

PROFESSIONAL PROGRAMME

LABOUR LAWS & PRACTICE

The law relating to labour and employment in India is primarily known under the broad category of “Industrial Law”. Industrialization is considered to be one of the key engines to support the economic growth of any country. The commence of industry and its growth is not a venture of the employer alone; yet it involves the hard work and tough grind of each and every stakeholder of the industry including the labourers, supervisors, managers and entrepreneurs. With the initiation of the concept of welfare state in the early realm of independence of our country, various legislative efforts have made their first move in the direction of welfare, equitable rights, social justice, social equity and equitable participation of the labour as a stakeholder at parity. A plethora of labour laws have been established to ensure elevated health, safety, and welfare of workers; to protect workers against oppressive terms as individual worker is economically weak and has little bargaining power; to encourage and facilitate the workers in the organization; to deal with industrial disputes; to enforce social insurance and labour welfare schemes and alike.

Labour laws are the one dealing with employment laws in any organization – whether it is a manufacturing organization or trading organization or shops and establishment. The labour laws address the various administrative rulings (such as employment standing orders) and procedure to be followed, compliance to be made and it address the legal rights of, and restrictions on, working people and their organizations. By and large the labour law covers the industrial relations, certification of unions, labour management relations, collective bargaining and unfair labour practices and very importantly the workplace health and safety with good environmental conditions. Further the labour laws also focus on employment standards, including general holidays, annual leave, working hours, unfair dismissals, minimum wage, layoff procedures and severance pay and many other issues related to employer and employee and the various compliance requirements.

The labour laws derive their origin, authority and strength from the provisions of the Constitution of India. The relevance of the dignity of human labour and the need for protecting and safeguarding the interest of labour as human beings has been enshrined in Chapter-III (Articles 16, 19, 23 & 24) and Chapter IV (Articles 39, 41, 42, 43, 43A & 54) of the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy. Labour law reforms are an ongoing and continuous process and the Government has been introducing new laws and amending the existing ones in response to the emerging needs of the workers in a constantly dynamic economic environment. Labour is a subject in the Concurrent List where both the Central & State Governments are competent to enact legislation subject to certain matters being reserved for the Centre.

Under the Companies Act, 2013 the role of the company secretary has been considerably widened in as much as now he is not only responsible for the compliances under the company law but also in respect of compliances under all other applicable laws.

Keeping in view these rapid developments and significance of role of Company Secretary in the field of Labour Laws, this study material has been prepared to provide an understanding of certain labour legislations which have direct bearing on the functioning of companies. This study material has been published to aid the students in preparing for the Labour Laws & Practice paper of the CS Professional Program, Group 2, Elective Paper 7.3.

It is part of the educational kit and takes the students step by step through each phase of preparation emphasizing key concepts, principles, legal fundamentals and procedures. Company Secretaryship being a professional course, the examination standards are set very high, with emphasis on knowledge of concepts, applications, procedures and case laws, for which sole reliance on the contents of this study material may not be enough. This study material may, therefore, be regarded as the basic material and must be read along with the Bare Acts, Rules, Regulations, Case Laws.

The legislative changes made upto May 31, 2023 have been incorporated in the study material. In addition to Study Material students are advised to refer to the updations at the Regulator’s website, supplements relevant for the subject issued by ICSI and ICSI Journal Chartered Secretary and other publications. Specifically, students are advised to read “Student Company Secretary” e-Journal which covers regulatory and other relevant developments relating to the subject, which is available at academic portal <https://www.icsi.edu/student-n/academic-portal/>. In the event of any doubt, students may contact the Directorate of Academics at academics@icsi.edu.

The amendments to law made upto 31st May of the Calendar Year for December Examinations and upto 30th November of the previous Calendar Year for June Examinations shall be applicable.

Although due care has been taken in publishing this study material, the possibility of errors, missions and /or discrepancies cannot be rules out. This publication is released with an understanding that the Institute shall not be responsible for any errors, omissions and/or discrepancies or any action taken in that behalf.