

## **Four Labour Codes - New Definition of “Wages”**

The 4 Labor 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Provident Funds and Miscellaneous Provisions Act, 1952), and the 29 central laws that were subsumed by the Codes stand repealed.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the Codes, will continue to apply insofar as they are not inconsistent with the Codes and until such time as they are superseded by new rules.**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read in conjunction with existing central and state rules, regulations, notifications, and circulars issued under the repealed legislation, to the extent these do not conflict with the Codes’ provisions.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.

---

## 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.

## Basic Wages

**Basic Pay + Dearness Allowance + Retaining Allowance  $\geq$  50% of Total Remuneration.**

If excluded allowances exceed 50%, the excess is statutorily deemed as “wages”

This rule is mandatory and automatic.

### 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

**Basic Pay + Dearness Allowance  $\geq$  50% of Total Remuneration** If excluded allowances exceed 50%, excess becomes “wages” by law.

---

## Statutory Impact

Statute	Impact
Provident Fund	Higher contribution base
ESI	Expanded wage coverage
Gratuity	Increased liability
Minimum Wages	Strict enforcement
Earned Leave	Leave encashment payable

### Important Clarification

EPF Act, 1952 is not yet repealed – Immediate PF impact may not arise  
ESI contributions must be deducted from December 2025 onwards to avoid non-compliance, interest, and penalties

## Action Required

- Audit salary structures to understand impact
- Ensure compliance with 50% wage ratio
- Re-configure payroll and HRMS systems
- Update appointment letters & HR policies
- Communicate changes transparently to employees
- Review contractor payroll compliance

## Disclaimer

The above recommendation has been taken into consideration given our understanding and interpretation of the Code of Wages. However, Further clarity is expected once the Rules are published by each state & there are chances that the above definition could be superseded by the Rules.

**The broad implementation of the Codes is expected by April 2026.**

---