

Regulatory changes critical to create 1 crore formal jobs states TeamLease Services

~Top 10 regulatory changes that can bring about a shift in labour participation~

Bangalore, December 20, 2017: The momentum of labour law reforms that were initiated 3 years ago brought in some positive changes for entrepreneurs. However, it is crucial to focus on the need for significant changes in critical labour laws to make compliance more transparent, seamless and hassle free. The aim is to create a conducive environment that stimulates the growth of enterprises as well as formal jobs and make life easier for entrepreneurs across labour, taxes, environment, land and helps an enterprise grow.

Elaborating on the need for regulatory reforms **Ms. Sonal Arora, Vice President, TeamLease Services** said, "A revamp of the regulatory eco-system is extremely important to further improve the ease of doing business and raise the labour force participation in formal sector. A few key but impactful regulatory reforms can raise the share of formal employment from the **current 10% to nearly 40% and create 1 crore jobs**. We at TeamLease, over the years have always supported and encouraged this change to increase the formal job sector in the country."

Nearly 100% of net job creation in India in the last two decades has happened in small and low-productivity enterprises. 90 percent of our labour force works informally and is deprived of social security benefits and a wage premium that can only be paid by formal sector employers. The top 10 regulatory changes needed in 2018 to accelerate formal job creation are:

1) Consolidation of 44 central labour laws into 4 labour codes: India has 44 central labour laws and more than 150 state laws. Many of these are outdated with little relevance. Moreover, there is also enormous multiplicity. Multiplicity of rules and procedural delays impose unreasonable transaction costs on businesses. Lack of standardization in documentation across states, multiplicity of state level permissions, and inspections from multiple officers increases the compliance burden for employers. These need to be reviewed and laws with similar objectives need to be amalgamated to avoid duplicity and compliance burden.

The government had initiated the process of codification of 44 Central labour laws into four codes – pertaining to Wages, Industrial Relations, Social security and Welfare, Safety and Working conditions - in order to simplify them. This proposal needs to be expedited and seen through and by 2018 the 4 codes should replace majority of the existing dysfunctional laws. Also the labour codes should aim to standardize terminologies, definitions and procedures which are currently varying across statutes. This would simplify and reduce the compliance burden for employers and will be a critical catalyst for job creation without diluting the safety, security and health of employees.

2) Unique Enterprise Number (UEN): Every company in India currently has multiple numbers that include Labour Identification Number (LIN)/Shram Pehchaan Sankhya (SPS), Corporate Identity Number from ROC, PAN Number etc.

In an important move earlier, almost every Ministry had agreed to adopt the PAN number as the UEN but this has been held back now. Creating a unique identifier at the company /legal entity level is a crucial infrastructure for digital economy and ease-of-doing business. The UEN will enable various government entities (issuing import licenses, building permits, EPFO, ESI, etc.) to render services with a complete picture of the organization. Most importantly, a UEN will enable enforcement and regulation by way of a "Big Data" approach of analytics.

Adopting the PAN number as the UEN rather than creating a new series is logical because it is already used for Income Tax, Customs, Excise and Service Tax. Adopting PAN has many advantages; it allows all kinds of entities to obtain a number, the technology is already tested and in place, it allows for the Aadhar linking of office bearers, it is already used by a large number of entities, it will not require any change in banking or tax systems, it will not require a new law to govern the issuance authority, and it does not require a new authority to host the UEN and run the system.

3) Employee Salary Choice: India has the highest payroll confiscation in the world -35% of salary is confiscated at source for low wage employees in a cost-to-company world. More importantly these deductions are massively regressive; the 35% for employees with wages of Rs 12,000 per month falls to a mere 2% for employees with wages of Rs 55,000 per month.

Salary deductions to such a high extent for entry level workers which are difficult to enforce in the informal sector, lead to huge disparity in Net Take Home salary between employees engaged in formal sector and informal sector, thereby discouraging employees from seeking out opportunities in formal sector. Moreover the Provident Fund Organization and Employee State Insurance Cooperation have monopoly in their area of operation and this monopoly had made both organizations unresponsive to customers. EPFO is India's most expensive government securities mutual fund and ESI is one of world's most expensive health insurance programs by claims ratio and health insurance benefits. Only 48% of its contributions are paid out as benefits. While social security benefits are important but salary belongs to employees and we need to give our employees 3 key salary choices in terms of:

- Choose whether or not to contribute the 12% employee contribution to Provident Fund
- Choose to pay their 12 percent employer contribution to EPFO or NPS (National Pension Scheme)
- Choose ESIC or Private Insurance

Both Acts must be amended to give workers the chance to stay with the status quo or pay their benefits to alternate providers and choose their personal level of contribution (without changing the employer contribution).

4) PPC Compliance Portal: Labour laws currently cost employers about 500 crore sheets of paper per year (about 6 lac trees), many lacs of man-hours and mandate hugely inefficient banking transactions. Further, the government is not able to cross-reference this information and physical presence breeds corruption .

The Shram Suvidha Portal must adopt the PPC – Paperless -Presenceless -Cashless framework in the five interactions between employers and government and employees and government. The portal needs to be carefully designed to transparently record all transactions. All records and returns should therefore be required to be maintained in soft copies only with online submission of the required returns. It should further allow the filing of a Single Online Return for multiple labour acts as against the 8-10 today.

This will not only help reduce the carbon foot print but also lead to improvement in ease of doing business. Further it will improve enforcement since online data can be easily cross referenced for inconsistencies and anomalies. Online data can also be analysed systematically for research, policy making and other purposes. We need to have a 24 month timetable to discontinue the hard copy maintenance and submission of all returns, registrations applications, registers, and other

information. States must be given incentives and ranked based on electronic single-window compliance within a deadline and all new laws should be mandatorily born digitally native.

5) The Factories Amendment Bill 2016: The Factories Act, 1948 has been left by the way-side somewhere in the 70's. The Factories Amendment Bill 2016 (passed by Lok Sabha) needs to be executed to keep pace with the global economy requirement, technological changes, integration of the global economy through trade, investment, financial engineering, multi- location value chain, growth of information technology. Some of the much needed enabling changes pending for implementation include: Definition of Factory - Factory which employs 40 or more workers is defined as 'factory' deletion of Director as 'occupier', provision for women working in night shift – voluntary and subject to conditions and Increase in Overtime hours ceiling.

6) Small Factories Act: 70% of Indian factories employ less than 50 workers yet they are subject to the same toxic regulatory regime as enterprises many fold their size and scale. The draft Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014 was floated by the labour ministry in October 2014, based on the recommendation of the Second National Commission on Labour in 2000. The proposed Bill seeks to bring all small factories under a common regulation and exempt these units from 14 central labour laws and has rules for wages, overtime hours, social security and appointment of factory inspectors in units employing fewer than 40. A standalone Small Factories Bill will help SMEs to flourish, which in turn will create more jobs. However this is of little use till it is seen through and implemented.

7) Amendments in Contract Labour and Regulation Act 1970: India has about 30 % of its workforce engaged as contract staff. Keeping these aspects in mind, it is really critical to revisit the archaic procedures and regulations as laid down in the CLRA Act, 1970. The act also makes it obligatory for an organisation employing contract labour beyond a certain threshold number to take a registration as also any organisation providing contract labour to take a license for the same. These procedures have to be adhered to for each establishment (office premise) separately and the threshold numbers and the process vary from state to state, leading to duplication of effort for most organisations with scale of operations and multiple offices. Further more often than not this process is a long drawn process, requires a plethora of documentation and is offline in most states thereby leading to wastage of precious man hours. In addition to this, there are several other requirements for both the contractor and principal employers that are redundant in today's electronic age. These include, the requirement to ensure presence of Principal Employer nominee when disbursing wages and the requirement to maintain more than 10 different kinds of registers; to name just a few.

Adherence to these requirements in the current form is not only fairly cumbersome but also unproductive and adds no value to either employers or the contract workers. At a procedure level, there should be a single registration or license that any company or contractor should be required to obtain with a pan India validity. Procedures like physical verification of payments, offline records and documentation that have no relevance in today's digital world should be either digitized or be completely done away with.

8) Amendments in Industrial Disputes Act 1947: There are two major priorities on this front: reform of chapter VB and section 9A of the Industrial Disputes Act, 1947. Chapter VB requires all establishments employing a "specified number" of workers (a fairly low threshold number of 100) to obtain prior permission of the appropriate government or designated authority before resorting to any layoffs, retrenchment or closure. This is an employment contract that is effectively marriage without divorce. Additionally there is section 9A of the same act, which mandates that every employer who wishes to make any change in the conditions of service concerning any matter

specified in the Fourth Schedule, shall notify workmen likely to be affected by such change of the nature of the proposed change. And it prohibits the employer from giving effect to the change before the expiry of 21 days from such a notice.

Prospective investors see chapter VB and section 9A of the Industrial Disputes Act as significant dis-enablers that deprive them of the much needed strategic and business flexibility required in today's dynamic business scenario.

9) Amendments in Trade Union Act 1926: The Trade Union Act allows 25% officers of the Trade Union to be members of unions despite being outsiders. This implies that the workers who are not directly employed under a particular employer also can stand against that employer in case of a dispute. The concept of outsiders interfering in the matters of an organization exists in India only. This leads to criminalization and politicisation of unions, leading to industrial conflict. The Act should be amended to make it mandatory that 100% of the officers in a trade union must be employed in the organisation.

10) Adoption of the Model Shops and Establishment Act: Shops and Establishment Act applies to every shop and commercial establishment. It does not make any distinction between a convenience shop, small establishment or the Corporate Office of a large company. The same rules apply to all irrespective of the size, complexity of business, market environment or additional benefits provided by larger companies.

More over most mid-size to big companies have branches in different states. This being a State legislation, each State is empowered to make its own rules. For example, the leave provisions vary from state to state, making it difficult for companies with branches in different states. Compliance with different set of rules is not possible since the terms and conditions have to be same for a certain set of employees, and the employees re-transferable from one state to another. Employers must be given the flexibility of following the rules of any one given state, preferably the State where their Head Office is located.

About TeamLease Services Limited

Established in 2002 with 4 offices, 20 clients and 40 employees, TeamLease is now India's largest and foremost people supply chain company in the country. Currently, TeamLease has a presence in 150 locations, with 2200+ corporate clients and 1800 employees. The company started with Temporary Staffing and then after adding Permanent Recruitment in 2004, further expanded its portfolio to incorporate Payroll Outsourcing, Labour Compliances and Training Services to become a one stop solution for Staffing & HR Services. TeamLease in partnership with the Government of Gujarat set up TeamLease Skills University (TLSU), India's first vocational university, at Vadodara. In FY2014, TeamLease rolled out NETAP (National Employability through Apprenticeship Program) to provide on-the-job training to apprentices. This set in motion the larger mission of the company of 'Putting India to Work' by focusing on its vision of the 3 Es – Employment, Employability and Education. The company currently has 155,000 associates/trainees across the country and has till date hired 1.6 million kids with an aim to hire millions more.