

Labour Codes - Regulatory Adherence, Standard Execution, Governance with Special Reference to the Central Rules

Central Govt. notified Central Rules establish a modernized framework for workforce governance, replacing 29 Acts with 4 unified Labour Codes. Standard execution requires systemic changes across wage computation, contract labour management and digital compliance. Organizations must actively shift from checklist compliance to integrated, risk-based operational governance.

Effective regulatory adherence and operational governance under the Central Rules rely on these core pillars:

1. Code on Wages, 2019

Unified Wage Definition:

A simplified definition standardizes salary structures, ensuring that allowances do not exceed 50% of total remuneration to avoid minimum wage and social security calculation disparities.

Minimum Wage Governance:

Establishes clear methodologies for minimum wages and overtime calculations.

Review Cycles:

Mandates revised review cycles for the national floor-level minimum wage.

2. Code on Social Security, 2020

Expanded Demographics:

Extends the formal social security safety net to gig, platform, unorganized, and migrant workers.

Framework:

Standardizes the framework for Employees Provident Fund and Employee State Insurance contributions, making social security portable across jobs and States.

3. Code on Occupational Safety, Health & Working Conditions, 2020

Workplace Standards:

Prescribes a 48-hour weekly cap, mandates written appointment letters for all workers, and specifies duties for women working night shifts.

Principal Employer Liability:

Places the burden squarely on principal employers for ensuring basic facility provisions (e.g., crèches, washrooms, first aid) and contractor settlements.

4. Code on Industrial Relations, 2020

Bipartism & Grievance Management:

Strengthens bipartism by mandating structured grievance redressal committees and regulating trade union operations.

Threshold Adjustments:

Raises the statutory threshold for requiring government permission for layoffs, retrenchments, and closures from 100 to 300 workers.

Dispute Resolution:

Replaces legacy conciliation boards with two-member tribunals designed to expedite dispute resolution.

Governance & Standard Execution

Digital-First Compliance:

Moves away from manual record-keeping by implementing a single electronic return, integrated licensing, and a centralized digital registry.

Inspector-cum-Facilitators:

Transitions enforcement from punitive, adversarial inspections to a facilitative model focused on guidance and awareness.

Multi-state Oversight:

While the Central Rules provide a unified foundation, actual on-ground execution depends on the pace and specific alignments of State-level rules.

Reorganizing the Wages – Practical Approach

The **Code on Wages, 2019** forces a radical shift in payroll design by mandating that "Wages" must comprise at least **50% of total remuneration**. If allowances exceed 50%, the excess amount automatically flows back into the "Wages" bucket, triggering unexpected hikes in provident fund, gratuity, and overtime liabilities.

Step 1: Audit Current Pay Structure

Organizations must map every current payroll component to the specific definition of "Wages" under the Code.

Included Components:

Basic Salary, Dearness Allowance (DA), and Retaining Allowance.

Excluded Components:

House Rent Allowance (HRA), bonuses, employer PF contributions, overtime, commissions, gratuity, and transport allowances.

The 50% Rule:

Total excluded components cannot exceed 50% of the total gross remuneration.

Step 2: Calculate the Wage Floor Deviation

Use the following step-by-step mathematical sequence to determine if a salary structure requires restructuring.

1. Calculate Gross Remuneration

Gross Remuneration = {Basic} {HRA} {Special Allowance} {Conveyance}

2. Identify the Statutory Threshold

{Statutory Wage Floor} = {Gross Remuneration}

3. Determine the Code Wage Value

If the sum of your **Included Components** is less than the Statutory Wage Floor, the excess allowance amount must be added back:

{Code Wage} = \ {Basic} + {DA} \ {Statutory Wage Floor}

Step 3: Run the Structural Rebalancing (Example)

Baseline Scenario (Non-Compliant)

An employee receives a monthly gross salary of ₹100,000, heavily weighted toward allowances to minimize social security deductions.

Component	Current Value	Classification Under Code
Basic Salary	₹30,000	Included
HRA	₹20,000	Excluded
Special Allowance	₹45,000	Excluded
Conveyance	₹5,000	Excluded
Total Gross	₹100,000	

Current Code Wages:

₹30,000 (Only the Basic Salary).

Total Excluded Allowances:

₹70,000 (70% of gross).

The Problem:

Excluded allowances exceed the 50% limit by ₹20,000. Under the Central Rules, this ₹20,000 automatically converts into "Wages" for statutory benefits, raising the taxable/contribution base to ₹50,000.

Adjusted Scenario (Compliant Model)

To maintain Cost-to-Company (CTC) parity and ensure absolute regulatory compliance, the salary structure must be legally rebalanced to a 50:50 ratio.

Component	Restructured Value	Classification Under Code
Basic Salary	₹50,000	Included (Exactly 50%)
HRA	₹20,000	Excluded
Special Allowance	₹25,000	Excluded
Conveyance	₹5,000	Excluded
Total Gross	₹100,000	

Step 4: Assess Financial and Tax Consequences

Restructuring payroll to meet the 50% threshold changes an enterprise's liability profile overnight.

[Salary Restructuring] —► [Higher Basic Salary]

- ▲ Provident Fund Liability (12% of Basic)
- ▲ Gratuity Accruals (15 days per year)
- ▼ Take-Home Pay (Due to higher deductions)

Provident Fund (PF):

A higher Basic Salary increases the mandatory 12% employer and employee contributions, directly reducing net take-home pay.

Gratuity Accumulation:

Gratuity is computed using the last drawn "Wage". Moving from a ₹30,000 base to a ₹50,000 base raises future gratuity payout liabilities by 66.6%.

Tax Planning:

Shifting amounts out of tax-exempt buckets (like HRA) into Basic Salary can inadvertently increase the employee's income tax burden.

Step 5: Implement Operational Transition Protocols

Isolate Special Allowances:

Use "Special Allowance" or "Choice Pay" as the balancing flexi-bucket to absorb downward adjustments.

Amend Employment Contracts:

Issue formal addendums rewriting compensation clauses to prevent future breach-of-contract claims.

Configure Payroll Engines:

Reprogram HRIS software to automatically flag any compensation changes where allowances breach the 50% threshold.

Restructured Wages Overview

Below is a summary of how components shift during a compliant 50:50 rebalancing exercise.

Metric	Pre-Reform Structure	Post-Reform Structure	Operational Impact
Basic Salary Ratio	30% of Gross	50% of Gross	Mandated baseline
Allowance Cap	70% of Gross	50% of Gross	Strict regulatory ceiling
PF Contribution Base	₹30,000	₹50,000	Increases employer outflow
Gratuity Liability Base	Lower	Higher	Expanded balance sheet provisioning

✓ **Restructured Wage Formulation**

The final structural model guarantees that **"Wages" under the Code on Wages, 2019 are equal to exactly 50% or more of the employee's total gross remuneration**, satisfying the central statutory rules without causing compliance defaults or arithmetic penalties.

Labour Codes' Impact on Workforce Engagement Models including Traineeship Framework

The implementation of India's four Labour Codes—specifically the **Industrial Relations (IR) Code, 2020**, the **Code on Wages, 2019**, and the **Occupational Safety, Health and Working Conditions (OSHC) Code, 2020**—radically restructures how enterprises contract, train, and manage personnel.

Legacy models that relied on vague "trainee" definitions or casual contract arrangements face strict statutory classification. Organizations must actively re-engineer their workforce strategy to fit into distinct, legally protected engagement frameworks.

1. The Redefined Traineeship Framework

Historically, companies used internal "trainee" or "intern" labels as a flexible talent pool to bypass standard employee benefits. The Central Rules draw a sharp line between statutory apprentices and informal trainees.

- **The "Worker" Exclusion Limit:**

Under Section 2(zr) of the IR Code, only an apprentice engaged under the **Apprentices Act, 1961** is explicitly excluded from being classified as a "worker."

- **The Trap of Internal Trainees:**

If your company hires trainees outside the official Apprentices Act framework (e.g., corporate management trainees, graduate engineering trainees, or probationers), they automatically qualify as regular workers or employees. This grants them immediate rights to full wages, statutory benefits, and industrial dispute protections.

- **Stipend vs. Code Wages:**

True statutory apprentices receive a "stipend." This stipend is entirely exempt from the 50% wage-restructuring rules and PF/ESI deductions. Conversely, non-statutory trainees must be paid compliant "wages" that meet regional minimum wage floors.

- **Deemed Regularization Risks:**

Engaging a trainee via the Apprentices Act insulates the employer from permanent employment claims. However, keeping internal, unregistered trainees on the floor past standard learning timelines creates an immediate litigation exposure for permanent absorption.

2. Fixed-Term Employment (FTE): The New Structural Pillar

The IR Code formalizes **Fixed-Term Employment (FTE)** across all industries. This allows companies to hire employees directly on time-bound contracts, bypassing third-party manpower contractors for seasonal or project-based scaling.

[Fixed-Term Employee] —► Hired Directly for a Binding Term (e.g., 12 Months)

- Pro-Rata Statutory Benefits (PF, ESI, Gratuity)
- Absolute Parity in Wages/Working Conditions
- No Retrenchment Compensation at contract end

- **Statutory Benefit Parity:**

FTE workers must receive the exact same working hours, allowances, and statutory benefits as permanent employees performing the same or similar roles.

- **Pro-Rata Gratuity Access:**

While permanent employees must complete 5 years of continuous service to qualify for gratuity, FTEs are eligible for **pro-rata gratuity** if their contract lasts for just **one year** (or a shorter period if specified by Central Rules).

- **No Retrenchment Baggage:**

The natural expiration of an FTE contract does not constitute "retrenchment." Employers are not required to provide notice periods or pay separation compensation when the contract ends.

3. Formalization of Gig and Platform Work

The **Code on Social Security, 2020** introduces the first legal recognition of "gig workers" and "platform workers," explicitly separating social security delivery from the traditional employer-employee relationship.

- **The Aggregator Levy:**

Digital platform operators (e-commerce, ride-hailing, logistics) must contribute **1% to 2% of their annual turnover** to a centralized National Social Security Board, capped at 5% of the total amount payable to gig workers.

- **Misclassification Audits:**

Independent contractors, tech freelancers, or specialized consultants who operate under tight corporate behavioral control run the risk of being legally reclassified as traditional workers. This exposure can trigger retroactive claims for minimum wages and overtime.

4. Contract Labour Restrictions & Principal Employer Liability

The OSHWC Code increases the statutory applicability threshold for contract labor from 20 to **50 contract workers**, while clamping down on core operational deployments.

- **Core Activity Prohibition:**

Principal employers are strictly prohibited from deploying contract labour in the "core activities" of the establishment (the primary business drivers or manufacturing lines).

- **Permissible Deviations:**

Contract labour can only enter core areas if the work is casual/intermittent, represents a sudden volume spike, or constitutes an essential support service (e.g., security, catering, sanitation, or logistics).

- **Direct Financial Accountability:**

If a manpower contractor defaults on wage payments or statutory social security contributions, the **Principal Employer is legally liable** to pay the workers directly and must seek recovery from the contractor afterward.

Operational Blueprint for Workforce Models

To transition safely into the new framework, organizations should categorize and manage their talent pools according to this operational matrix:

Engagement Model	Governing Framework	Statutory Wage Status	Gratuity Eligibility	Key Compliance Risk
Permanent Employee	IR Code / Wages Code	Full Code Wages (50:50 structure)	Eligible after 5 years	Complex retrenchment processes if headcount must be reduced
Fixed-Term Employee	IR Code / OSHWC Code	Parity with Permanent Employees	Eligible pro-rata after 1 year	Successive, uninterrupted renewals creating a claim of permanency
Contract Labour	OSHC Code (Sec. 45-58)	Minimum Wages + Contractor Payroll	Borne by Agency	Deploying workers in "Core Activities" leading to deemed regular employment
Statutory Apprentice	Apprentices Act, 1961	Exempt (Stipend Only)	Not Eligible	Failing to register contracts on the national apprenticeship portal
Gig / Platform Worker	Social Security Code	Exempt from Wage Code (Fee-based)	Not Eligible	Exercising high behavioral control, triggering employee misclassification

✓ Core Transition Protocol

To safeguard operations against regulatory disputes, immediately audit your "internal trainee" programs. Transition unshielded training structures into **formalized Fixed-Term contracts** or **registered Apprenticeships**. Ensure that your core business workflows are never outsourced to vulnerable, third-party contract streams.

Contract Labour Management under OSH & WC Code with Special Reference to Core & Non-core Activities - Employers' Duties & Responsibilities

The **Code on Occupational Safety, Health & Working Conditions, 2020** introduces strict boundaries for contract labour deployment. Its main objective is to eliminate the exploitation of contract workers while granting operational flexibility to principal employers.

The core feature of this reform is the statutory division between **Core** and **Non-Core activities**, backed by absolute financial liability for the principal employer.

1. The Core vs. Non-Core Dichotomy

The OSHWC Code establishes a default rule: **Enterprises are strictly prohibited from employing contract labour in "core activities."**

Defining Core Activities

Core activities are defined as the primary, essential proficiency or business drivers of an establishment. If an activity is central to why the company exists (e.g., assembly line work in an automotive plant, or software coding in an IT firm), it is a core activity.

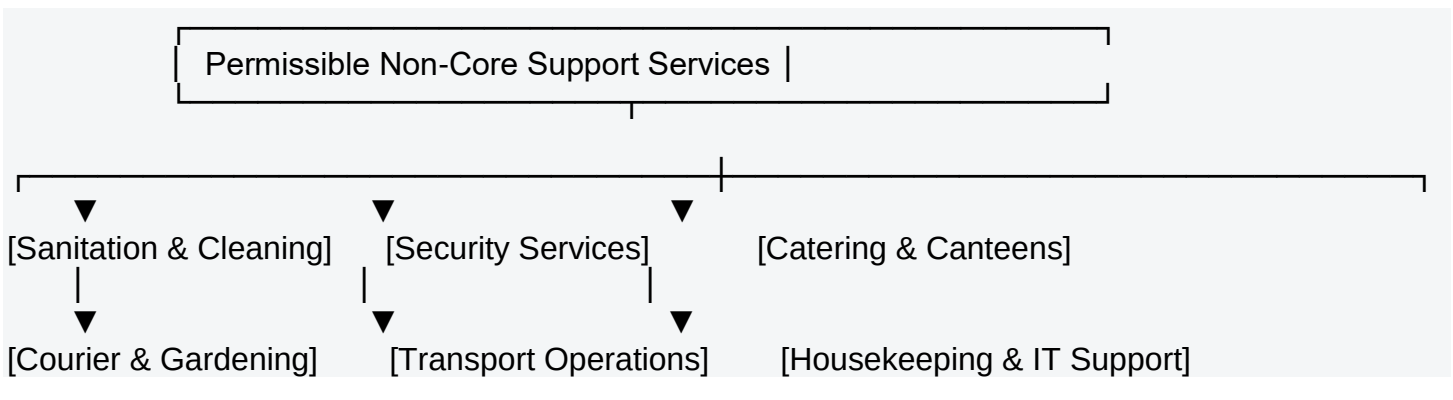
Statutory Exceptions for Core Activities

A principal employer may deploy contract labour in core activities *only* under these specific statutory conditions:

- The specific job profile is inherently casual, intermittent, or non-permanent.
- The activity experiences a sudden, temporary spike in volume that must be completed within a defined timeline.
- The activity is an explicitly listed **Non-Core Support Service** that happens to intersect with core environments.

Explicitly Defined Non-Core Support Services

The Code provides a definitive list of support activities that are legally classified as non-core. Contract labour can be deployed here freely, even if these services run continuously:



2. Primary Duties of the Principal Employer

Under the OSHWC Code, the principal employer holds ultimate statutory accountability for the work environment.

- **Mandatory One-Time Registration:**

Establishments employing **50 or more contract workers** (raised from the legacy threshold of 20) must obtain a single, centralized registration from the designated authority. Operating without this registration makes the entire contract deployment illegal.

- **Welfare Amenity Provision:**

The principal employer must ensure access to essential workplace facilities. This includes clean drinking water, adequate washrooms, locker rooms, first-aid boxes, and crèche facilities (where applicable).

- **Safety Compliance:**

Contract workers must be integrated into the company's occupational safety protocols. This includes providing identical Personal Protective Equipment (PPE), mandatory safety briefings, and annual health examinations at the employer's expense.

3. Financial & Legal Liabilities

The new framework removes any ambiguity regarding third-party insulation. The principal employer acts as the ultimate guarantor for the contract workforce.

The Absolute Wage Guarantee

If a manpower contractor fails to pay wages, or underpays contract workers, **the principal employer is legally required to pay the full wages directly** to the workers. The employer must then recover these costs from the contractor's outstanding invoices or security deposits.

Social Security Backstop

The principal employer must verify that the contractor regularly deposits Employee Provident Fund (EPF) and Employee State Insurance (ESIC) contributions. In cases of systemic default by the contractor, statutory bodies hold the principal employer jointly liable for past dues, interest, and penalties.

The Deemed Regularization Risk

If a principal employer deploys contract labour in a core activity outside of the permitted exceptions, it creates a severe legal vulnerability. Courts and tribunals can rule that the contract arrangement is a sham, resulting in the **deemed regularization** of those contract workers into permanent, full-time employees.

4. Operational Checklist for Contract Labour Management

To maintain compliance and protect your business from class-action regularizations, implement this operational governance framework:

Action Item [44]	Operational Execution Requirement	Risk Mitigated
Activity Mapping	Document and isolate all workflows. Ensure contract agency descriptions match the statutory "non-core" list.	Deemed Regularization
Independent Supervision	Ensure contract workers receive daily operational instructions from the contractor's supervisor, not company managers.	Joint Employment Claims
Digital Attendance Integration	Track contractor worker logs on a unified digital portal to verify exact hours worked against contractor billing statements.	Wage Disputes & Overtime Claims
Escrow Compliance & Auditing	Mandate that contractors submit computerized EPF/ESIC receipts (ECRs) matched to individual worker names before releasing monthly payments.	Joint Statutory Liability
Contract Indemnification	Rewrite Master Service Agreements (MSAs) to include clear indemnity clauses covering any wage or statutory shortfalls.	Unplanned Balance Sheet Costs

✓ Core Transition Protocol

Principal employers must stop treating contract labour as an outsourced, hands-off operation. Transition your core production and operational pipelines to **Fixed-Term Employment (FTE)**. Reserve third-party contract agreements strictly for verified support functions like security, facility maintenance, and logistics.

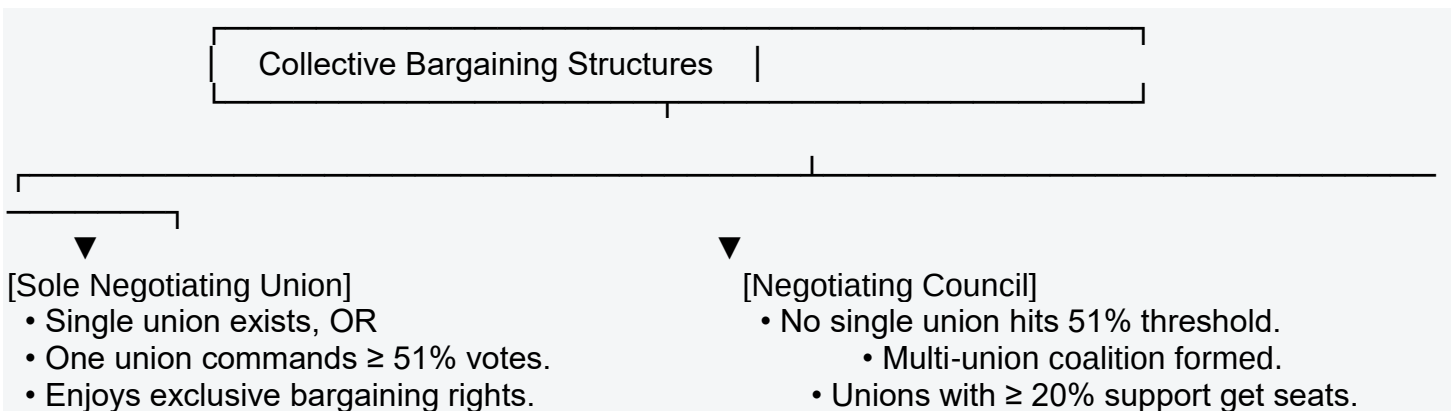
Trade Union Recognition & Collective Bargaining under the IR Code – The Modus & The Way Forward

The **Code on Industrial Relations, 2020** introduces a structured mechanism for trade union recognition and collective bargaining. For decades, Indian labour law lacked a uniform central statutory framework for identifying which union an employer must negotiate with. This frequently led to multi-union rivalries, wildcat strikes, and deadlocked negotiations.

The IR Code resolves this ambiguity by establishing a clear mathematical framework for determining the "**Negotiating Union**" or "**Negotiating Council**."

1. The Statutory Modus for Union Recognition

The IR Code, 2020 classifies collective bargaining entities into two categories based on their verified membership density within an establishment.



Scenario A: The Sole Negotiating Union (Section 14(2) & 14(3))

- **Single-Union Plants:**

If only one registered trade union operates within the industrial establishment, the employer must automatically recognize that union as the sole negotiating agent.

- **Multi-Union Plants (The 51% Rule):**

If multiple unions exist, a secret ballot vote is conducted among the workers. If a single trade union secures **51% or more votes** of the total workers on the muster roll, it gains exclusive status as the **Sole Negotiating Union**. The employer is legally barred from bargaining with any minority union.

Scenario B: The Negotiating Council (Section 14(4))

- **The Coalition Framework:**

If no single trade union manages to breach the 51% voting threshold, the employer must constitute a **Negotiating Council** for collective bargaining.

- **The 20% Representation Bar:**

Every registered trade union that secures **at least 20% of the total worker votes** is entitled to a seat on the council.

- **Seat Allocation:**

Seats are allocated proportionally based on the percentage of votes won (e.g., a union with 40% support receives double the seats of a union with 20% support).

2. Validity & Operational Dynamics

- **Fixed Tenure:**

Once a Sole Negotiating Union or Council is recognized, its bargaining mandate is valid for a period of **three years**. This can be extended up to **five years** if mutually agreed upon by the employer and the unions.

- **Binding Agreements:**

Any settlement arrived at with the Sole Negotiating Union or the Negotiating Council is statutorily binding on **all workers** in the establishment, including those who voted for minority unions or chose not to participate.

3. Key Compliance Challenges and Friction Points

While the Code streamlines negotiations, it introduces strict operational shifts that employers and unions must navigate:

- **The Secret Ballot Shift:**

Historically, union strength was verified via the "check-off system" (deducting union fees from payroll) or physical verification. The Code mandates a **secret ballot**, which introduces political election dynamics directly onto the shop floor. [23, 24]

- **Strict Strike Restrictions (Section 62):**

The Code effectively eliminates flash strikes. Workers in *all* industrial establishments are prohibited from going on strike without giving at least **14 days' notice**. Furthermore, strikes are strictly illegal while conciliation proceedings are pending before a tribunal. [25, 26, 27, 28, 29]

- **Unfair Labour Practices:**

Employers must remain strictly neutral during the secret ballot voting process. Any managerial attempt to sponsor, support, or influence votes for a "pocket union" constitutes an Unfair Labour Practice under the Second Schedule of the Code, carrying hefty financial penalties.

4. The Way Forward for Enterprises

To maintain industrial peace and execute smooth bargaining cycles under the new regime, organizations should adopt a proactive governance model.

Strategic Imperative	Actionable Execution	Operational Benefit
Muster Roll Audit	Clean up the active worker database and define exactly who qualifies as a "worker" vs. "supervisory staff" under Section 2(zr) before voting begins.	Prevents voter eligibility disputes and litigation before tribunals.
Neutral Ballot Protocols	Formulate a transparent, third-party framework for conducting the secret ballot, ideally overseen by a government-appointed verifier.	Insulates management from Unfair Labour Practice allegations.
Shift to Single-Issue Compacts	Move away from complex, open-ended Long-Term Settlements (LTS). Use the 3-year recognition window to negotiate highly specific productivity-linked compacts.	Aligns operational efficiency directly with wage increments.
Train Frontline Supervisors	Educate floor managers and shift leads to communicate neutrally with workers, halting informal, side-channel deals with minority union leaders.	Maintains the legal sanctity of the recognized bargaining channel.

✓ Core Transition Protocol

Enterprises must stop engaging in informal, fragmented discussions with fragmented union factions. Prepare your HR and industrial relations teams for a centralized, democratic secret ballot process. Treat the resulting **Sole Negotiating Union** or **Negotiating Council** as the single, legally binding channel for all structural wage, benefit, and policy changes.
