of Indian Industry’s national committee on industrial relations M S Unnikrishnan said, while welcoming the proposals related to the contract labour system.

The country’s present contract labour law, known as the Contract Labour (Regulation and Abolition) Act, 1970, is designed in a way that it is meant to encourage permanent roles, along with abolishing

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Resource: Business Standard, 21 Sep 2020

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contract workers in jobs of “perennial nature”. It applies to all companies employing at least 20 contract workers. The proposed code will be applicable to companies hiring at least 50 contract workers, thereby bringing more firms out of the labour law ambit since no such regulation will apply to them. The government has proposed that it will appoint an authority to decide whether an activity will be counted as part of its ‘core’ operations or not. Companies can also make a representation to the government in case its “aggrieved” by the decision.

“In the name of ‘ease of doing business’, the Code on OSH Bill legitimises the changes executed by more than a dozen state governments by bringing more companies out of the contract labour law. In so many ways, the government is proposing to liberalise the employment of contract workers by allowing them to be hired even for core activities,” labour economist and XLRI Professor K R Shyam Sundar said. He said the government’s idea of defining core and non-core activities will lead to litigation and if states follow a different yardstick, it will lead to further uncertainty for businesses.



WORKING IT OUT

- **Single licence for establishments executing multiple projects by engaging contract workers for five years**
- **Contract labour law will not apply to firms hiring up to 50 workers**
- **Industries to be allowed to hire contract workers, even for core activities**
- **Central government can designate authority to determine core activity**
- **No cap on fixed-term contract renewals**

The government has also proposed single licence for establishments executing multiple projects, involving contract workers, for a period of five years. Such a licence needs to be obtained from the central government in case the operations are in multiple states.

For the first time, the government will set conditions that contractors have to fulfil to obtain such a pan-Indian licence. Contractors can follow the older system, too, by getting a licence based on separate work orders. At present, for each work order, a firm is required to obtain separate licences. Even contractors, who help companies in hiring contract workers, will get a single licence to operate for five years, instead of going through multiple authorities for approval. However, firms need to inform the government every time they receive a ‘work order’, failing which the licence will be cancelled. Further, if a contractor wants to increase the number of contract workers to be employed, he will have to apply for renewal of licence.