

Additional FAQs on Labour Codes

Code on Wages, 2019

1 a. Does overtime payment form part of the 50 percent wage calculation rule?

Overtime allowance payment forms a part of the 50 percent wage calculation.

What constitutes “total remuneration” for applying the 50% wage floor?

Please refer to [FAQ No-3 dated 30.12.2025](#) available on MoLE website.

1. Is actual gratuity paid included?
2. Is gratuity included where shown as part of CTC?
3. Are employer contributions to PF and other social security benefits included?

Only statutory components such as employer PF and pension contributions and statutory bonus are included for arriving at 50% of wages to form part of remuneration. Gratuity, ESI and other retirement benefits are not included.

1 b. With reference to FAQ Question No. 7 of the MoLE FAQs under the Code on Wages, 2019, clarification is sought on: whether statutory components such as employer/employee PF contribution, statutory bonus, ESI, or other retirement benefits are included within “Other Allowances” or whether the illustration is based only on gross monthly salary excluding statutory contributions.

No. Statutory components such as employer share of PF/Pension contribution, are prescribed under Section 2(y)(c) of the Code on Wages and difference amount of total of (a) to (i) of Section 2(y) of the Code will be added back to the wages/remuneration in case it exceeds 50% of remuneration/wages (First proviso to the Section 2(y) of the Code on Wages).

2. Are there any specific legal provisions in place for the wage protection of white-collar employees?

The Code on Wages, 2019 has provisions for timely payment of wages. These provisions are applicable to all employees.

3. Can wages and minimum wages be treated as the same?

No, minimum wages are the statutory wages fixed by the appropriate government. An employer is legally prohibited from paying an employee less than the prescribed minimum wage.

The Wages are defined in Section 2(y) of the Code on Wages, 2019 and can also be referred to in [FAQ No- 2, 3 and 4 dated 30.12.2026](#) available on MoLE website.

4. Do annual performance-based incentives form a part of “wages” for computation under the Labour Codes?

No. Annual performance-based incentives do not form a part of “wages” for computation under the Labour Codes.

Please refer to [Sl. No. 3 of FAQs dated 30.12.2025](#) available on the MoLE website.

5. Who is eligible for overtime wages—only workers or it is applicable for Employees also? If so does the entitlement also extend to supervisory and managerial staff?

Yes. Employee, including worker, whose minimum rate of wages is fixed under the Code on Wages, 2019 is eligible for overtime.

6. Is the revised definition of “wages” under the Code on Wages, 2019 applicable for gratuity calculation from the date of enforcement of the Code, i.e., 21.11.2025?

Yes. Gratuity, based on revised definition of wages will be applicable w.e.f. 21.11.2025 i.e. date of implementation of the Codes.

7. From which date does the definition of “wages” under the Labour Codes come into effect?

The definition of “wages” has come into effect from 21.11.2025.

8. Whether variable components of wages such as overtime (OT) allowance are included while calculating the “wages” under the Codes?

Yes. Overtime allowance payment forms a part of components Section 2(a) to 2(i). If such allowance exceed 50 percent of remuneration then excess over 50 percent is added to the wage calculation.

9. What is the distinction between “minimum wages” and “wages” under the Labour Codes?

Minimum wages are fixed by the Appropriate Government for the employees, whereas wages are fixed as per Terms of Employment between employee and employer, employed in any establishment as per the definition of Wages as mentioned in Section 2(y) on the Code of Wages, 2019.

Code on Social Security, 2020

10. Does fixed-term employment cover contract labour engaged through contractors, or only direct employees of the principal employer?

Fixed Term Employment covers employees directly engaged by the employer.

11. Whether Gratuity calculation will be applicable prospectively or retrospectively?

Gratuity calculation will be applicable w.e.f. 21.11.2025 i.e. date of implementation of the Codes.

Please refer to [Sl. No. 8 of FAQ dated 30.12.2025](#) available on MoLE website.

12. How will the ESI coverage be governed until the finalization of Rules?

With effect from 21.11.2025, the definition of wages under the CoSS, 2020 shall apply. At present, Rs 21,000 per month wages notified for ESI coverage will be applicable.

13. For the calculation of gratuity, will wage components other than those specified under clauses (a) to (c) of included part and (a) to (k) of excluded part of Section 2(88) of the Code on Social Security, 2020, be included?

Any payment made to employee which is not part of components mentioned under section 2(88) of the Code on Social Security, 2020 shall not be considered for calculation of gratuity.

14. For Fixed Term Employees (FTE), is gratuity payable on completion of exactly one year of service or more than one year of service is required for calculation of gratuity under the Labour Codes?

Fixed Term Employee (FTE) will be eligible for gratuity if he/she renders service under the contract for a period of one year (from start of contract).

15. Whether States can levy cess on gig and platform workers, and if so, this will result in a dual financial burden on aggregators?

As per section 114(4) of the Code on Social Security, 2020, the contribution to be paid by the aggregators for the funding Schemes for gig workers and platform workers will be notified by the Central Government.

The said contribution will be credited to Social Security Fund set up by the Central Government for social security and welfare of the gig workers and platform workers.

16. In case of contract labour, whether gratuity liability is to be borne by the Principal Employer or the Contractor?

As per the section 53 of the Code on Social Security, 2020, the employer (i.e. Contractor) will pay gratuity on rendering of five years continuous service at the rate of 15 days wages for each completed year of service based on the last drawn wages.

17. Whether gratuity for service rendered prior to 21 November 2025 will be calculated under the Payment of Gratuity Act, 1972, and service on or after that date under the Labour Codes?

The employee will be paid gratuity based on the rate of wages last drawn by the employee at the time of superannuation or retirement or resignation or death etc, on and after 21.11.2025 as per the provisions of Code on Social Security, 2020.

18. What types of benefits or facilities will be considered as “remuneration in kind” under the definition of wages? Please provide illustrative examples.

Benefits under the terms of employment such as food coupons, ration items, mobile recharge etc. would constitute remuneration in kind.

Industrial Relations Code 2020

19. Is a fixed-term employee engaged for 11 months eligible for gratuity upon contract expiry? Is gratuity payable where a fixed-term employee exits before completion of the contracted tenure?

Fixed Term Employee (FTE) will be eligible for gratuity if he/she renders service under the contract for a period of one year (from start of contract).

The Occupational Safety, Health and Working Conditions Code, 2020 (OSH&WC)

20. Are leave encashment provisions under the OSH & WC Code applicable only to workers, sales promotion employees, and working journalists, or to all employees? Do leave-related provisions apply to managerial, supervisory, and corporate office staff?

Leave provisions apply to workers as per the OSH & WC Code, 2020 and only to those supervisors having wage not exceeding Rs 18,000/- per month. The definition of worker includes sales promotion employees and working journalists.

21. What is the maximum number of days of leave that can be carried forward to the succeeding year under the applicable Labour Codes and Rules? If Employer agrees to carry forward 120 days of Leave to next calendar year, whether he is allowed to do so?

A worker can carry forward up to 30 days of leave to the succeeding calendar year. Further, a worker who has applied for leave with wages and has not been granted, can carry forward the leave refused without any limit.

22. Under the Labour Codes, who is eligible for leave encashment—only workers or employee? Whether the Relationship Manager and Salesperson working independently (doesn't supervise anyone) and drawing wage of more than ₹18,000 are entitled for Leave Encashment?

Worker is entitled for leave encashment.

The sales promotion employees are included in the definition of Worker under Section-2(1)(zzl) of OSH&WC Code, 2020.

23. Is the provision of crèche facility dependent on any specific gender composition of the workforce?

The creche facility is available to employees, irrespective of gender.

24. At what stage does overtime become payable under the OSH&WC Code, when it exceeds 8 hrs of daily working hours or 48 hrs of weekly limit? If maximum working hours limit is prescribed as 12 Hours by the appropriate government, whether Overtime is applicable for Hours exceeding 8 Hours on a particular day?

The Code prescribes working hours as 8 hours per day.

If a worker works for more than eight hours in any day as daily wager, or for more than forty-eight hours in any week, as the case may be, a worker shall in respect of such overtime work be entitled to wages at the rate of twice the normal rate of wages and shall be paid at the end of each wage period.

25. Where the OSH&WC Code permits accumulation of leave up to 30 days, but a State law (e.g., Andhra Pradesh) allows 60 days, which provision will prevail?

The provision of the OSH&WC, 2020 Code will prevail over the State Law for provisions which are inconsistent with the Code. However, an employee is entitled to benefits under State Law if more favourable to him than those under the Code.

26. What is the maximum number of leave days that can be encashed under the applicable Labour Code(s)?

There is no prescribed maximum limit for leave encashment under the OSH&WC Code, 2020. Leave exceeding 30 days, if applied but not granted by the employer, can be encashed at the end of the calendar year. At the time of separation from service, the worker is entitled to encash the leave to his/her credit.

27. Where the age threshold for annual health check-ups differs between Central Rules and State Rules, which provision will apply?

Central rules will be applicable on the establishments where Central Government is Appropriate Government and state rules will be applicable on the establishments where State Government is Appropriate Government.

Disclaimer: The above FAQs are for information purposes only, to enable public to have quick and easy access to information, and do not purport to be legal documents. In case of any variance between what has been stated and what is contained in the relevant Labour Code, the latter shall prevail.

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