

# Corporate Alert

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August, 2010

## The Industrial Disputes (Amendment) Bill, 2010 passed by the Rajya Sabha

The Rajya Sabha has passed The Industrial Disputes (Amendment) Bill, 2010 (“**Bill**”) on August 03, 2010, which proposes amendment to The Industrial Disputes Act, 1947 (“**Act**”). The Bill was introduced in the Rajya Sabha on February 26, 2009 and was referred to the Parliamentary Standing Committee on Labour (“**Standing Committee**”), which examined the Bill and made certain recommendations on the proposed amendments. The broad amendments proposed in the Bill are as follows:



### Section 2 (a): Amplification of definition of Appropriate Government

At present, the Central Government is the appropriate Government in respect of categories listed in Section 2(a) (i) of the Act. The Bill proposes to amplify the definition of 'appropriate Government' under 2(a) of the Act by clarifying that the Central Government would be the appropriate Government for 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. Further, the State Government will be the appropriate Government 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.

To further amplify the definition of the term 'appropriate Government' the Standing Committee has also suggested that the industrial disputes between a contractor and the contract labour employed in any industrial establishment needs to be brought under the purview of 'appropriate Government'. The suggested change to the definition of the term 'appropriate Government' will eliminate the ambiguities with regard to interpretation of the term 'appropriate Government'.

### Section 2(s) (iv): Enhancing the wage ceiling of Rs. 1600 per month prescribed for supervisors in the definition of workmen under Section 2 (s) (iv) to Rs. 10,000 per month

The present definition of term 'workman' excludes any person who is employed in the supervisory capacity and draws wages exceeding Rs. 1600 per month (Note: Some States have an enhanced limit). Now it has been proposed in the Bill to raise this ceiling upto Rs. 10,000 per month.

### Section 2A: Direct reference of disputes connected with Termination/ Dismissal/ Retrenchment/ Discharge to Industrial Tribunals

At present, an industrial dispute could be adjudicated by the Tribunal (as defined under the Act) or by the Labour Court (as defined under the Act) only after a reference is made by the 'appropriate Government'. It has been proposed in the Bill to provide direct access for the workman to the CGIT-cum LC\* in case of disputes pertaining to retrenchment,

discharge, dismissal or termination of services etc. As a consequence of this proposed amendment, the workman can directly approach CGIT-cum-LC after filing his grievance before the conciliation machinery to resolve the issue within 45 days.

### Substitution of new chapter for Chapter IIB - Setting of Grievance Redressal Machinery

The Bill seeks to establish a Grievance Redressal Machinery (“**GRM**”) within the industrial establishment having 20 or more workmen with one stage appeal at the head of the establishment for resolution of disputes. Presently, Chapter IIB is only applicable to industrial establishments in which 50 or more workmen are employed or have been employed on any day in the preceding twelve months. With this amendment, the workman will get one more alternative grievance redressal mechanism for the resolution of his dispute within the organization itself with minimum necessity for adjudication. It may be noted that setting up of GRM in no way will affect the right of the workman to raise dispute on the same issue under the provisions of Act.

### Section 11: Power to enforce Decree by Central Government Industrial Tribunal

The Bill also proposes to empower the Labour Court or Tribunal to execute their awards, orders of settlements arrived at, as a decree of a Civil Court. This amendment will ensure better enforcement of the awards given by CGIT-cum LC.

\* Central Government Industrial Tribunal – cum - Labour Court

Source: <http://pib.nic.in/release/release.asp?relid=64077>

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