Compendium of FAQs on Labour Codes by Ministry of Labour & Employment (MoLE)

Issued by the Ministry of Labour & Employment (MoLE), Government of India

Arranged in four Parts, one for each set of FAQs issued: dated 30.12.2025, dated 9.1.2026 on the Code on Social Security, clarifications on the OSH & WC Code dated 13.3.2026, and Additional FAQs on the four Labour Codes (Code on Wages, 2019; Code on Social Security, 2020; Industrial Relations Code, 2020; and OSH & WC Code, 2020) dated 16.3.2026.

Contents

01	**Part A: FAQs Dated 30.12.2025**	17 questions
02	**Part B: FAQs Dated 9.1.2026**	15 questions
03	**Part C: Clarifications on the OSH & WC Code dated 13.3.2026**	7 questions
04	**Part D: Additional FAQs on Labour Code dated 16.3.2026**	27 questions

Part A: FAQs Dated 30.12.2025

General questions on the transition to the Labour Codes, the definition of wages, gratuity and related provisions.

Transition Period

Q1. Which rules will be applicable during the transition period?

- As per the provisions of Section 6 of General Clauses Act, 1897, old rules will remain in force till final notification of new rules under the Code, to the extent these are in line with Codes.

Definition of Wages

Q2. What does the term “wages” mean?

The definition of “Wages” covers:

- All remuneration whether by way of salaries, allowances or otherwise payable to a person employed. This includes: Basic pay, Dearness allowance, Retaining allowance, if any
- If the payments/allowances other than Basic pay, Dearness allowance and Retaining allowance exceed 50% or such percentage as notified of all remuneration, then amount exceeding 50% or such percentage as notified shall be added in the “Wages”.

Q3. Definition of wages and the components it would cover.

The definition of “Wages” covers:

- All remuneration whether by way of salary, allowances or otherwise. These include Basic pay, Dearness allowance and Retaining allowance, if any.
- If the allowances (except gratuity and retrenchment compensation) exceeds 50% of all remuneration, the excess amount shall be added back to wages.
- Performance based incentives, Employee Stock Option Plans (ESOPs), variable part of the component or reimbursement-based payments to the employee shall not be part of the wages.

Q4. What is the 50% rule for allowances?

- 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.

Q5. Whether Leave Encashment be part of allowances?

- As mentioned in Section 2(y) of Code on Wages, 2019, leave encashment is not a part of allowances.

Q6. Does this definition of wages apply to all labour laws?

- This single definition of wages applies across all four Labour Codes
- The same definition applies uniformly for statutory calculations

Q7. Explain the allowance rule with a clear illustration?

- Total remuneration: ₹76,000 per month
- Basic Pay + Dearness Allowance: ₹20,000
- Allowances: ₹40,000
- Other components (Gratuity and retrenchment compensation): ₹16,000
- Total allowance paid: ₹56,000
- Max. allowance allowed for calculation of wages (50% of total remuneration): ₹38,000
- Excess allowance over 50% limit: ₹2000
- ₹2000 shall be added back to wages (Basic Pay + DA) for statutory compliances.
- Statutory calculations shall be made on revised wages: ₹22,000

Gratuity

Q8. Whether Gratuity calculation will be applicable prospectively or retrospectively.

- Gratuity will be applicable w.e.f. 21st Nov, 2025 i.e. date of enforcement of the Code.

Q9. Clarification on gratuity calculation in view of many companies considering December month as year end.

- Gratuity will be applicable w.e.f. 21st Nov, 2025 i.e. date of enforcement of the Code. Establishments may make provision as per accounting norms.

Q10. When gratuity is payable to an employee?

Gratuity shall be payable on following events:

- On termination
- On superannuation (retirement due to age)
- On resignation
- On death or disablement due to accident or disease
- On expiration of a fixed-term employment contract
- On any other event notified by the Central Government

Q11. Are there any special provisions related to gratuity in certain cases?

- Completion of five years of continuous service is not necessary in case of:
  - Death (paid to nominee or legal heirs)
  - Disablement
  - Expiration of fixed-term employment
  - Other events notified by the Central Government
- If the nominee or heir is a minor, the share shall be deposited with a competent authority and invested in bank/financial institution for the benefit of such minor until majority

Q12. How is gratuity calculated?

- For every completed year of service or part thereof in excess of six months:
- 15 days’ wages per year (or such number as notified by Central Government) based on the rate of wages last drawn.

Special cases:

- Piece-rated employees: Daily wages calculated as average of total wages for the three months preceding termination (excluding overtime)
- Seasonal employees: 7 days’ wages per season
- Fixed-term employment or deceased employees: Gratuity paid on pro-rata basis
- The maximum gratuity is as notified by the Central Government which is currently ₹ 20 lakhs.
- For employees re-employed after disablement:
  - Wages for the period preceding his disablement shall be taken to be the wage received by him during that period.
  - Wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

Q13. Does gratuity affect other agreements or awards?

Nothing shall affect the right of an employee to receive better gratuity terms under any:

- Award
- Agreement
- Contract with employer

OSH & WC Code: Worker, Contract Labour and Migrant Workers

Q14. Whether the person drawing wages ₹18,000/- or more will be covered under the definition of worker as per OSH & WC Code.

- Any person, who is employed in a supervisory capacity drawing wages exceeding ₹18,000/- (or an amount as may be notified by the Central Government from time to time) is not included in the definition of worker.

Q15. Clarity on Core and Non-core activities.

- Core and non-core activities are clearly defined under the OSH & WC Code, 2020 [Section 57]. Principal employer may engage contract labour for core activities which are ordinarily carried out through contractor, or of intermittent nature or involve sudden increase in volume of work requiring time-bound completion.

Q16. Whether Journey Allowance for ISMW within the State for the long-distance workers may be allowed.

- As per OSH & WC Code, 2020, the employer shall pay to and fro journey allowance to ISMW once in a year from his native place to place of employment.

ESI Coverage

Q17. How will the ESI coverage be governed until the finalisation of Rules?

- The definition of wage has come into force with notification of the Code w.e.f. 21st Nov, 2025.

Part B: FAQs Dated 9.1.2026

FAQs on Code on Social Security, 2020, issued by the Ministry of Employment & Labour (MoLE).

Q1. Can gratuity be claimed only after employment ends?

- No. The Rules permit advance submission of gratuity applications where the date of retirement or cessation of employment is known in advance.

Q2. Does delay in filing gratuity applications lead to forfeiture of claims?

- No. The Rules explicitly provide that delay alone cannot invalidate a gratuity claim.

Q3. Do employers have unfettered discretion to reject gratuity claims?

- No. The Rules prescribe mandatory notices, reasoned orders, defined timelines, and appeal mechanisms, ensuring transparency and preventing arbitrary decisions.

Q4. Can maternity benefit claims be rejected for not using prescribed forms?

- No. The Rules clearly state that procedural lapses do not defeat substantive rights. Applications may be submitted physically on plain paper or electronically, and claims cannot be rejected solely due to non-use of prescribed formats.

Q5. Is certification by a registered medical practitioner mandatory for maternity benefits?

- No. The Rules broaden acceptable proof and allow certificates from ASHAs, Auxiliary Nurse Midwives (ANMs), local authorities, and other prescribed village or municipal officials, in addition to registered medical practitioners.

Q6. Are nursing breaks strictly limited to two fixed intervals?

- No. While the Rules prescribe minimum nursing breaks, they also allow additional time, including travel time, depending on the distance to the crèche or childcare facility.

Q7. Must crèche facilities always be located within the employer’s premises?

- No. The Rules permit common crèches, shared or pooled arrangements, and negotiated facilities, particularly to assist smaller establishments. Where crèche facilities are not provided, payment of a crèche allowance is mandated.

Q8. Do construction workers lose welfare benefits when they move across States?

- No. The Rules ensure inter-state portability of registration and benefits, subject to updating migrant worker data on the destination state portal.

Q9. Are only direct engagements by aggregators covered?

- No. The Rules cover gig and platform workers engaged through subsidiaries, associate companies, holding companies, LLPs, and third-party arrangements.

Q11. Does registration under the Rules guarantee automatic payment of benefits?

- No. Registration is only an entry point that enables workers to access various social security schemes. Benefits are payable only under schemes that are onboarded on the relevant portal (such as the e-Shram portal) and subject to fulfilment of scheme-specific eligibility conditions.

Q12. Can the Social Security Rules be amended only through Parliament?

- No. The Rules constitute subordinate legislation. Accordingly, they can be modified, revised, or updated through government notifications, without requiring Parliamentary approval.

Q13. Are penalties imposed automatically for every non-compliance?

- No. The Rules provide for notice, opportunity to comply, hearing, reasoned orders, and compounding of offences before prosecution.

Q14. Are appeals under the Rules time-bound?

- Yes. The Rules prescribe clear limitation periods, standard appeal formats, and timelines for disposal.

Q15. Are exempted establishments free from regulatory oversight?

- No. Exempted establishments must meet eligibility conditions, audit and reporting requirements, and exemptions may be cancelled upon structural changes.

Q16. Are the Social Security Rules rigid and inflexible?

- No. The Rules explicitly allow revision of limits, forms, contribution rates, and procedures through government notifications, enabling adaptability to emerging needs.

Part C: Clarifications on the OSH & WC Code dated 13.3.2026

Clarifications on the Occupational Safety, Health and Working Conditions Code, 2020.

Q1. Applicability of OSH&WC Code provisions for dock workers (other than major ports).

As the State Govt. is the appropriate authority for ports other than major ports as defined in clause-8 of Indian Ports Act, 1908; whether the draft central rule for dock workers shall be applicable to the ports under the jurisdiction of State Govt. or the State has to frame separate rules?

The Central Government will prescribe the Rules under Section-23 & 24,of OSH and WC Code which will be applicable to all ports / docks across India. Further, OSH standards under Section-18 for dock work will also be prescribed by the Central Government. The code enables the state government to amend these standards with the prior approval of Central Government.

As per Section-2(1) (d)(i) & (ii), the state government is the appropriate government in case of minor ports. Hence, the State Government is empowered to frame rules under Section 133, wherever applicable.

Q2. Annual health examination of employees.

The draft Occupational Safety, Health & Working Conditions (Central Rules) 2020 framed under Clause (c) of sub Section-1 of Section- 6 prescribes annual health check-up of employees, who has

completed 40 years of age. Whether the workers below the age of 40 shall be exempted from annual health examination engaged in hazardous processes notified in first schedule under Section 2(za) and dangerous operations under Section 82 of the OSH & WC Code, 2020?

Free of cost pre-employment and periodic health examinations, irrespective of the age of the worker, would be arranged by the employer for workers employed in factories carrying out hazardous processes and dangerous operations.

Under Section 82, the State government will frame rules to prescribe periodicity of periodical medical examination of employees in this regard.

Further, under Section-85(c), the state government will prescribe rules to specify such intervals not exceeding 12 months for carrying out medical examination.

Q3. Measures or standards prescribed by the State Government.

Whereas Section 18 of the OSH & WC Code, 2020 prescribes that the Central Govt. shall declare standards on occupational safety and health for workplaces relating to factory, whether the State Govt. has to prescribe measures or standards for health and safety under Section 86(1) of the OSH & WC Code, 2020?

OSH Standards will be prescribed by the Central Government as per Section 18 applicable to factories. Further, the code enables the state government to amend these standards with the prior approval of Central Government.[Section 18(4)]

Q4. Will replacing inspectors with inspector-cum-facilitators not weaken the enforcement?

No. Inspector cum Facilitator will make aware about provisions of laws for compliance by employers and making aware workers of their rights in Codes. The new system of randomized web-based inspections ensures better compliance and protection to workers.

Inspection can also be undertaken on complaint with the approval of competent authorities.

Q5. Whether OSH & WC Code favours employers by reducing penalties for violations?

No. The penalties have been rationalized as well as increased.

Only minor offences are compoundable, while serious safety violations attract severe penalties including imprisonment.

Q6. Are contract workers covered for welfare facilities?

Yes, the Contract workers are covered for welfare facilities.

It is the responsibility of the principal employer under Section-53 to provide the welfare facilities prescribed under Section-23 & 24 to the contract labours.

Q7. Whether contract labour worker be issued an experience certificate?

Yes. As per Section-56 of OSH&WC Code, it is mandatory that the contractor will issue on demand, experience certificate to contract labours.

Part D: Additional FAQs on Labour Code dated 16.3.2026

Further questions and replies, grouped by Code.

Code on Wages, 2019

Q1. Does overtime payment form part of the 50 percent wage calculation rule?

Related questions asked:

- What constitutes “total remuneration” for applying the 50% wage floor?
- Is actual gratuity paid included?
- Is gratuity included where shown as part of CTC?
- Are employer contributions to PF and other social security benefits included?
- 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.

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

Please refer to FAQ No-3 dated 30.12.2025 available on MoLE website.

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.

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).

Q2. 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.

Q3. 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.

Q4. 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.

Pl. refer to Sl. No. 3 of FAQs dated 30.12.2025 available on the MoLE website.

Q5. 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.

Q6. 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.

Q7. 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.

Q8. 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.

Q9. 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

Q10. 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.

Q11. 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.

Q12. 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.

Q13. 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.

Q14. 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).

Q15. Whether States can levy cess on gig and platform workers, and if so, this will results 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.

Q16. 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.

Q17. 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.

Q18. 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

Q19. 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)

Q20. Are leave encashment provisions under the OSH & WC Code applicable only to workers, sales promotion employees, and working journalists, or to all employees?

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.

Q21. 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.

Q22. Under the Labour Codes, who is eligible for leave encashment: only workers or employee? Whether the Relationship Manager and Salesperson working independently (doesn’t supervises 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.

Q23. 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.

Q24. 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.

Q25. 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.

Q26. 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.

Q27. 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.

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