



LABOUR

Industrial Relations Code (Removal of Difficulties) Order, 2025: The Central Government's Stop-Gap Measure to Preserve Labour Adjudicatory Architecture

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The Industrial Relations Code, 2020 was conceived as the legislative cornerstone of the Central Government's labour-law rationalisation project, yet its operationalisation has been sequenced in a manner that threatens procedural hiatus. Although the Code received Presidential assent on 28 September 2020, its substantive provisions were activated only on 21 November 2025 through Notification S.O. 5320(E). That commencement instrument, however, conspicuously refrained from invoking the repeal clause embedded in section 104, with the result that the Industrial Disputes Act, 1947 remains legally alive. Simultaneously, section 51(1) of the Code commands the automatic transfer of every pending industrial dispute to newly constituted Industrial Tribunals and National Industrial Tribunals, bodies that, as of date, have not been created. The confluence of an extant parent statute and a non-existent successor forum produced an acute constitutional and administrative dilemma: the mandated transfer could not be executed without depriving workmen and employers of an available adjudicatory avenue. To avert a remediless vacuum, the Ministry of Labour & Employment promulgated the Industrial Relations Code (Removal of Difficulties) Order, 2025 on 8 December 2025, resorting to the remedial reservoir of section 103.

Section 103 clothes the Central Government with plenary, albeit carefully circumscribed, power to issue orders that are "necessary or expedient for removing any difficulty" arising during the transitory phase of the Code. The constitutional pedigree of such provisions is well settled: they are valid so long as the orders are reasonably incidental to the parent enactment and do not travel beyond its essential object. The 2025 Order comfortably meets that test, for it merely preserves the status quo ante until the institutional architecture envisaged by the Code is physically erected.

The Order comprises two succinct clauses. Clause 1 denominates the instrument and fixes its commencement on the date of publication in the Extraordinary Gazette. Clause 2 contains the substantive clarification: all Labour Courts, Industrial Tribunals and National Industrial Tribunals constituted under the Industrial Disputes Act, 1947 shall "continue to adjudicate the existing as well as new cases" until their corresponding counterparts under the Code are constituted. The expression "existing as well as new cases" is deliberately expansive; it shields both legacy litigation and freshly instituted references from the rigour of section 51(1) and thereby obviates any argument of ouster of jurisdiction. The clarification is expressly tethered to the overriding purpose of "ensuring continuity of adjudication and avoiding any legal or administrative vacuum," a legislative recital that fortifies the Order against charges of colourable exercise of power.

Operationally, the instrument functions as an interim constitutional scaffold. It suspends the statutory obligation of transfer without suspending the Code itself, and it leaves intact all procedural and substantive rights available under the 1947 Act. Consequently, limitation periods, modes of appeal, and the corpus of judicial precedent remain undisturbed. The moment the Central Government notifies the creation of Industrial Tribunals or National Industrial Tribunals under the Code, the removal-of-difficulties Order will cease to be operative, and the migration mandate of section 51(1) will automatically revive.

In sum, the 2025 Order exemplifies a minimalist yet efficacious deployment of the difficulty-removal power. It balances legislative intent with administrative reality, safeguards access to justice, and affords the executive a breathing space to complete the rule-making and infrastructural formalities essential to the new dispensation. For practitioners, the takeaway is clear: until a fresh notification heralds the birth of Code-based fora, the familiar portals of the Industrial Disputes Act, 1947 remain wide open, clothed with renewed vitality by virtue of a single, purposive paragraph in the Gazette.

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