PRS Capsule October 2020

Key Highlights of PRS

Governance

Rules under the Industrial Relations Code, 2020

- The Ministry of Labour and Employment released the draft central rules under the **Industrial Relations Code, 2020.**
- The draft Rules will apply to establishments which are under the control of the central government and will replace the previous central rules on these matters.

- Key features of the draft Rules include:
  - **Layoffs, retrenchment and closure:** Factories, mines, and plantations with 300 or more workers need to apply for prior permission before laying off or retrenching workers, or before closing an establishment.

    The draft Rules provide that the application to the government must be made at least 15 days before the intended date of layoff, 60 days before the intended date of retrenchment, and 90 days before the intended date of closure.
  - **National Tribunal:** The Code provides for the constitution of National Industrial Tribunals (consisting of a judicial and administrative member) for settling disputes which: (i) involve questions of national importance, or (ii) could impact establishments situated in more than one state.
    - The Rules specify the composition of the Selection Committees which will recommend members to the Tribunals.
    - The Committees will include: (i) the Chief Justice of India or a Supreme Court Judge nominated by him (as Chairperson), (ii) a sitting member of the other National Industrial Tribunal (which will either be a judicial or administrative member, depending on who is being appointed), and (iii) Secretaries in the Ministry of Labour and Employment and the Department for Promotion of Industry and Internal Trade.
  - **Re-skilling fund:** The Code proposed a re-skilling fund which will consist of contributions, from employers, equal to 15 days (or as specified by the central government) of the last drawn wages of every retrenched worker.

    The Rules provide that within 10 days of retrenchment, employers will be required to transfer 15 days' wages into an account maintained by the government. These funds will be transferred to workers within 45 days of receiving the amount from the employer.
  - **Constitution of Works Committee:** The Code provides for the constitution of Works Committees in establishments with more than 100 employees to resolve conflicts between workers and employers. The draft Rules state that the Works Committee will consist of up to 20 members.

Factories Act, 1948

- The **Factories Act, 1948** regulates the safety, health, and welfare of workers in factories with at least 10 or 20 workers (based on use of power). The Act enables the government to exempt any factory or class of factories from its provisions in the case of a 'public emergency'.

  'Public emergency' is defined to include a 'grave emergency' which threatens the security of the state by way of war, external aggression, or internal disturbance.

- In April 2020, the government of Gujarat issued notifications under the Act to exempt factories in the state from several provisions of the Act in view of the **COVID-19 pandemic.**
    - These included: (i) increase in maximum weekly work hours from 48 hours to 72 hours, (ii) increase in maximum daily work hours from 9 hours to 12 hours, (iii) change in the mandatory rest periods from once every five hours to once every six hours, and (iv) revision in the formula for calculating overtime wages from twice the rate of wages to a rate which is proportionate to existing wages.
    - The notifications were valid from April 20, 2020 to October 19, 2020.
- These notifications were challenged before the Supreme Court. The question before the Court was whether the COVID-19 pandemic and the consequent lockdown created a 'public emergency' as defined in the Act.
    - The Court noted the state's argument that the pandemic created an economic slowdown and that the situation was on the **"brink of an internal disturbance".**
    - However, the Court concluded that the slowdown did not affect the security of India or any part of its territory in a way that disturbed its peace and integrity.
    - Therefore, the Court struck down the notifications because the economic slowdown created by the pandemic did not qualify as an **'internal disturbance'** that posed a **'grave emergency'** and which threatened the security of the state.
- **Right to life:** The Court also observed that the denial of humane working conditions and payment of overtime wages as provided by law constituted an affront to Articles 21 (right to life) and Article 23 (prohibition against forced labour) of the Constitution of India.

    The Court further directed that overtime wages be paid to all workers who have been working since the date of the issuance of the notifications, at the original rate of double the ordinary wages.

Audit report on the National Pension Scheme

- The **Comptroller and Auditor General (CAG)** submitted its performance audit report on the **National Pension Scheme (NPS).**
- The NPS is a **contributions-based pension scheme** mandatory for central government employees and their autonomous bodies (except armed forces).
    - State governments and their autonomous bodies also adopt the NPS architecture on different occasions for their employees.
    - The NPS is regulated by the Pension Fund Regulatory and Development Authority (PFRDA).
    - The Central Government has introduced the National Pension System (NPS) with effect from January 01, 2004 (except for armed forces).
    - National Pension System Trust (NPST) established by PFRDA is the registered owner of all assets under NPS.

- Key findings and recommendations of CAG include:
    - **Planning:** CAG noted that: (i) the rules on service conditions and retirement benefits for employees covered by the NPS were still not finalised, and (ii) a Minimum Assured Returns Scheme was still not framed, to ensure that NPS subscribers receive minimum returns, in violation of the PFRDA Act, 2013.

        CAG recommended taking remedial measures to finalise service rules and to provide a minimum assured returns scheme. Further, it noted that there was no indication that actuarial evaluation of the fund/ scheme was conducted once in two years (recommended by a High-Level Expert Group) or that any other mechanism was adopted to assess its viability.
    - **Implementation:** CAG noted that during the formulation of the scheme, no controls were established to ensure that 100% of employees were covered. It recommended that a system be put in place to ensure that all nodal officers and eligible employees are registered under NPS.
        - Further, it noted non-remittances or delayed remittances of contributions by the nodal officers to trustee banks in certain cases.
        - Trustee banks are responsible for day-to-day fund flows and banking facilities under the scheme.
        - It recommended amendments to the PFRDA Act to clearly define the responsibility, accountability, and penalty for delay at each level to ensure that contributions are remitted to the bank and credited to subscribers' accounts in time.
    - **Monitoring:** CAG noted that in 2009, it was decided that all central government ministries/departments would constitute committees comprising the Joint Secretary and other officials to oversee the implementation of the NPS in their respective ministries.

        It noted that out of 66-68 ministries/departments between 2012-13 and 2018-19, not all had constituted these committees.

Economy

Additional measures to increase liquidity and credit flow

The **Reserve Bank of India (RBI)** announced measures to enhance liquidity support for financial markets and increase credit flow to ease stress caused by COVID-19. The measures announced by RBI include:

- **Liquidity:** RBI will conduct on tap TLTRO (targeted long-term repurchase operations) for up to one lakh crore rupees, up to March 31, 2021. Under the scheme, banks can borrow money for a period of three years at a floating interest rate linked to the repo rate.
    - Money availed under this scheme may either be (i) invested in bonds and other financial instruments, or (ii) used to extend loans to entities operating in certain sectors.
    - These sectors include agriculture, MSMEs (micro, small and medium enterprises), and drugs, pharmaceuticals, and healthcare. Investment in financial instruments must be incremental to the amount outstanding as on September 30, 2020.
- RBI will conduct open market operations (OMOs) in state development loans (SDLs) as a special case for the financial year 2020-21.

    SDLs are securities issued by the state governments. The OMO will be conducted for a basket of SDLs issued by various states.
- **Support for exports:** In 2016, RBI introduced automated caution/ de-caution listing of exporters. Exporters would be cautioned if any shipping bill against them remains outstanding for more than two years.
    - Exporters on the caution list lose further access to certain kinds of credit. Once bills are realised, exporters will be automatically de-caution listed. RBI may also caution/ de-caution list on recommendation by banks.
    - RBI will now discontinue automatic caution/ de-caution listing though such listing will continue on recommendation by banks. This is expected to provide exporters flexibility in realisation of export proceeds, as caution listing will be done on a case by case basis.
- **Lower risk weight for retail exposures:** Exposures (loans) usually carry a risk-weight of 100%, which indicates the extent of capital to be maintained.
    - A higher risk weight results in higher capital requirement, and hence higher cost of credit. Exposures to individuals and small businesses of up to Rs 5 crore are eligible to be included in the regulatory retail portfolio, with a risk weight of 75%.
    - RBI has increased the limit to Rs 7.5 crore. This is expected to reduce the cost of credit for banks for such exposures.

Targeted Long-term Repo Operations

- **LTRO** is a tool that lets banks borrow one to three-year funds from the RBI at the **repo rate**, by providing government securities with similar or higher tenure as collateral.
- It is called 'Targeted' LTRO as in this case, the RBI wants banks opting for funds under this option to be specifically invested in investment-grade bonds.

- The TLTRO was introduced by the RBI to help companies, including financial institutions, manage their cash flow issues in the wake of the **Covid-19 outbreak.**

Interoperability of QR code

- RBI issued directions for interoperability of the Quick Response (QR) code infrastructure for facilitating digital payments.
- This measure is among the recommendations from the Committee on the Analysis of QR Code which submitted its report in July 2020.
    - QR code is a two-dimensional bar code that can be read by imaging devices such as smartphones.
    - It facilitates digital payments without the need for point of sale terminals. An interoperable QR code enables consumers to make payments using any payment app.
    - Without interoperability, QR codes of particular payment system operators (PSOs) can each be scanned only by an associated payment app.
- As per RBI's notification, two interoperable QR codes that are currently in existence, UPI QR and Bharat QR, will continue to operate.
- PSOs, such as certain mobile wallet providers, that use proprietary (non-interoperable) QR codes must shift to interoperable QR codes by March 31, 2022. PSOs are not allowed to launch new proprietary (non-interoperable) QR codes.

Decentralised Renewable Energy (DRE) Livelihood Applications in Rural Areas

- The Ministry of New and Renewable Energy invited comments on the draft policy framework for developing and promoting **decentralised renewable energy (DRE)** livelihood applications in rural areas.

    DRE livelihood applications refers to the applications of renewable energy to earn livelihoods (such as solar dryers and solar powered cold storage).

- Key features include:
    - **Assessment of demand:** Demand potential for DRE livelihood applications will be assessed across rural areas in various regions of the country. The Ministry will prepare a list of the livelihood applications of DRE and map needs of the beneficiaries.
    - **Research and development:** Research and development activities related to DRE technologies will be encouraged to promote efficiency. These activities will be conducted in collaboration with civil society and organisations such as NGOs.
    - **Skill development and capacity building:** Skill development programs will be facilitated in the areas of operation and maintenance, installation, and fabrication of DRE livelihood applications.
        - Various community level platforms (such as self-help groups and farmer producer organisations) will be developed for capacity building of potential buyers.
    - **Public awareness and implementation agency:** The central and state government ministries/departments under their existing programmes may take up public awareness campaigns to push adoption of DRE livelihood applications.
        - The state nodal agencies with expertise in the renewable energy sector will be responsible for implementation and providing technical support in rural areas.

Social Justice

Strengthening Teaching-Learning and Results for States project

- The Union Cabinet approved the **Strengthening Teaching-Learning and Results for States (STARS) project.** The project aims to improve the quality of education in the country.
    - **At the national level:** the scheme aims to (i) strengthen data collected on retention, transition, and completion rates of students, (ii) set up a National Assessment Centre to facilitate inter-state communication, and (iii) set up a Contingency Emergency Response Component to facilitate education during natural and man-made disasters, amongst others.
    - **At the state-level:** the scheme will focus on matters such as (i) strengthening early childhood education and foundational learning, (ii) improving learning assessment systems, and (iii) strengthening vocational education and classroom instruction.
    - It will focus on the following six states: Himachal Pradesh, Kerala, Odisha, Madhya Pradesh, Maharashtra, and Rajasthan.
- **Funding:** The total cost of the project will be Rs 5,718 crore. A financial assistance of Rs 3,700 crore will be provided by the **World Bank** for the project. It will be implemented as a new scheme **sponsored by the central government.**

Safe Piped Water Supply in Schools and Anganwadi Centres

- The Ministry of Jal Shakti launched a 100 days campaign to ensure safe piped water supply in schools and anganwadi centres across the country.
    - This campaign comes under the **Jal Jeevan Mission (JJM)** which aims to provide universal coverage of tap water connection to every rural household by 2024.
- Key features of the campaign include the following:
    - **Components:** Key components of the campaign include: (i) provision of piped water supply for anganwadi centres, schools, tribal hostels, health and wellness centres, and community toilets, (ii) greywater treatment and reuse to ensure improved environmental sanitation, (iii) water quality monitoring at delivery points, and (iv) human resource development for operations and maintenance.
    - **Administration:** The Public Health Engineering Department of states will be the nodal department to head the campaign.
        - It will involve the Gram Panchayats and its sub-committees, along with other departments such as education, women and child welfare, panchayati raj, rural development, and tribal welfare.
    - **Facilities to provide safe drinking water** will be operated and maintained by the Gram Panchayat and its sub-committee, i.e. Village Water and Sanitation Committee.
    - **Implementation:** Implementation strategies for various situations include: (i) institutions with functional tap water connections: provide adequate and safe water for long term, (ii) institutions with defunct piped water supply: water supply to be improved, (iii) institutions with no proposed piped water supply: provision of standalone water supply schemes such as tubewell with required purification be made permanent piped water supply, along with planning for 100% functional tap water connections.

Environment

Chemicals under the Stockholm Convention Banned

- The **Union Cabinet ratified a ban of seven persistent organic pollutants (POPs)** listed under the Stockholm Convention as chemicals hazardous to health and environment.
- The Stockholm Convention is a global treaty to protect human health and environment from POPs.
    - The exposure to POPs may: (i) lead to cancer, (ii) damage the nervous system, (iii) harm the immune system, (iv) cause reproductive disorders, and (v) impact child development.

- India ratified the **Stockholm Convention in 2006** as per Article 25(4), which enabled it to keep itself in a default "opt-out" position such that amendments in various Annexes of the convention cannot be enforced on it unless an instrument of ratification/acceptance/approval or accession is explicitly deposited with UN depositary.
- The convention calls to ban nine of the dirty dozen chemicals (key POPs), limit the use of DDT to malaria control, and curtail inadvertent production of dioxins and furans. The convention listed twelve distinct chemicals in three categories:
    - **Eight pesticides** (aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex and toxaphene)
    - **Two industrial chemicals** (poly chlorinated biphenyls and hexachlorobenzene)
    - **Two unintended by-products** of many industrial processes involving chlorine such as waste incineration, chemical and pesticide manufacturing and pulp and paper bleaching (poly chlorinated dibenzo-p-dioxins and dibenzofurans, commonly referred to as dioxins and furans).

Commission for air quality management in NCR

- The **Commission for Air Quality Management** in the National Capital Region and Adjoining Areas Ordinance, 2020 was promulgated.
- The Ordinance establishes a Commission for better coordination, research, identification, and resolution of problems related to air quality in the national capital region (NCR) and adjoining areas.

    Adjoining areas refers to areas in the states of Haryana, Punjab, Rajasthan, and Uttar Pradesh where any source of pollution may cause adverse impact on air quality in the NCR.
- Through the Ordinance, the Centre has also dissolved the **Environment Pollution (Prevention and Control) Authority (EPCA)** for the NCR.

- The key provisions of the Ordinance include:
    - **Functions:** Functions of the Commission include: (i) coordinating actions taken under the Ordinance by the concerned state governments (Delhi, Haryana, Punjab, Rajasthan, and Uttar Pradesh), (ii) planning and executing plans to prevent and control air pollution in the region, (iii) conducting research and development through networking with technical institutions, (iv) training and creating a special work force to deal with issues related to air pollution, and (v) preparing various action plans such as increasing plantation and addressing stubble burning.
    - **Powers:** Powers of the Commission include: (i) restricting activities influencing air quality, (ii) investigating and conducting research on air pollution, (iii) preparing codes and guidelines to prevent and control air pollution, and (iv) issuing directions which will be bounding on the concerned person or authority.

        In case of any conflict, the orders of the Commission will prevail over the orders of the concerned state governments, the Central Pollution Control Board (CPCB), or any other state-level statutory body.
    - **Composition:** The Commission will consist of: (i) a Chairperson, (ii) two Joint Secretaries from the central government, (iii) three persons with knowledge and expertise related to air pollution, and (iv) three members from non-government organisations.
        - Further, the Commission will include ex-officio members: (i) as members from the central government and concerned state governments, and (ii) as technical members from CPCB, the Indian Space Research Organisation, and NITI Aayog.
        - The Chairperson and members will have a tenure of three years or till the age of seventy years, whichever is earlier.
    - **Penalties:** Non-compliance with or violation of the Ordinance, and orders and directions of the Commission is punishable with imprisonment of up to five years or fine of up to one crore rupees or both.

        All appeals against the orders of the Commission will be heard by the National Green Tribunal.

Note:

EPCA was not a statutory body but drew legitimacy from the Supreme Court. It did have the authority to issue fines or directions and guidelines to the governments in other states.

- However, it had no state representatives, just two permanent members.
- The Commission, on the other hand, will have representation from the state. It is a permanent and statutory body.