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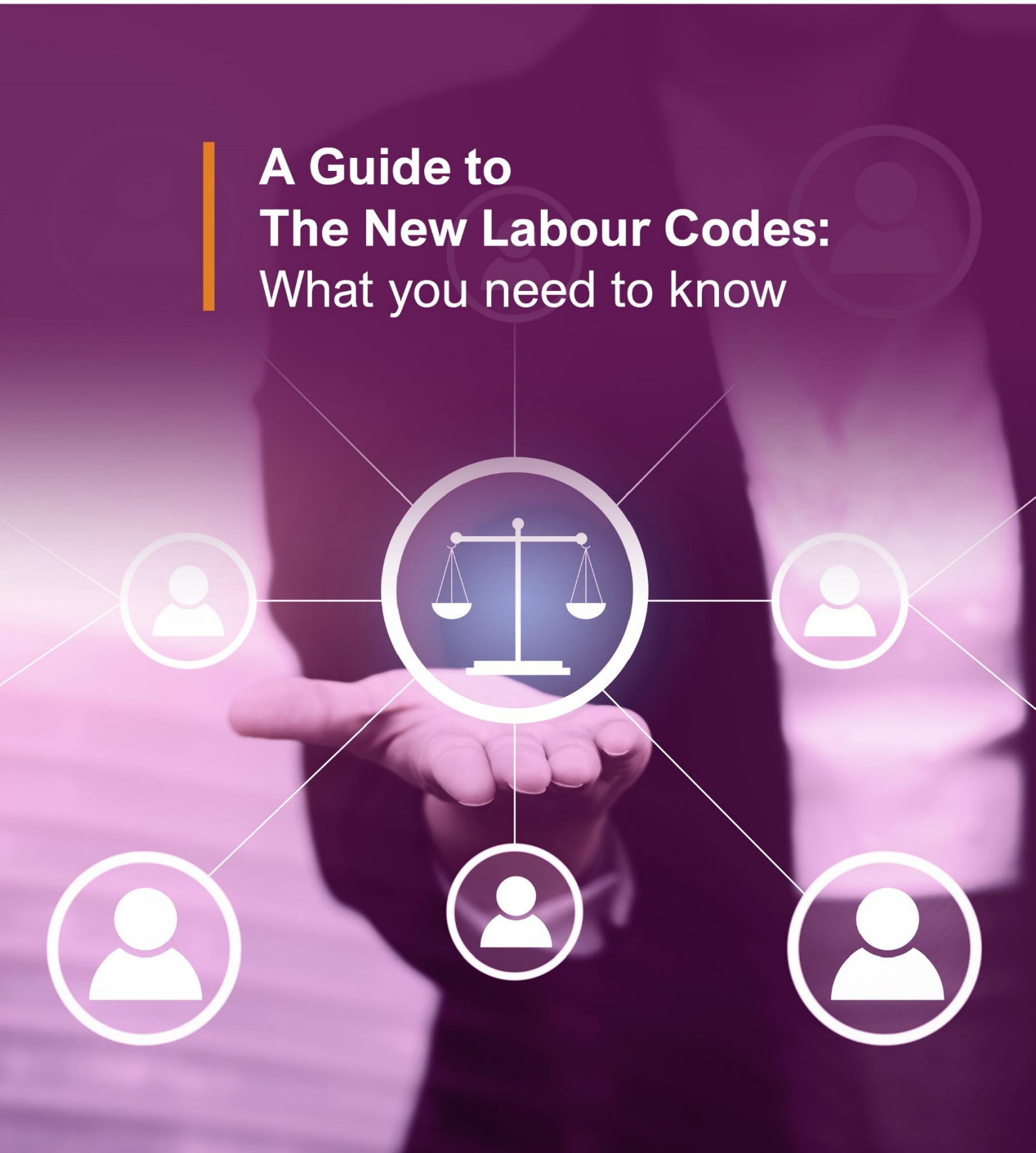
ahead of the curve

# A Guide to The New Labour Codes: What you need to know



As employers all over India chart their path towards compliance with the newly implemented Labour Codes, this primer sets out a summary of key provisions of the Codes that will help you understand its architecture, key changes to the law and its impact.

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## Architecture of the Codes and Critical Interpretation Principles

- The 4 Labour Codes have consolidated 29 central legislations: the Code on Wages, 2019 ("**Wage Code**"), the Industrial Relations Code, 2020 ("**IR Code**"), the Occupational Safety, Health and Working Conditions Code, 2020 ("**OSH Code**"), and the Code on Social Security, 2020 ("**SS Code**") (collectively, the "**Labour Codes**" or "**Codes**").
- On November 21, 2025, by notifications issued by the Ministry of Labour and Employment, the Labour Codes have come into force in their entirety (save for limited provisions relating to the provident fund scheme under the Employees Provident Funds and Miscellaneous Provisions Act, 1952), and the 29 central laws that were subsumed by the Codes stand repealed.
- Although the Government's press release indicated reference to a transition period, the implementing notifications do not provide for any transitional period for employers, the workforce, or authorities to transition to the new regime. This means employers must act now to ensure compliance with the new framework.
- 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 November 21, 2025, only Gujarat and Arunachal Pradesh have promulgated final rules under each of the Codes. Karnataka and Mizoram have final Rules under 2 of the Codes whilst most other states have only issued draft Rules and West Bengal is yet to issue draft Rules under any of the Codes.
- 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.

  Accordingly, the prevailing legal framework comprises the Labour Codes read in conjunction with existing central and state rules, regulations, notifications, and circulars issued under the repealed legislation, to the extent these do not conflict with the Codes' provisions.
- Based on media reports, it appears that the Central Government is coordinating with the States to finalise 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.

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## Key Definition Shifts: Expanding Coverage

One of the key changes that the Codes have brought about is the uniformity in definitions across all the Codes. Some of the key definitions are captured below:

### 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.
- Any components of total remuneration not in the exclusions list will likely be counted as "wages" if such component falls within the initial operative part of the definition.
- Additionally, if the aggregate amount of exclusions exceeds 50% of the total remuneration, the amount in excess of 50%, will be deemed as remuneration and be added to wages.
- Further, if any part of remuneration in kind is being provided, then the value of such remuneration in kind up to 15% of the total remuneration, will also form part of wages.

**Key Impact:** Computation of payouts to employees – such as social security benefits, retrenchment compensation, gratuity, notice pay, leave encashment – would be impacted. Employers will need to analyze salary structures of all employees for alignment with the new definition, and assess the cost impact.

### Employee and Worker – wider ambit

- 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, 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 similar to the term 'workman' under the Industrial Disputes Act, 1947 ("**IDA**"). However, it now specifically excludes apprentices and includes sales

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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).

**Key Impact:** A larger workforce is now accorded protection under various provisions of the Labour Codes which were previously not available to them.

## 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 now specifically includes contractors and legal representatives of the deceased 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.

**Key impact:** The historic principle of a person having the ultimate control of affairs of an establishment being considered the employer is maintained under the Codes, though now considering the definition of an employer has been expanded with respect to persons employed indirectly as well, obligations of an employer will be expanded to include indirectly engaged contract labour as well.

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## Appropriate Government

- The definition of 'appropriate government' slightly differs across each of the 4 Codes, which will have ramifications on which government's rules, regulations, notifications etc. that an organization must comply with.
- Set out below are some key takeaways on which government will be considered the 'appropriate Government' in respect of private establishments:

### Wage Code

Private sector establishments will likely fall under the purview of the respective State Government where their establishments are located, **except** establishments of specified industries (railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance companies) which will be under the Central Government.

### IR Code

Private sector establishments will likely fall under the purview of the respective State Government where their establishments are located, **except**: (a) establishments of specified industries (railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance companies); and (b) private companies which previously had Central Government shareholding of 51% or more, which will be under the Central Government.

### SS Code

- Private sector establishments with establishments in more than 1 State will fall under the purview of the Central Government.
- Private sector establishments with establishments in only 1 State will likely fall under the purview of the respective State Government where their establishments are located, **except**: (a) establishments of specified industries (railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance companies); and (b) private companies which previously had Central Government shareholding of 51% or more, which will be under the Central Government.

### OSH Code

- Factories, motor transport undertakings, plantations, newspaper establishments will fall under the purview of the State Government.
- Private sector establishments will likely fall under the purview of the respective State Government where their establishments are located, **except**: (a) establishments of specified industries (railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance companies); and (b) private companies which previously had Central Government shareholding of 51% or more, which will be under the Central Government.

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## Enforcement Mechanism - Unique Concepts

The thrust of the Codes is on ease of compliance rather than on levying of penalties, with compliance being placed on a higher pedestal than penalties. This philosophy manifests in some of the following unique concepts:

- ***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 decriminalisation 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.

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- ***Higher monetary penalties:*** Fines under the 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 of offences:*** 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 years from when such same/ similar offence was compounded or for which a conviction order has been passed.

- ***Opportunity to rectify:*** The Codes permit an employer to rectify any non-compliances under certain circumstances and further restricts the Inspector-cum-Facilitator from initiating action unless the employer has been given such an opportunity to rectify the non-compliance. However, this will not be available for subsequent violations of a similar nature within a period of 3 years.

- ***Limitation period for filing claims, initiating proceedings:*** The Codes lay down specific limitation periods, which under the earlier regime were largely silent or open-ended. For instance, the SS Code lays down a maximum look back period of 5 years, meaning that no inquiry may be undertaken by a relevant authority after the expiry of 5 years from the date on which such a dispute would have arisen or amounts are alleged to be due from an employer.

- ***Bar on jurisdiction of civil courts:*** The Labour Codes generally exclude the jurisdiction of civil courts in respect of matters to which these Codes apply or where dispute resolution mechanisms are available under the respective Codes.

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# Key Substantive Provisions & Their Impact

## Wage Code

### a) *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.

### b) *Minimum Wages – 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.

### c) *Payment of Wages and Statutory Deductions:*

- 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.

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- This is also relevant while crafting and implementing clawback and recovery provisions under employment contracts of senior management and other employees, such as for clawback of end-of-service severance payments, joining bonuses etc. Specific caution will have to be exercised when clawback/ malus is sought to be imposed pursuant to other applicable laws, such as RBI master circulars and IRDAI regulations.

**d) *Statutory bonus:***

- The threshold for applicability of statutory bonus, which was previously payable only to employees earning up to INR 21,000 per month under the erstwhile legislation, is yet to be notified by the appropriate Governments.
- Since the Wage Code does not prescribe a threshold for applicability of the statutory bonus provisions and appropriate governments are empowered to prescribe such threshold, this may result in different wage thresholds being fixed in different States leading to cumbersome compliance norms for an organization with branches in more than one State.
- Employers are to maintain status quo and continue with statutory bonus coverage for employees earning up to INR 21,000 per month, until this threshold is changed by the appropriate government.
- While the substantive provisions broadly mirror the erstwhile law on payment, computation and disqualification to statutory bonus, termination on the ground of sexual harassment is now identified as an additional ground for disqualification.

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## IR Code

### a) *Retrenchment, closure etc. for factories, mines and plantations:*

- 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 provisions relating to retrenchment, lay-off and closure are similar to erstwhile provisions under the IDA, though, it may be noted that the appropriate Government under the IR Code is empowered to prescribe the quantum of retrenchment compensation to be higher than 15 days' average pay for each completed year of service.
- 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. This change affords flexibility to a larger set of companies seeking to retrench workers or close down their factories where less than 300 workers are employed.

### b) *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 contribution is in force in absence of an operational recipient Fund.

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### c) *Standing orders:*

- Provisions relating to standing orders are applicable to all industrial establishments, including commercial establishments, with 300 or more workers. This has been unified from the current varying threshold of 50 or 100 or more workmen, in industrial establishments that included commercial establishments in some States.
- The appropriate Governments have the power to exempt establishments/ classes of establishments. Until any new notifications are issued under the IR Code, employers in States that have issued specific exemptions can continue to follow the same.
- Existing certified standing orders will be deemed to be certified under the IR code, to the extent not contrary with the Code, and the IR Code now also allows an employer to simply adopt the model standing orders and intimate this information to the certifying officer. Employers will, however, need to review their standing orders to ensure compliance with the sector-specific model standing orders that are to be finalized by the Central Government.

### d) *Trade union relations and strikes:*

- The IR Code introduces the concept of mandatory 'recognition' of a trade union, which was previously not regulated or mandated under a Central legislation. In this regard, the IR Code introduces the concepts of a negotiating union and negotiating council, to negotiate with the employer on prescribed matters.
  - If there is only 1 registered trade union in an industrial establishment, the employer must recognise this union as the sole negotiating union of the workers;
  - If there is more than 1 registered trade union in an industrial establishment, the union with 51% or more workers on the muster roll of the establishment, will be recognised as the sole negotiating union; and
  - If there is more than 1 registered trade union in an industrial establishment but none of them have at least 51% worker support, the employer must constitute a negotiating council,

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comprising representatives of the trade unions which have at least 20% worker support, such that there must be 1 representative for each 20% of the workers, and for the remainder after considering the membership on the 20%.

- 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.
- The IR Code further stipulates that no strikes or lock-outs are permitted during the pendency of any conciliation proceedings and 7 days after its conclusion (similar to the IDA), and goes on to prohibit strikes/ lock-outs during: (i) the pendency of any arbitration proceedings or other proceedings before a tribunal/ national tribunal under the IR Code and 60 days after its conclusion, and (ii) any period when an award or settlement is in force, pertaining to the matters contained in such award/ settlement.

### e) *Grievance Redressal Committee ("GRC"):*

- The IR Code requires every industrial establishment which has 20 or more workers to constitute a GRC for the resolution of disputes arising out of individual grievances. The GRC must comprise equal representation of employers and workers with adequate representation of women (proportionate to the number of women workers in the establishment), subject to a maximum of 10 members. Mechanics of the GRC membership selection is yet to be prescribed.
- The GRC is not a new concept and existed under the IDA as well, although unlike the IDA, there is no limited exception on GRC constitution where there is already an internal grievance mechanism in place. It is also pertinent to note that the IR Code allows an application to be filed against the decision of the GRC directly with a conciliation officer (and not with the employer as contemplated under the IDA). Conciliation officers may therefore be expected to play a wider role in the adjudication of individual worker grievances.

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## OSH Code

### a) *Common licensing and registration:*

- In line with the objective of 'ease of doing business', the OSH Code envisages all establishments – whether factories, mines, 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.
- 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.
- 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.
- It should be noted that the OSH Code does not subsume local shops and establishments legislations, which continue to remain in force, and will need to be read harmoniously with the Codes. Until State rules and other notifications, circulars etc. are issued to the contrary, employers will need to continue complying with the registration and other substantive requirements under the local laws (such as on leaves) along with the OSH Code, and will need to navigate the uncertainties caused by the concurrent legislations.

### b) *Employment of women during night hours:*

- 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.
- This stipulation is already broadly in line with the local shops and establishments legislations and Factories Act, 1948 as applicable in most States, and does not significantly change the legal landscape. That said, such a provision in the OSH Code, being a Central legislation, is a progressive step aimed at reducing discrimination towards women in hiring and employment practices.

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### c) *Contract labour regime and core activities prohibition:*

- The OSH Code provides a single unified threshold of 50 or more contract labour 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.
- While judicial guidance and nation-wide practices under the previous regime excluded service provision arrangements from the ambit of the CLRA, this principle is now specifically codified under the OSH Code, by excluding personnel who are regularly employed by, and are paid wages and provided benefits by, the contractor, from the ambit of 'contract labour'.
- As a key change, the OSH Code now prohibits engagement of contract labour by principal employers in core activities of establishments (which was previously restricted in limited States like Telangana and Andhra Pradesh only). There are certain exceptions to this restriction, including where the normal functioning is ordinarily done through a contractor; the activities do not require full time workers for majority working hours; or there is a sudden increase in volume of work which needs to be accomplished in specified time.
- These exceptions appear to recognize legitimate business models without the core activity prohibition hampering regular business operations, though it may be noted that the assessment of whether a particular exception would apply to an activity or whether the activity would qualify as core activity is left to the designated authorities to be appointed by the appropriate government. This leaves some room for uncertainty until market and enforcement trends cast some light on the interpretation of these exceptions.
- In a departure from the erstwhile recognised concept under the CLRA that principal employers have a secondary obligation to provide welfare facilities to contract labour in case of failure of their immediate employer to do so and to recover related costs from the contractor, the OSH Code now places these obligations as the primary responsibility of the principal employer and is silent on any statutory recourse to recoup related costs. In addition, if a contractor is not duly licensed under the OSH Code, liability also attaches to the principal employer who may be punishable with fines under the OSH Code. Accordingly, organizations should be cautious of the terms of their manpower supply agreements and ensure robust clauses with allocation of responsibilities and suitable clauses on protection of rights are built in.

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### d) *Working hours, overtime and leave:*

- The OSH Code, like the Factories Act, 1948, regulates working hours, overtime, annual leave, and shift work, and *inter alia* prescribes:

**Working Hours**

- 8-hour upper limit on daily working hours.
- the period of work each day must be fixed so as to not exceed such hours as may be prescribed by the appropriate government – in this regard, this is currently prescribed as a 48-hour upper limit on weekly working hours under the draft Central rules).
- appropriate government to notify overtime hours limit (which is currently 125 hours in a quarter under draft Central rules), and worker consent is mandatory for overtime work (there appears to be some contradiction with the Wage Code which sets out the sets out overtime provisions with respect to 'employees' and not just 'workers').

**Annual Leave**

- annual leave entitlement of 18 days, computed as 1 day leave for every 20 days worked.
- carry forward of up to 30 days of unused annual leave, with the option to encash annual leave in excess of 30 days at the end of a calendar year (with no cap specified for such encashment).

**Other Subjects**

- conditions for working in night shifts.

- 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.

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e) ***Duties of employers and employees – holistic accountability:***

- The OSH Code imposes various responsibilities on an employer, which ranges from providing a working environment that is safe and without risk to the health of the employees, to providing adequate welfare facilities such as separate shelter-rooms, rest-rooms, etc., based on certain applicability thresholds (e.g., canteen facilities to be provided in establishments with 100 or more workers, suitable restrooms for male, female and transgender persons in establishments with 50 or more workers).
- Under the OSH Code, the Central Government is empowered to declare standards on occupational safety and health for work places relating to factories, mines, dock work, building and other construction work and other establishments – this will ensure uniform standards for these matters across the country instead of different state-specific norms that were previously applicable.
- The prescribed welfare facilities are required to be provided in all establishments, including commercial establishments.
- The OSH Code further empowers the appropriate Government to require any establishment or class of establishments to constitute a safety committee, comprising representatives of the employer and workers, in a manner to be prescribed.
- In a significant change from the erstwhile regime, the OSH Code imposes specific responsibilities on employees as well, with a corresponding penalty (of up to INR 10,000) leviable on the employee for contravention. These duties include taking reasonable care for the health and safety of themselves and other persons who may be affected by their act/ omission, cooperating with the employer to meet its statutory obligations under the OSH Code, and importantly, reporting obligations – i.e., reporting any unhealthy or unsafe working conditions to the employer, bringing to the employer's attention events in the workplace that may cause serious bodily injury or death or are an imminent danger to health of the employees.

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- Employees are also provided certain rights under the OSH Code, which includes the following:
  - if an employee has reasonable apprehension that there is a likelihood of imminent serious personal injury/ death/ imminent danger to health, they may bring the same to the attention of the employer (directly or through the safety committee) and simultaneously to the Inspector-cum-Facilitator, in order for the employer to take corrective actions;
  - an employee has the right to seek information from the employer on health and safety at the workplace, and make any representation regarding inadequate protections to the employer or to the Facilitator-cum-Inspector.
- Another key introduction under the OSH Code is a uniform responsibility on all persons not to intentionally or recklessly interfere with, damage or misuse anything that is provided in the interest of health, safety or welfare under the OSH Code.
- Imposition of obligations related to workplace health and safety on employees, in addition to employers, is a welcome change under the OSH Code, which demonstrates the emphasis on safety at the workplace instead of emphasizing on penalties for mere check-the-box compliances, keeping all parties at the workplace accountable for untoward incidents.

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## SS Code

a) ***Applicability thresholds:***

- The SS Code sets out clear and defined thresholds for applicability of various sections. Some key applicability thresholds are set out below:

| Chapter | Applicability |
|---|---|
| **Provident fund** | Every establishment in which 20 or more employees are employed (*regardless of salaries earned by each employee*). |
| **Employees State Insurance** | Every establishment in which 10 or more employees are employed (*regardless of salaries earned by each employee*).<br>However, establishments carrying on hazardous or life-threatening occupations, as notified by the Central Government, with even 1 employee will be covered. |
| **Gratuity** | • Every factory, mine, oilfield, plantation, port and railway company;<br>• Every shops or establishment in which 10 or more employees are employed or were employed on any day in the last 12 months; and<br>• Such shops and establishments as may be notified by the appropriate Government. |
| **Maternity benefits** | • Every factory, mine or plantation, including any such establishment belonging to the Government; and<br>• Every shops or establishment in which 10 or more employees are employed or were employed on any day in the last 12 months; and<br>• Such shops and establishments as may be notified by the appropriate Government. |
| **Employees Compensation** | Employers, and employees listed in the Second Schedule and to whom the Employees State Insurance chapter does not apply. |
| **Social Security and Cess in respect of Building and Other Construction Workers** | Every establishment which falls under the building and other construction work (*where building and other construction work is in turn defined to include such works carried on with 10 or more workers*). |

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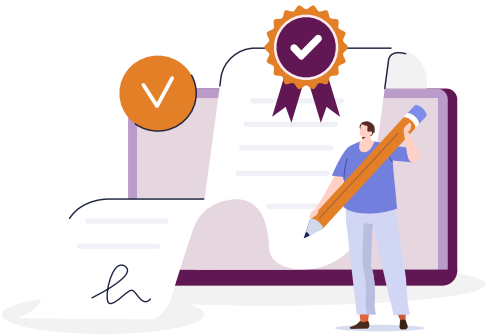
**b) *Combined Registration:***



- Every establishment, to which the SS Code applies, is required to obtain registration. To the extent an establishment is already registered under any other Central labour law (such as registration under PF and ESI law), the same will be deemed to be a registration under the SS Code.

**c) *Provident fund and pension regime:***

- When the SS Code was notified and implemented on November 21, 2025, it is pertinent to note that the Employees Provident Funds and Miscellaneous Provisions Act, 1952 ("**EPF Act**") only to the extent related to pension was repealed.
- Provisions of the SS Code relating to pension have been notified to be in force, and the current scheme governing this aspect will continue to be in force for a transition period of 1 year, i.e., up to November 21, 2026, by which time it is expected that the Central Government will formulate a new pension related scheme.
- However, the provident fund regime and Employees' Deposit Linked Insurance regime under the EPF Act, read with the specific schemes, have not been repealed and corresponding provisions under the SS Code related to the provident fund and EDLI regime have not been notified or implemented as on date.

- Therefore, the provident fund regime to this extent remains unchanged, and the 1-year transition period for the Employees' Provident Funds Scheme, 1952, and Employees' Deposit-linked Insurance Scheme, 1976, under the EPF Act will get triggered only once these provisions under the SS Code are notified.
- Therefore, at present and for the foreseeable future until at least November 21, 2026, employers may maintain status quo with respect to the provident fund contributions, comprising provident fund, pension and EDLI contributions. This of course remains subject to any notifications to the contrary issued by the Central Government in the interim.

**d) *Fixed Term Employment ("FTE"):***

- 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;

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- 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.

### e) *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, i.e., 3.25% as the employer's contribution and 0.75% as the employee's contribution.

### f) *Gratuity and Compulsory Gratuity Insurance:*

- The substantive provisions on payment of gratuity as contained under the previous law are mirrored under the SS Code with respect to the manner of computation of gratuity (with the exception that gratuity is now to be computed on the newly defined 'wages'), 5-year eligibility except in case of death or disablement, circumstances in which gratuity can be forfeited and a ceiling limit to be prescribed by the Central Government – in this regard, the current ceiling of INR 20 lakhs will continue to apply until modified by the Central Government.
- Significantly, the SS Code requires employers (other than an employer or establishment belonging to or under the control of the Central or State Government) to obtain compulsory gratuity insurance – this obligation will be applicable from a date to be notified by the appropriate Government.
- As on the date of implementation of the SS Code, some States like Andhra Pradesh and Karnataka had already notified rules for obtaining compulsory gratuity insurance. These States will continue to be bound by these rules, until replaced by any subsequent notification/ rules under the SS Code. Employers in other States will need to obtain insurance once the date for implementation of this section is notified by the relevant appropriate Government. It should be noted however, that employers with establishments in more than 1 State will now be under the purview of the Central Government as the appropriate Government, and legislative updates will accordingly need to be tracked.
- The appropriate Government is empowered to exempt an employer from the requirement to obtain compulsory insurance, where the employer: (a) already has an established and approved

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gratuity trust fund for its employees, if the employer desires to continue with such fund, and (b) employs 500 or more persons and establishes an approved gratuity fund in the manner as may be prescribed.

- Employers are also required to register their establishment with the relevant authorities, in the manner as may be prescribed, which registration will be valid only if the employer either has in place gratuity insurance coverage or has established an approved gratuity fund.

### g) *Maternity benefits 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 organisation or of any other organisation. 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.

### h) *Social Security for 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.
- 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.
- This is likely to be in addition to state-specific schemes which have already been framed by certain State governments under local gig worker protection legislations that have recently come into the foray. For instance, Karnataka and Rajasthan have enacted legislations to protect gig workers which also allow the state governments to, *inter alia*, frame social security schemes for gig workers.

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## The Way Forward

With immediate effect and without transitional buffers, the Labour Codes now govern India's labour and employment law landscape, in what may be seen as the most monumental change to the labour law landscape in decades. While the final rules in many States and at the Centre are still awaited, waiting for complete rule finalisation before aligning with the Labour Codes will likely leave employers in the lurch.

While the enforcement philosophy has pivoted decisively towards a guidance-first approach, the penalties have significantly escalated for serious or repeat breaches. Employers must remain vigilant in tracking forthcoming notifications and any legislative updates. These developments will shape the next phase of compliance obligations.

Policies, contracts, payroll systems, HR platforms, protocols, internal operations and practices must be systematically aligned with the new legislative framework, with collaboration between all concerned stakeholders – be it – human resources, benefits and payroll, talent acquisition, recruitment, legal or compliance teams – to ensure a smooth transition.

Employers who approach Labour Codes compliance strategically will not only mitigate legal risks but also position themselves as employers of choice in India's evolving labour market. The transition to the new regime, whilst demanding, presents an opportunity to modernise employment practices, enhance transparency, and build trust with the workforce. In an increasingly competitive talent landscape, robust compliance is not merely a legal obligation—it is a strategic advantage.

The Labour Codes represent a fundamental reset of India's employment law architecture. The time for preparation has passed. The time for action is **now**.

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## Key Contacts

**Rashmi Pradeep**
Partner (Head - Southern Region)
rashmi.pradeep@cyrilshroff.com

**Abe Abraham**
Partner
abe.abraham@cyrilshroff.com

**Ankita Ray**
Partner
ankita.ray@cyrilshroff.com

**Bishen Jeswant**
Partner
bishen.jeswant@cyrilshroff.com

**Sowmya Kumar**
Partner
sowmya.kumar@cyrilshroff.com

**Anna Thomas**
Partner
anna.thomas@cyrilshroff.com

## Contributors

**Krithika Radhakrishnan**
Principal Associate

**Himaa Sudhir**
Senior Associate

**Keshab Choudhury**
Associate

**Disclaimer**:

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www.cyrilshroff.com
www.cyrilshroff.com/blogs


## mumbai

Peninsula Chambers, Peninsula Corporate Park, GK Marg,
Lower Parel, Mumbai – 400 013, India
T +91 22 6660 4455
E cam.mumbai@cyrilshroff.com

## delhi-ncr

Level 1 & 2, Max Towers, C-001/A, Sector 16 B,
Noida – 201 301, Uttar Pradesh, India
T +91 120 669 9000
E cam.delhi@cyrilshroff.com

## bengaluru

3rd Floor, Prestige Falcon Tower, 19, Brunton Road,
Off M G Road,Bengaluru – 560 025, India
T +91 80 6792 2000
E cam.bengaluru@cyrilshroff.com

## ahmedabad

Block A-1512, 15th Floor, Navratna Corporate Park,
Ambli Bopal Road, Bodakdev, Ahmedabad - 380 058, India
T +91 79 3503 9999
E cam.ahmedabad@cyrilshroff.com

## chennai

11th Floor, Awfis, Prestige Palladium Bayan, No.43/1
(Door No.129 to 140), Greams Road, Egmore,
Chennai – 600 006
T: +91 44 4904 2874
E: cam.chennai@cyrilshroff.com

## hyderabad

Ground Floor, AWFIS Ohris Tech Park, Plot No.13,
Survey 64/2, (New) Software Units Layout, Madhapur,
HiTech City, Hyderabad – 500 081, India
T: +91 40 4433 4323
E cam.hyderabad@cyrilshroff.com

## gift city

Office No. 501, 5th Floor, PRAGYA 2 Tower,
Road No. 11, GIFT SEZ area, GIFT City,
Gandhinagar – 382 355, Gujarat.
T: +91 79 6959 3500
E: cam.ahmedabad@cyrilshroff.com

## singapore

61 Robinson Road, #11-03,
Singapore - 068 893
T +65 6329 2260
CAM Singapore Pte Ltd., UEN: 202137213R)
E cam.singapore@cyrilshroff.com

## abu dhabi

2459, Al Sila Tower, Abu Dhabi Global Market Square,
Al Maryah Island, Abu Dhabi, United Arab Emirates
(CAM Middle East)
E cam.abudhabi@cyrilshroff.com