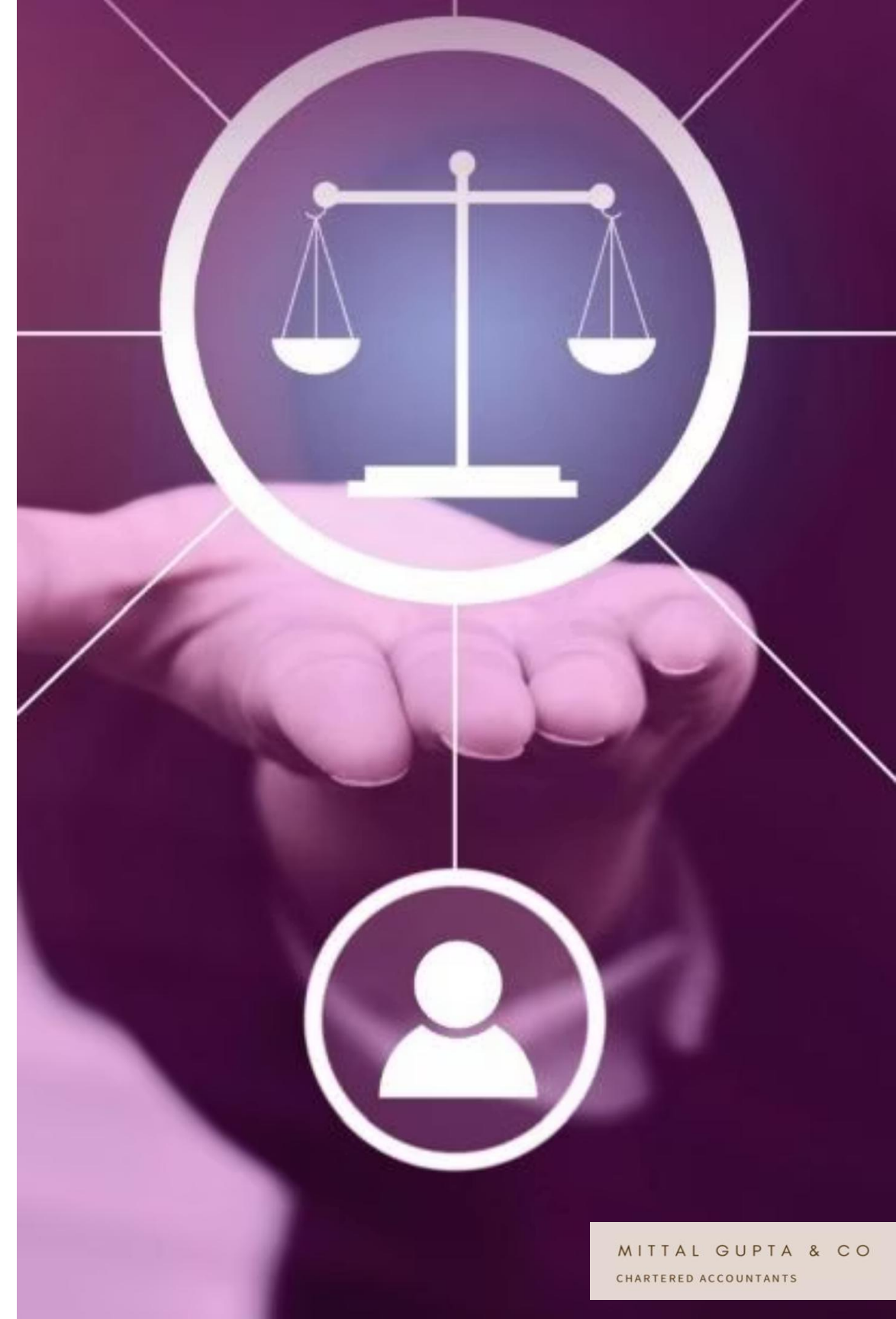


A Guide to India's New Labour Codes

As employers across India chart their path towards compliance with the newly implemented Labour Codes, this primer summarizes key provisions — the architecture, critical changes, and their impact on your organization.



Architecture of the Codes

Four Labour Codes consolidate **29 central legislations** — Code on Wages (2019), Industrial Relations Code (2020), Occupational Safety, Health & working conditions Code (2020), and Code on Social Security (2020).

Effective from **November 21, 2025**, with **no transitional period** for employers.

Codes Override All

The Codes require both the Central and the 28 State Governments to promulgate rules under each of the Codes for their effective implementation. As on date, few States have issued the final Rules under each of the Codes; most States have only issued draft Rules or have re-published their draft Rules for comments. Further clarity on the status of the Rules under the Labour Codes in different States is expected in the coming months..

Two critical principles to note:

- (a) The Codes will take precedence over any contrary provision of existing law, contract, policies, awards, or settlements. This means that any employment arrangements that conflict with the Codes are now invalid, regardless of when they were established.
- (b) In the absence of final rules, in accordance with Section 24 of the General Clauses Act, 1897 and corresponding sections in each of the 4 Codes, the rules under the 29 central legislations that were consolidated into the Codes, will continue to apply insofar as they are not inconsistent with the Codes and until such time as they are superseded by new rules.

State Rules Pending

Based on media reports, it appears that the Central Government is coordinating with the States to finalize the rules under the different labour codes at the earliest. However, the timeline with respect to publishing the final rules in the Official Gazette still remains unclear.

Expanding Coverage: Wages, Employees & Employers

Wages – the 50% Rule

- The scope of the definition of wages has been widened, with a detailed list of exclusions such as house rent allowance, conveyance allowance, overtime allowance, contributions paid towards provident fund etc.
 - All remuneration (whether by way of salary, allowances, or otherwise) expressed in monetary terms, which would be payable to a person employed in respect of his employment, if the terms of employment are fulfilled.
 - If exclusions exceed **50%** of total remuneration, the excess is deemed wages.
 - Remuneration in kind up to **15%** of the total also forms part of wages.
 - If the allowances and benefits together (except gratuity and retrenchment compensation) exceed 50% of the all remuneration, the excess amount shall be added back to wages. Such added amount shall be treated as wages for statutory purposes.
- ❑ **Inclusions (Always Count as Wages):** • Basic Pay • Dearness Allowance (DA)
- Retaining Allowance (applicable in seasonal industries)
- ❑ **Exclusions (Subject to 50% Ceiling):** • House Rent Allowance (HRA) • Conveyance Allowance • Defray Allowance (Related to Unique Nature of Work) • Washing / Field Allowance • Special Allowance • Statutory Bonus/Performance Bonus • Commission / Incentives • Overtime Wages • Employer Share of Provident Fund & Interest • Gratuity • Retrenchment Compensation/Ex-Gratia • ESI



Impact: Employers must analyze all salary structures for alignment and assess cost impact on gratuity, notice pay, leave encashment, and social security.

Employee, Worker & Employer Redefined

Employee & Worker

The term 'employee' now includes supervisory, managerial and administrative personnel, thus extending statutory protection to senior management employees, which was unavailable to them under the old regime, such as access to redressal mechanisms under the Wage Code, a specified timeline for payment of wages, restrictions on deductions from wages, rights vis-à-vis the employer under the OSH Code, etc.

'Worker', a subset of 'employee', is defined similarly to the term 'workman' under the Industrial Disputes Act, 1947 ("IDA"). However, it now specifically excludes apprentices and includes sales promotion employees and working journalists, and has also increased the salary threshold for exemption of supervisors to INR 18,000 per month (from INR 10,000).

Employer – Broader Accountability

The definition 'employer', while slightly different in each of the Codes, has been revised when compared to the definitions under the previous laws. The term now includes, amongst others, any person who employs, directly or through any person or on behalf of any person, employees in his establishment. The definition also specifically calls out that where the affairs of the establishment are entrusted to a manager or managing director, such manager or managing director will be considered the employer.

It also provides that the person having ultimate control over the affairs of the establishment (where such affairs are entrusted to a manager or managing director, such manager or managing director) will be covered within the ambit of the term employer.

Unique Enforcement Concepts

The Codes prioritize **ease of compliance over penalties**, with a guidance-first philosophy.

Decriminalization

Under the Labour Codes, imprisonment is reserved for serious infractions (e.g., withholding portion of Employees' pay for social security but not depositing contributions; contravention of health and safety in Hazardous processes; or for subsequent offences. The decriminalization of various offences is in stark Contrast with the earlier laws, which prescribe imprisonment even for general minor non-compliances.

For e.g., general non-compliance with the Payment of Gratuity Act, 1972 was punishable with imprisonment, failure to comply with retrenchment and closure conditions under the IDA was punishable with imprisonment for the first offence.

Facilitator-cum-Inspector

Presently, various inspectors can carry out physical inspections in defined local limits; the Codes Provide for the appointment of an Inspector-cum-Facilitator, whose role is enlarged to encompass not just inspection but also to supply information, advise and sensitize employers and workers of the provisions of the Codes and compliance therewith.



Unique Enforcement Concepts

Higher Penalties

Fines under the Labour Codes have been significantly increased – previous laws provide for penalties in the range of INR 100 to INR 20,000, whereas under the Codes, fines range from INR 50,000 up to INR 10 lakhs and even INR 20 lakhs for subsequent offences. For e.g., failure to certify standing orders was punishable with a fine of up to INR 5,000 under the Industrial Employment (Standing Orders) Act, 1946 which is now punishable with fine up to INR 2,00,000; failure to comply with health and safety standards in hazardous processes was punishable with fine up to INR 1,00,000 under the Factories Act, 1948 and may now attract up to INR 5,00,000 fine under the OSH Code.

Compounding & Rectification

The Codes provide for compounding of certain offences either before or after an enquiry is held Or prosecution is initiated by paying 50-75% of the maximum prescribed penalty. However, this will not be available in case of subsequent commission of the same or similar offence within 3 yrs From when such same/ similar offence was compounded or for which a conviction order has been passed.



Key Substantive Provisions

Wage Code Highlights

Pay Parity

- The Wage Code prohibits discrimination in matters of pay, on the ground of gender, making this more inclusive as compared to the erstwhile law.
- The baseline for determining equal pay includes not just the components deemed as “wages”, but also the specific exclusions.
- The obligation to provide the same pay for ‘same work or work of a similar nature’ is retained, though the factors to determine the same level of work is based not only on skill and effort, but also experience, so long as such factors have a practical bearing on employment.

Payment of Wages

- Unlike the earlier Payment of Wages Act, 1936, which applied to employees earning up to INR 24,000 per month in most states, there is no wage threshold for applicability of the equivalent chapter in the Wage Code.
- This means that these provisions and protections will now apply to all employees, including senior management employees. Some significant provisions include the timeline for payment of wages during employment and upon cessation of employment, restrictions on permissible deductions from wages and access to authorities specifically designated under the Wage Code to hear and determine related disputes.

Floor Wage

- The concept of ‘scheduled employment’ as under the Minimum Wages Act, 1948 is done away with under the Wage Code, and provisions on minimum wages must be observed by all employers for all employees.
- The Central Government is required to fix a floor wage based on the living standard of workers and their geographical location (“Floor Wage”). Once the Floor Wage is set, minimum wages fixed by the appropriate Government cannot be lower than the Floor Wage, even if already notified. Accordingly, the Floor Wage or the already notified state minimum wages, whichever is higher, will set the bar for the minimum quantum of wages payable to employees.
- Central Advisory Boards are tasked with the responsibility to advise on the Floor Wage, and it is expected that steps will be taken to advance these consultations in the coming few weeks as final rules in this regard have been notified.

Key Substantive Provisions

IR Code Highlights

Retrenchment

The meaning of the term 'retrenchment' mirrors the erstwhile provision under the IDA, but now has a specific exclusion on the Ground of termination of service of a worker as a result of completion of the tenure of fixed-term employment.

The threshold for obtaining prior permission of the Government in case of retrenchment, layoff and closure in respect of factories, mines and plantations has been increased to **300** or more workers at a Central level (from the previous threshold of 100 or more workmen (though some states like Maharashtra had already notified the 300 threshold)), with appropriate Governments having the power to increase such threshold.

Strikes & Unions

In a stark change from the IDA, which provided for notice requirements in case of strikes and lock-outs only for public utility services, the IR Code now prescribes that workers employed in any industrial establishment (including in the private sector) cannot strike in breach of contract (equally applies to lock-out declared by employers as well):

- (i) without providing a notice within 60 days of striking/locking out;
- (ii) within 14 days of giving such notice; or (iii) before expiry of the date of strike/ lock-out specified in such notice.

Worker Re-Skilling Fund

The IR Code also provides for the appropriate Government to set up a 'Worker Re-Skilling Fund', to provide monetary support to retrenched workmen, for training and re-skilling purposes.

Employers are required to credit an amount equivalent to 15 days' last-drawn wages (or such other number of days as may be prescribed) of the retrenched worker to the Fund within a specified time period. This contribution will have to be paid by an employer in addition to retrenchment compensation and other exit payouts, resulting in higher retrenchment costs. Until the Fund is set up and active, employers are currently in a limbo where the substantive obligation to make such a contribution is in force in the absence of an operational recipient Fund.

Key Substantive Provisions

IR Code Highlights

Works Committee

Employers of industrial establishments that employ, or have employed, 100 or more workers in the preceding 12 months may be required by the appropriate Government, through a general or special order, to constitute a Works Committee.

The number of representatives of workers shall not be **less** than the number of representatives of employers. The representatives of the workers shall be chosen from among the workers of the establishment, should be as prescribed by the appropriate Government and in consultation with their trade union which must function with the objective of promoting and maintaining harmonious relations between the employer and workers.

Introduction of Fixed-term Employment

“Fixed term Employment” means the engagement of a worker on the basis of a written contract of employment for a fixed period: Provided that—

- (a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;
- (b) he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and
- (c) he shall be eligible for gratuity if he renders service under the contract for a period of one year;

With the objective that the employee gets all the benefits like that of a permanent worker (including gratuity), except for notice period after conclusion of a fixed period, and retrenchment compensation. The employer has been provided with the flexibility to employ workers on fixed term basis on the basis of requirement and without restriction on any sector.

Statutory recognition to the Trade Unions

Trade unions that previously lacked formal recognition now have a **clear pathway to legal recognition**. A union with **51% membership in an establishment** can be categorised as a **Negotiating Union** with exclusive rights to represent workers in collective bargaining and grievance redressal. In case this threshold is not met, **Negotiating Council** shall be constituted comprising representatives of all trade unions with at least 20% membership. Benefits -

- Grant **formal recognition to unions**, empowering them to represent workers officially.
- **Strengthens industrial democracy** through structured dialogue and negotiation.
- Gives **statutory collective bargaining rights** over wages, service conditions and workplace policies.

Action Points for Employer

Category	Compliance Actions by Employers
FOUNDATIONAL COMPLIANCE	<ul style="list-style-type: none"> • Register the establishment and obtain license/s, as applicable • Display all mandatory notices · Maintain basic registers (attendance, wages, deductions, overtime) • Fix the wage period (daily/weekly/fortnightly/monthly) • Ensure basic workplace safety, health and welfare measures • Start EPF/ESIC registration if eligible • Constitute Works Committee and Grievance Redressal committee
MONTHLY COMPLIANCE	<ul style="list-style-type: none"> • Pay wages on time • Deduct and deposit EPF/ESIC contributions • Issue wage slips • Update all registers regularly
PERIODICAL/ ANNUAL COMPLIANCE	<ul style="list-style-type: none"> • File Unified Annual Return • Update minimum wage rates if revised • Check and renew applicable license • Conduct annual safety audit (where applicable) • Annual Health Examination for specified employees
EVENT-BASED COMPLIANCE	<ul style="list-style-type: none"> • Report accidents, dangerous occurrences/diseases immediately (within 24–72 hours) • Issue appointment letter to every new recruit • Settle final dues on exit (wages within 2 days; gratuity within 30 days) • Maternity benefit payment to eligible employees · In case of factory, mines and plantations apply for Government permission for lay-off/ retrenchment/ closure (for 300+ workers) • Issue Notice of Lockout to workers and authority / Notice of Strike to the Authority as specified by appropriate government.



Occupational Safety, Health & Working Conditions

1

Single Registration & Licensing

- In line with the objective of 'ease of doing business', the OSH Code envisages all establishments – whether factories, mines, or commercial establishments– to obtain a **single registration** under the OSH Code (which is separate from the other registration required under the SS Code). Registrations already obtained under any central law will be deemed to be a registration under the OSH Code once details are provided to the registering officer within the prescribed timeline.
- Employers may obtain a **common license** in respect of a factory, industrial premises for beedi and cigar work and for engaging contract labour, or a combination of these activities. Existing licenses obtained under previous Central law will continue to be valid until their expiry.
- The OSH Code also allows contractors who supply manpower to obtain a 'work-specific license' for project-based work orders and a 'national license' for undertaking work in more than one state.
- Every establishment employing **10 or more employees** must apply for registration within **60 days** of its existence. The application will be made electronically on the portal prescribed by the appropriate Government. Establishments already registered under any Central Act do not need to register again but must intimate their registration details to the Registering Officer. For a registered establishment, the employer must intimate any change in particulars of establishment electronically within 30 days to the Registering Officer.
- In a noteworthy turn from the previous law, failure to obtain registration under the OSH Code disbars an employer from employing employees, potentially curtailing business operations – a consequence far more significant than mere penalties.
- Another notable move in tune with the 'ease of compliance' objective is the concept of deemed approval of registration applications and cancellation intimations, if not processed by the authorities within prescribed timelines, thereby preventing undue delays for an employer.

Occupational Safety, Health & Working Conditions

2

Women in Night Shifts

- The OSH Code contains a general enabling provision for women to be employed for all types of work in any establishment during night shifts, so long as she consents to such work and subject to compliance with conditions on safety, holidays and working hours.
- Where women are employed before 6:00 a.m. or after 7:00 p.m., employers must obtain their consent and ensure compliance with prescribed safety measures, holidays, working hours, and other conditions as prescribed by the appropriate Government. The employer must provide adequate safety safeguards prior to employment of women in certain establishments which are dangerous for the health and safety of women or in any operations that may be considered hazardous or dangerous as prescribed by the appropriate Government.

3

Contract Labour

- The OSH Code provides a single unified threshold of **50 or more contract labour** on any day of the preceding 12 months for applicability of contract labour-related provisions – both in respect of a principal employer and a contractor. Such unified threshold eases compliance burdens when compared to the previous Contract Labour (Regulation and Abolition) Act, 1970 (“CLRA”) which permitted State Governments to modify this threshold, resulting in varying applicability across States.
- Every contractor employing 50 or more contract workers must obtain a license which shall be valid for 5 years. A contractor seeking to supply or engage contract labour, or to carry out contract work in multiple States or across India, may obtain a license from the authority notified by the Central Government. The Principal Employer will be responsible for providing welfare facilities as prescribed under Section 23 and Section 24 of the Code. In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then, the principal employer will be liable to make payment to the contract labour.

Occupational Safety, Health & Working Conditions

4 Working Hours & Leave

While these stipulations do not significantly deviate from local shops and establishments legislations, considering these legislations will operate concurrently with the OSH Code, employers must assess any inconsistencies. As a general thumb rule, social welfare legislations are generally interpreted in favour of employees, therefore, it would be prudent to apply the more beneficial provision that favours an employee, in the event of any inconsistencies. This is likely to result in inconsistent application of the OSH Code nationwide, and employers with establishments across states would need to evaluate compliance and any necessary amendments to internal policies and practices, along with the consequential cost impact.

5 Provisions for Building or Other Construction Workers

Employer must provide free temporary living accommodation to all building workers at or near the worksite and for ensuring removal of such accommodation and restoration of land obtained from local authorities after its use. Principal Employer must make payment of the expenses incurred by the contractor for providing accommodation where the building or other construction work is carried out through a contractor. Employer must not employ any person who is known, or reasonably believed, to have hearing impairment, defective vision, or a tendency to giddiness in building or construction operations that may pose a risk of accident to themselves or others. Employer must comply with occupational safety and health standards notified for BoCW by the Central Government.

Social Security Code: Key Thresholds & Provisions

Employee's Provident Fund:

- The provisions apply to all establishments employing 20 or more employees. The earlier requirement of coverage being limited to “scheduled employments” under EPF has been removed.
- There are three types of schemes which central government may frame i.e.
 - a) A scheme to be called the Employees' Provident Fund Scheme for which the provident fund shall be established for employees or for any class of employees.
 - b) A scheme to be called the Employees' Pension Scheme, for the purpose of superannuation pension, retiring pension or permanent total disablement pension, etc.
 - c) A scheme to be called as Employees Deposit Linked Insurance Scheme for the purpose of providing life insurance benefits to the employees.
- The employer must contribute 10% of the employee's wages towards the Provident Fund scheme
- The employee's Provident Fund contribution must be equal to the employer's contribution. If an employee opts to contribute more than 10% of wages, the employer is not required to contribute beyond its prescribed share.

Employees state insurance:

- The wage threshold for coverage of employees under the employees state insurance (“ESI”) chapter is yet to be notified by the Central Government, and until such time, employers can maintain status quo by making contributions with respect to employees earning up to INR 21,000 per month.
 - While the ESI contribution rates are yet to be notified by the Central Government, the draft rules maintain the contribution rates under the old law post 1 July, 2019, i.e., 3.25% as the employer's contribution and 0.75% as the employee's contribution.
- The provisions apply to every establishment employing 10 or more persons, **except seasonal factories**. The provisions also apply to establishments engaged in hazardous or life-threatening activities, even if only one employee is employed and to mines, port or vicinity of port where dock work is carried out. The employer must pay both the employer's and the employee's contributions in respect of every employee. Different type of benefits to which an insured person is entitled are: Sickness benefit, Maternity benefit, Disablement benefit, Dependent's benefit, Medical Benefit, Funeral expenses.

Social Security Code: Key Thresholds & Provisions

Gratuity & Compulsory Gratuity Insurance:

- Gratuity must be paid to an employee on termination of his employment after completing at least five years of continuous service. The termination must be due to superannuation, retirement or resignation, death or 26 disablement due to accident or disease, or any other event as notified by the Central Government.
- An employer shall pay gratuity to a fixed term employee on termination of their contract period after **completion of one year service within 30 days** from the date it becomes payable.
- Gratuity must be paid at the rate of 15 days' wages for each completed year of service, subject to the maximum limit notified by the Central Government
- All employees who have completed one year of service are required to make a nomination within the time and in the manner prescribed by the appropriate Government.

Permanent Employees: Minimum 5 years of continuous service (except in cases of death/disablement).

Fixed-Term Employees: Eligible on pro-rata basis after 1 year of continuous service under the contract .

The gratuity amount is capped at ₹20 lakh (tax-exempt limit also ₹20 lakh for private sector employees covered under the Act).

Fixed Term Employment:

- The SS Code (read with the IR Code) expressly recognizes fixed-term employment in all industries. Under the SS Code, a fixed term worker shall be entitled to inter alia the following: parity in wages, working hours, allowances and other benefits similar to those extended to permanent workers for doing the same work or work of similar nature; all statutory benefits extended to all permanent workers, proportionate to their period of employment; gratuity benefits if they render service for at least 1 year under the contract. .
- Employers will have to assess the cost impact consequent to engagement of fixed term employees, who are now entitled not only to erstwhile benefits like provident fund and employees state insurance, but also gratuity and pro-rata leave encashment.
- It is to be noted that the completion of tenure of fixed term employment pursuant to the underlying contract is specifically excluded from the ambit of "retrenchment", and accordingly fixed term employees will not be entitled to notice pay and retrenchment compensation under IR Code on completion of their tenure (though they will still need to be paid gratuity, if eligible), however, earlier termination of an FTE's contract could be treated as retrenchment.

Social Security Code: Key Thresholds & Provisions

Social Security For Gig and Platform Workers:

- The SS Code empowers the Central Government to launch schemes for gig and platform workers on life and disability cover, accident insurance, health and maternity benefits, old age protection, crèche, and other benefits. Under such scheme, a Gig and Platform Workers' Social Security Fund will also need to be set up and administered by the Central Government.
- The rate of contributions by aggregators to such Fund (which will be separately notified by the Central Government), will be between 1% to 2% of their annual turnover, capped at 5% of amounts paid by the aggregator to gig and platform workers.
- The SS Code's recognition of gig and platform workers represents a significant legislative innovation, extending social security protections beyond conventional employment relationships.

Maternity Benefit and introduction of common creche facility :

While the substantive maternity benefits broadly mirror the existing provisions, a key introduction under the SS Code is that it now allows employers to avail a common creche facility. While the requirement to provide creche facilities continues to apply to establishments having 50 or more employees, the SS Code allows an establishment to avail a common creche facility of the Central Government, State Government, municipality, private entity or of a non-governmental organization or of any other organization. A group of establishments can now, under the SS Code, pool their resources for setting up of a common creche in a manner agreeable to the establishments concerned.

A woman employee is eligible for maternity benefit if she has worked for at least 80 days in the preceding 12 months. Employers must grant 26 weeks of maternity benefit to eligible women employees working in their establishment. An employer shall not dismiss or discharge a woman employee who absents herself from work in accordance with law on account of maternity leave. Employers are required to pay a medical bonus of Rs.3,500 to every woman employee entitled to maternity benefit.

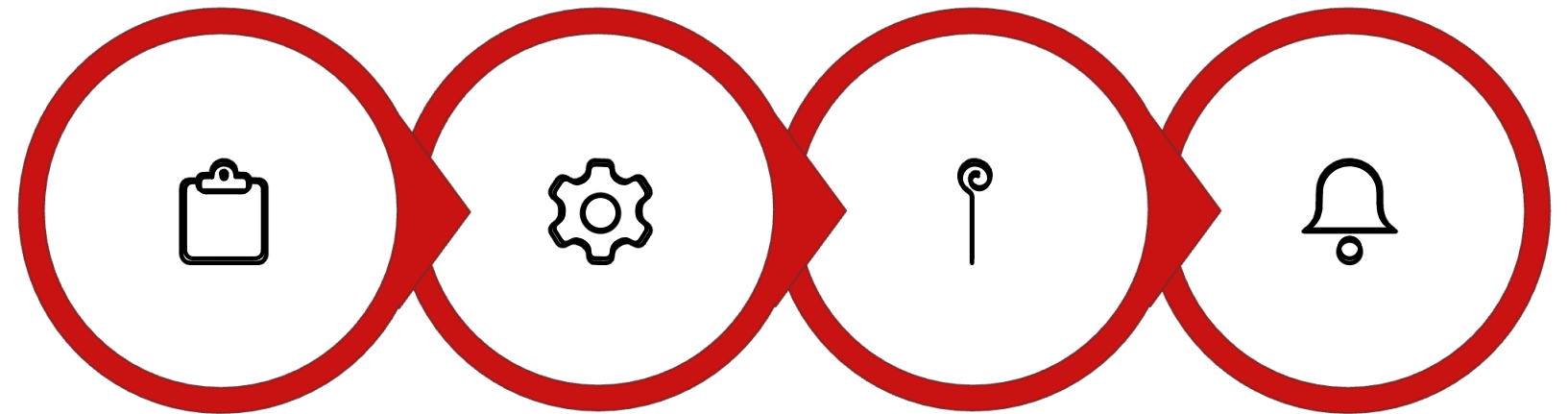
Seasonal factories: A factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of ground-nuts, the manufacture of indigo, lac, sugar (including gur) or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year in a manufacturing process as the Central Government may, by notification, specify.

Difference between Old & New Labour Law

Basis	Old Labour Laws	New Labour Codes
Structure	29 different labour laws	Consolidated into 4 Labour Codes
Major Laws	PF Act, ESI Act, Bonus Act, Gratuity Act, Factories Act, etc.	Code on Wages (2019)
		Industrial Relations Code (2020)
		Social Security Code (2020)
		Occupational Safety, Health & Working Conditions Code (2020)
Definition of Wages	Different definition in each Act	Uniform definition across all codes
Wage Limit for Benefits	Different limits for PF, Bonus, etc.	Standardized calculation base
PF Contribution	Based on Basic + DA (varied interpretation)	Basic wages must be $\geq 50\%$ of total remuneration
Gratuity	Payable after 5 years	Fixed term employees eligible even before 5 years
Registration	Separate registrations under different laws	One registration for all labour compliances
License	Multiple licenses required	Single license concept
Inspector System	"Inspector Raj"	Inspector-cum-Facilitator approach
Compliance	Multiple returns & registers	Single return & digital compliance
Working Hours	8 hours per day	Flexible (still 48 hrs/week but 4-day work week possible)
Overtime	Complex provisions	Simplified rules
Women Employment	Restrictions on night work	Allowed with safety measures
Trade Unions	Recognition issues	Concept of Negotiating Union introduced
Layoff / Retrenchment	Govt approval needed for 100+ workers	Threshold increased to 300 workers
Contract Labour	Applicable for 20+ workers	Now applies to 50+ workers
Gig Workers	No recognition	Recognized under Social Security Code
Social Security	Limited to formal sector	Extended to gig & platform workers
Inter-state Migrant Workers	Narrow definition	Wider coverage
Health & Safety	Covered under Factories Act	Unified under OSH Code
Bonus	Limited coverage	Wider applicability possible
Penalties	Criminal-heavy	Rationalized penalties
Compliance Burden	High	Reduced

The Time for Action Is **Now**

The Labour Codes represent a **fundamental reset** of India's employment law architecture. Waiting for complete rule finalization will leave employers in the lurch.



Audit

Align

Collaborate

Monitor

Employers who approach compliance strategically will mitigate legal risks and position themselves as employers of choice. Robust compliance is not merely a legal obligation — it is a **strategic advantage**.



Thank You!

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