

Labor Codes 2025 (Sharad)

- [Labor Codes for NGOs & How to be Ready \(Part 1\)](#)
- [Labor Codes for NGOs & How to be Ready \(Part 2\)](#)

Labor Codes for NGOs & How to be Ready (Part 1)

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Session Layout

- Need for compliance with social security (SS) laws
- Labor Codes-Overview
- Code on Wages 2019 - before and now & Actions to consider by NGOS
- Code on Social Security 2020 - before and now & Actions to consider by NGOs (to be continued in Session 2)

Why Comply with Other Laws?

Section 12AB(5) of Income Tax Act states:

- The CIT may cancel the registration certificate based on due process in law for non-compliance of requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects.
- The above provision is also applicable when granting registration, renewal, conversion of provisional to regular registration, change in objects, etc.

Labor Codes Overview

- 29 existing labor laws have been consolidated under four new codes with an intent to amalgamate, simplify, and rationalize the relevant provisions of the subsumed laws.
- All Codes have been notified from 21.11.2025.

The Four Codes:

1. **The Code on Wages, 2019:** Amends and consolidates the laws relating to wages and bonus.
2. **Industrial Relations Code, 2020:** Amend and consolidate the laws relating to social security with the goal to extend social security to everyone in organised, unorganised and any other sectors
3. **The Social Security Code, 2020:** Consolidates and amends the laws relating to trade unions, conditions of employment in industrial establishments, investigation and settlement of industrial disputes
4. **Occupational Safety, Health & Working Conditions Code, 2020:** Focussed on consolidating and amending the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment

Comparison: Before vs. Under the Codes

	Before Codes	Under the Codes
No of statutes	29 laws, 1436 Rules	4 Codes, 351 Rules
Registration	8	1 (10 digit LIN on SSP merging multiple regns)
License	4	1 (5 year validity)
Returns	31	1 (electronic)-digital integration on Shram Suvidha portal
Composition of Offences & Improvement Notices	-	introduced
Inspection mode	Onsite paper audit	Inspector cum Facilitator-Risk based digital inspection

	Before Codes	Under the Codes
Grievance redressal	Multiple tribunals	Unified facilitation centres (single window service)

What will change under Labor Codes

- Consolidation of all labor laws.
- Making labor laws relevant/contemporary to better handle current needs and complexities (some labor laws are over 100 years old).
- Universal coverage except where specifically exempted.
- Uniform definition, interpretation, and implementation across all matters of labor.
- Use of technology/digitization—transparency and accountability for both establishments and regulator.
- Effective enforcement—web-based audits, third-party audits, stricter penalties for non-compliance. Inspector cum facilitator model.
- Compounding of offences and Improvement Notices to remove hardships for genuine defaults.
- Final outcome: Ease of doing business.

The Code on Wages, 2019

Subsumed Legislations

The Code on Wages, 2019 subsumes the following:

1. The Payment of Wages Act, 1936
2. The Minimum Wages Act, 1948
3. The Payment of Bonus Act, 1965
4. The Equal Remuneration Act, 1976

Provisions Prior to Code on Wages

- Minimum Wages Act 1948: Centre & states fix minimum wage to prevent exploitation and ensure fair remuneration for employees working in scheduled employments. Revised at least once every 5 years. Time/piece rate for 4 defined categories of workers i.e. unskilled, semi-skilled, skilled and highly skilled based on cost of living and skill set. Lays down provisions on equal pay, working hours & rest, OT.
- Payment of Wages Act 1936: makes employer responsible for wage payment applicable to specified industries, timely payment- less than 1000 employees by 7th /1000 and above employees by 10th, threshold for coverage-employees with gross wages (all remuneration) upto Rs.24k/month, fixation of Wage period, deductions, mode of payment, wages payout on termination, grievance redressal.
- Payment of Bonus Act 1976: Profit is basis for applicability with 20 or more employees. Wage threshold for statutory bonus-upto 21k/month (basic+DA) having worked 30 days with 7k as wage ceiling. Min and max bonus between 8.33% and 20%. This statutory bonus distinct from discretionary bonus.
- Equal Remuneration Act 1976: Equal pay for equal work, no gender discrimination in recruitment, employment, promotion, training etc, prohibit women employment

Chapter Layout in Code

- Chapter 1: Preliminary
- Chapter 2: Minimum Wages
- Chapter 3: Payment of Wages
- Chapter 4: Payment of Bonus
- Chapter 5: Advisory Board
- Chapter 6: Payment of Dues, Claims and Audit
- Chapter 7: Inspector cum Facilitator
- Chapter 8: Offences and Penalties
- Chapter 9: Misc

Key Provisions: Definitions & Coverage

- **Employee:** A person employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward.

- **Worker:** Same as above but does *not* include those employed mainly in a managerial/administrative capacity, or supervisory capacity drawing wages exceeding Rs. 15k per month.
- **Coverage:** No wage threshold for payment of wages now vs. upto 24k/month earlier for organized/unorganized sector
- **No Wage Threshold:** No wage threshold for payment of wages now (vs. up to 24k/month earlier).
- **Minimum Wage & National Floor Wage:** Central govt. to fix minimum wage as floor wage (time (by hour, day or month) or piece rate) based on geography, nature of work and skill set. State govts. cannot fix wage less than the Floor wage. Applicable to all establishments as against scheduled employments. Revision once in 5 years. Minimum wage to be fixed as per definition of Wages

Key Provisions: Definition of 'Wages'

Section 2(y)-Wages means all remuneration i.e. salary, allowance or otherwise expressed in money or capable of being so expressed payable if terms of employment fulfilled. It has 4 parts:

1. Inclusions:

- Basic pay
- Dearness allowance
- Retaining allowance

2. Exclusions (11 items):

- stat bonus
- value of house accommodation & amenities as per Govt order
- PF/pension contribution
- conveyance allowance/travelling concession
- sums to defray special expenses given the nature of employment
- HRA
- sums paid under a court award
- OT
- commission
- gratuity payable on termination

- retirement benefits/retrenchment compensation/ex gratia on termination.

3. Conditional Inclusion:

- total Exclusions excluding (j) and (k) if it exceeds 50% of total remuneration will be added back to Wages

4. Remuneration in Kind:

- Value of remuneration in kind up to 15% of total wages will be considered as Wages. This is perquisites/fringe benefits.

Meaning and Inclusions	Exclusions
<p>means all remuneration payable by way of salary, allowances or otherwise; expressed or capable of being so expressed in terms of money and includes:a) Basic pay) Dearness allowance) Retaining allowance</p>	<p>Exclusions (11)</p> <ul style="list-style-type: none"> • bonus payable but not forming part of remuneration • House rent allowance • Value of house accommodation and utilities (light, water, medical attendance or amenity) • Remuneration payable under any award/settlement between parties or court order • Employer contribution to provident fund/pension fund • Sum paid to defray special expenses due to nature of work • Conveyance Allowance/travelling concession • Any Commission payable with accretions • Any Overtime Allowance • Any gratuity payable on termination- Any retrenchment compensation/retirement benefit./ex gratia on termination <p>Exclusions capped at 50% of total remuneration <i>(except gratuity and retrenchment compensation)</i></p>
<p>Remuneration in kind to the extent it does not exceed 15% of total wages shall be included in wages</p>	

Illustrations: Calculation of Wages

Scenario 1

Total remuneration:

Type	Amount (INR)
Basic	8,000
HRA	4,000
Special allowance	6,000
Conveyance	2,000
Overtime	3,000
Commission	2,000
Total	25,000

Specified exclusions:

Type	Amount (INR)
HRA	4,000
Conveyance	2,000
Overtime	3,000
Commission	2,000
Total	11,000

Calculation of wages:

Type	Amount (INR)
Basic	8,000
Special Allowance	6,000
Conditional inclusion (if specified exclusions exceeds 50% of total remuneration, i.e., INR 12,500)	-
Total (lower of inclusions or 50% of total remuneration)	14,000

Wages: INR 25,000 - INR 11,000 = INR 14,000 (i.e., total remuneration (-) exclusions)

Scenario 2

Total remuneration:

Type	Amount (INR)
Basic	8,000
HRA	4,000
Special Allowance	4,000
Conveyance	4,000
Overtime	3,000
Commission	2,000
Total	25,000

Specified exclusions:

Type	Amount (INR)
HRA	4,000
Conveyance	4,000
Overtime	3,000
Commission	2,000
Total	13,000

Calculation of wages:

Type	Amount (INR)
Basic	8,000
Special Allowance	4,000
Conditional inclusion (if specified exclusions exceeds 50% of total remuneration, i.e., INR 12,500)	500

Type	Amount (INR)
Total (lower of inclusions or 50% of total remuneration)	12,500

Wages: INR 25,000 - INR 13,000 + INR 500 = INR 12,500 (i.e., total remuneration (-) exclusions (+) inclusions)

Sample calculation for exclusion from Wages-typical NGO comp	Per month
Basic	50000
HRA-50% of Basic	25000
Special Allowance-25% of Basic	25000
Er PF-12% of Basic	6000
Gross Salary	106000
Gratuity-4.81% of Basic	2405
EL-18 days on Basic	2466
CTC	110871
Calculation of Wages	
Exclusions	
HRA	25000
Er PF	6000
Conveyance	
Total exclusions	31000
Exclusion % of CTC	28

Key provisions in the Code

- Payment of Wages: on monthly basis by 7th of following month through cheque/electronic method as specified and other methods. Timelines for daily, weekly and fortnightly basis also specified
- Wage Period-employer to fix and cannot be more than one month

- Full and final wages within 2 working days for removal, resignation
- Deduction from Wages are specified and cannot be more than 50% of wages for a wage period. No unauthorized deductions permitted.
- Types of deductions-Fines, absence from duty, damages, recovery of advances/loans, recovery of taxes. These are defined and detailed in Code
- Payment of Bonus-8.33%-20% of Wages as statutory bonus when employes worked for 30 days. Wage limit Rs.21k presently but respective Govts to decide the threshold
- Equal treatment of Gender: No discrimination on the basis of gender in matters related to wages, recruitment and conditions of employment (Chapter I). Gender inclusive employment policies for all including TG. Emoluments i.e.conveyance allowance, travel concession, HRA, OT and award through court will be considered for computing equal wage for all genders
- Mandatory issue of Wage Slip to all employees-digital or paper . Format to be specified in state rules
- Uniform limitation of 3 years (from 6m-24m in various laws) for claims relating to wages, bonus, etc.
- Register & Records-persons employed, muster roll, wages etc.
- Display on the notice board abstract of this Code, category-wise wage rates of employees, wage period, day/date and time of payment of wages, name and address of the Inspector-cum-Facilitator having jurisdiction.
- Contractor and legal representative of deceased employer included in definition of employer-expanded scope defining employer
- Appointment of Inspector cum Facilitators under Code to advise/support and digitally inspect under the Code
- Higher penalties for offence-much higher than at present-Rs.1 lakh and imprisonment
- National and State Advisory Board on wage matters

Applicability of Payment of Bonus to NGOs

NGOs are **not covered** under Payment of Bonus Chapter 4, Section 41(1)(e) if they are:

- Indian Red Cross Society or similar institutions;
- Universities and other educational institutions;
- Institutions including hospitals, chambers of commerce, and social welfare institutions established not for purposes of profit.

Action Points for NGOs

- Coverability of MW and PoW provisions to NGOs
- Review comp structure for compliance with definition of Wages-
 - (a) Before reshuffling refer to state specific final CoW rules
 - (b) In case of ambiguity on comp elements as between inclusion or exclusion, guiding principles can be (a) refer to judicial pronouncements and (b) examine whether the element is fixed or variable
- Adherence to National Floor wage
- FnF
- No threshold for payment of wages
- No unauthorized deduction from wages
- Wage payout by 7th mandatory
- Equal remuneration for all gender
- Focus on compliance-stiff penalties and documentation-registers and display of details

The Code on Social Security, 2020

Subsumed Legislations

The Code on Social Security, 2020 subsumes:

- The Employee's Compensation Act, 1923
- The Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Employment Exchanges Act, 1959
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972
- Cine-Workers Welfare Fund Act, 1981
- Building and Other Construction Workers' Welfare Cess Act, 1996
- Unorganised Workers' Social Security Act, 2008

EPF & Misc Provisions Act 1952

- Inclusion: Employee Provident Fund scheme (EPF) 1952, Employee Pension Scheme (EPS) 1995 and Employee Deposit Linked Insurance Scheme (EDLI) 1976 under EPF & MP Act, 1952 managed by EPFO
- Applicability: 20+ employees (including employees through contractor unless it has a separate code) for establishment specified in Schedule 1. Voluntary coverage with 10% contribution. NGOs are under EPF since 1.4.2015 by law. In house/Exempted PF trusts allowed if the return is equal or higher than paid by EPFO with compliances
- Eligibility: All employees (full/part time) worked more than 30 days in a year. Once an employee always an employee, once an establishment always an establishment.
- Excluded Employee: employee whose remuneration exceed statutory PF wage ceiling (Rs. 15,000) provided h/she is not member of EPFO. For coverage, both coverable and excluded nos considered. Employees drawing less than Rs 15,000 per month are mandatorily members.
- EPF Scheme: Employer and employee contribution 12 per cent each of Basic pay, DA plus retaining allowances. Courts have ruled EPF applicable to fixed allowances but not implemented, It is an E(80C for contribution)-E(return by way of interest 8.25% for 24-25 but Rs.2.5 lakhs PA and above ee contribution taxable) -E (withdrawal except >50k<5 years) scheme.
- EPS: Minimum 10 yeas of contributory service and attaining 58 years of age (reduced pension from 50-57 yrs with 10 years contribution and deferred pension beyond 58) whether in service or superannuated. Form 10D for pension fixation. 6 type of EPS pension-superannuation, disabled, widow/child pension, orphan, nominee, dependent parents pension. Pension calculation-Pensionable Salary (average of last 60 months) X Pensionable Service)/70. Eg. If 35 years of services at PF wages, monthly pension will be Rs.7.5k (15000X35/70). Pension once fixed does not change. Provide life certificate annually in November of each year for continuation. Scheme certificate when service more than 10 years and not attained 58 years but left employment.
- EDLI: Insurance benefit min-max Rs. 2.5-Rs.7.0 lakhs in case of death while in service to nominee/legal heir
- 12% employee share to EPF, 12% employer share-8.33% for EPS capped at Rs.1250/- per month and balance plus 3.67% to EPF, EDLI contribution (0.5% with cap of Rs.75/- per month plus admin cost) and EPF admin charges (0.5%) paid by employer. Employer total

contribution is 13%. Can restrict contribution to Rs.15k i.e. PF wage ceiling for employees even if comp is more than 15k. Employer share can be restricted to 15k as per law.

- Central Govt contributes 1.16% to EPS capped at Rs.15000/- (Rs.174/- per month)
- UAN-12 digit for all previous and current member IDs
- Final PF withdrawal: Composite claim form replaces Form 19 (PF withdrawal),10C (EPS withdrawal) and 31(partial Withdrawals/advances) filed online without attestation of employer. 75% EPF withdrawal within 2 month of unemployment, balance after 12 months of continuous unemployment. Claims are to be settled within 20 days. EPS withdrawal after 3 years of unemployment
- EPF advance/partial withdrawal-merged into 3 categories (Essential, Housing & Special) with 12 months minimum contribution
- EPF Deposit: within 15 days of close of month online only and submit Electronic Challan cum Receipt (ECR) which captures both payment and filing. Non deposit by 15th entails interest and penalty. Member will earn interest if there is default by employer
- E nomination by members in Form 2 mandatory for member for nominees to avail claims.
- While separate challans can be generated, now payment for a reporting period is single which creates problem for FC and NFC payments.
- EPF Joiner to after 1.9.2014 if wages exceeds Rs 15k cannot be member of EPS. Entire 12% employer share will go to EPF.
- Form-11-self declaration from new employees.
- Annual filing in Form 3A and 6A by 30th April for a FY based on monthly ECR data.
- Inoperative (inactive) account-when no contributions received for 36 months (3 years) after a member stops working, retires, permanently moves abroad, or passes away, at which point it stops earning interest. Interest earned upto 58 years regardless of employment status. After 7 years, transferred to SCWF. Inoperative account situation will arise if you have not transferred to new MID after a job change.

ESI Act

- Employees State Insurance (ESI) is a self-financing health insurance scheme for Indian workers in notified areas. Ambiguity regarding applicability to an establishment but charitable medical and educational institutions run by trust, societies etc covered. The fund is managed by the Employees' State Insurance Corporation under ESI Act 1948. Applicability: mandatory for organizations with 10 or more employees.

- Eligibility: All the employees (full time / part time) working for more than 30 days in a year eligible.
- Employee with 'gross salary' upto Rs 21,000 per month are mandatorily covered. Other employees can be covered through group Medclaim scheme.
- Employee with gross salary exceeds Rs.21k/month will be excluded at end of contributory period. (April-Sep, Oct-March)
- Contribution-Contribution by employer is 3.25 per cent and employee contribute 0.75 per cent of gross wages. Employees earning daily average wage up to Rs.176 are exempted and their ESI contribution made by employer.
- Contribution deposited through online/offline challan by 15th of following month.
- Half yearly Return of Contribution-12th May (Oct-March contributory period) and 12th Nov (April-Sep) every year in Form 5.
- Registration of insured person and family and issue of ID
- Benefits:
 - Medical-IPD and OPD treatment, drugs and supplies, diagnostics
 - Sickness- medical treatment and attendance and need absence from work upto 91 days
 - Maternity- periodic payments to insured woman for specified period of abstention from work due to confinement, miscarriage or sickness out of pregnancy, premature birth of child
 - Disablement-Permanent or Temporary
 - Dependent- monthly pension payable to the eligible dependents of an insured person who dies due to employment injury or occupational disease
 - Funeral-A lump sum payment not exceeding Rs. 10,000/-

Maternity Benefit Act 1961

- Paid leave for 26 weeks-8 weeks prenatal and 18 weeks postnatal (2017 amendment from 12 weeks) during maternity period for upto two children.
- Applicable when 10+ employees.
- Minimum 80 days work by woman employee in past 12 months for eligibility.
- 12 weeks for more than 2 children and adoption for child below 3 months, 2 weeks for tubectomy, 6 weeks for miscarriage and MTP and additional 1 month in case of illness certified by medical practitioner.

- Creche facility if employee strength above 50. 2 nursing breaks at work until child is 15 months old

Payment of Gratuity Act 1972

- Applicability- applicable to establishments with 10 or more employees in past 12 months.
- Eligibility: Section 4(1), gratuity shall be payable to an employee on superannuation, termination, resignation after he has rendered five years continuous service (4 years and 240 days for 6 day working and 4 years 190 days for 5 day working) or more or on death/permanent disablement (5 year rule not applicable in such cases)
- Calculation: Last drawn salary (basic salary plus dearness allowance) X number of completed years of service X 15/26.
- Gratuity ceiling: Rs.20 lakhs for all employments (Rs.25 lakhs for central govt employees)
- Due for payment within 30 days, prosecution and penalty for delay.
- Gratuity contribution: 4.81% of basic pay as per employment contract
- Funding/insurance of gratuity liability
- Taxability of Gratuity: Nil for Govt employees. For private employees least of the 3 (a) actual gratuity (b) Rs.20 lakhs as the case maybe or © gratuity as per formula.

Labor Codes for NGOs & How to be Ready (Part 2)

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Layout of Session

- Code on SS (continued)
- OSHWC Code
- Other standalone laws that coexist

The Code on Social Security, 2020

Subsumed Legislations

- The Employee's Compensation Act, 1923
- The Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972
- The Cine-Workers Welfare Fund Act, 1981
- The Building and Other Construction Workers' Welfare Cess Act, 1996
- The Unorganised Workers' Social Security Act, 2008

Chapter Layout in Code

- Chapter 1: Preliminary
- Chapter 2: Social Security Organization
- Chapter 3: EPF
- Chapter 4: ESIC
- Chapter 5: Gratuity
- Chapter 6: Maternity Benefit
- Chapter 7: Employee Compensation
- Chapter 8: SS for construction workers
- Chapter 9: SS for unorganized, gig and platform workers
- Chapter 10: Finance & Accounts
- Chapter 11: Authorities, Compliance, Recovery
- Chapter 12: Offences and Penalties
- Chapter 13: Employment information and Monitoring
- Chapter 14: Misc

First Schedule of SS Code - Applicability

Definition of **Establishment** means:

- a place where any industry, trade, business, manufacture or occupation is carried on.
- or a factory, motor transport undertaking, newspaper establishment, audio- visual production, building and other construction work or plantation; or
- a mine, port or vicinity of port where dock work is carried out.

- **Employees' Provident Fund (EPF):** Every establishment in which **20 or more** employees are employed.
- **Employees' State Insurance Corporation (ESIC):** Every establishment in which **10 or more** persons are employed (other than a seasonal factory).
- **Gratuity:** Every shop/establishment in which **10 or more** employees are employed (or were employed on any day of the preceding 12 months).
- **Maternity Benefit:** Every shop/establishment in which **10 or more** employees are employed (or were employed on any day of the preceding 12 months).

- **Employees Compensation:** Applies to employers and employees to whom Chapter 4 (ESI) does not apply and are mentioned in the Second Schedule.

Key Provisions in the Code

- Calculation of EPF, ESI and Gratuity as per definition of Wages. This is the biggest change.
- EPF coverage is universal, not restricted to Schedule 1 establishment.
- EPF and ESI threshold for coverage and wage ceilings unchanged. Be on the lookout.
- In ESI one employee in hazardous/life threatening occupations entails ESI registration
- EPF Contribution is 10% for employer and higher than 10% for employee
- EDLI contribution upto 1% of wages plus one fourth of 1% as admin charge
- ESIC covers every establishment, not restricted to factories, shops etc. and extends to all districts in the country (not notified areas presently). Inlaws and dependent siblings added as beneficiaries.
- Presumption as to employment injury-Commute related accident considered employment related and Occupational disease defined in ESI Chapter
- Opt in/opt out possible for EPF/ESI with conditions i.e. 5 year lock in, majority of employees agree, all filings and dues paid and approval by CPFC/ESIC DG with 60 days decision window
- Govt working on one UAN and common ECR for EPF and ESIC since Wage definition is uniform now
- Mandatory insurance of gratuity
- New category of flexi hiring introduced-‘Fixed term employee (FTE)’. FTE is defined as engagement with written contract of employment for a fixed period provided that—hours of work, wages, allowances and other benefits shall not be less than that of a permanent employee doing same/similar work; and shall be eligible for all benefits, under any law for the time being in force, available to a permanent employee
- State rules may decide maximum period for FTE and maximum no. of FTE
- Gratuity eligibility for FTE upon 1 year of service. Continuous service for 240/190 days for 6/5 day working week. For six months count, period reduced proportionately. Service beyond 6 months will be considered as 1 year.
- Retrospective applicability of gratuity prior to 21.11.25 based on new definition of Wages to cast additional liability on employer

- ICAI guidance is to recognize such increased liability due to new definition of wages for gratuity and EL immediately as vested past service costs or amortized over remaining vested period as per GAAP AS-15
- Vacancy notification on career centres-except where employment is for less than 90 days and establishment has less than 20 employees
- Adhaar only proof for registration and availing benefits under SS code
- Transitional period to be allowed for compliance under SS Code
- 5 year limitation for EPF inquiry for dues/applicability by authorities, inquiry to be completed within 2 years. Unlimited lock back period removed.
- New category of beneficiaries: Platform workers, gig workers, unorganized workers. Coverage-16-60 years, 90 days engagement in 12 months to be registered for SS benefit. Social security fund with 1-2% (capped at 5%) of turnover as contribution by employers/aggregators.
- Schemes for life, disability, health, maternity, and pension benefits for gig and platform workers through setting up of SS Fund
- All types of worker-organized, unorganized, self employed under SS coverage envisaged
- National and State Social Security Boards to be established
- Registration/deemed regn for EPF/ESI via Shram Suvidha portal within LIN

Fixed Term Employee (FTE) & Gratuity

- **FTE Definition:** Engagement with a written contract for a fixed period. Hours, wages, allowances, and benefits shall not be less than that of a permanent employee doing similar work. They are eligible for all statutory benefits available to permanent employees.
- **Gratuity for FTE:** Eligibility upon **1 year of service**.
- **Continuous Service:** 240 days (6-day week) or 190 days (5-day week). Service beyond 6 months will be considered as 1 year.
- **Retrospective Applicability:** Gratuity prior to 21.11.2025 may be based on the new definition of Wages, casting additional liability.
- **Accounting:** ICAI guidance is to recognize increased liability immediately as vested past service costs or amortized over the remaining vested period (AS-15).

Gig & Platform Workers

- **New Beneficiaries:** Platform workers, gig workers, and unorganized workers are covered.
- **Registration:** Age 16-60 years, with 90 days engagement in 12 months. Aadhaar is the only proof required.
- **Social Security Fund:** Funded by 1-2% of turnover (capped at 5%) from employers/aggregators. Schemes will cover life, disability, health, maternity, and pension.

Sample Comp Structure: Before vs. After New Wage Definition

Component	Before New Definition	After New Definition
Basic	50,000	50,000
HRA	25,000 (50% of Basic)	25,000
Special Allowance	25,000 (25% of Basic)	1,000
Conveyance	-	23,880
Gross Salary	106,000	106,000
Er PF	6,000 (12% of Basic)	6,120 (12% of Wages)
Gratuity Provision	2,405 (4.81% of Basic)	2,453 (4.81% of Wages)
EL Provision	2,466 (18 days on Basic)	2,515 (18 days on Wages)
CTC	110,871	110,968
Take Home	100,000	99,800
Exclusion % of CTC	28%	50%

Note: In the "After" scenario, exclusions are capped at 50%. The structure is tweaked (shifting Special Allowance to Conveyance/others) to manage the 50% limit.

Action Points under SS Code for NGOs

- Revisit HR classification-regular/permanent, FTE, contract, consultant.
- Understand impact on EPF, ESI, Gratuity, EL based on definition of Wages
- Applicability of ESI to NGOs
- Consider keeping PF ceiling wages at Rs.15k for EPF
- Consider funding of incremental gratuity and EL under current insurance policy once retrospective applicability clarity emerges
- Examine both SS code and CoW while tweaking comp structure
- Balance employee taxation (TDS) and take-home pay due to possibly higher SS benefits
- EPF and ESI thresholds may get revised, fixed more than 8-10 years ago
- Mandatory funding of gratuity if provision only is being made
- Same employment terms for FTE plus Gratuity as for regular employee
- Opt in/opt out permitted for establishments under EPF and ESI but with strict procedures

The Occupational Safety, Health and Working Conditions Code, 2020 (OSHWC)

Subsumed Legislations

- The Factories Act, 1948
- The Plantations Labour Act, 1951
- The Mines Act, 1952
- The Working Journalists and other Newspaper Employees Act, 1955
- The Contract Labour (R&A) Act, 1970
- The Motor Transport Workers Act, 1961
- The Inter-State Migrant Workmen Act, 1979
- The Working Journalist Act, 1958
- The Beedi and Cigar Workers Act, 1966
- The Sales Promotion Employees Act, 1976
- The Cine Workers and Cinema Theatre Workers Act, 1981
- The Dock Workers Act, 1986
- The BOCW Act, 1996

Provisions prior to OSH code

- Contract Labor (R&A) Act 1970-applies to establishment employing 20 or more contract labor or contractor engaging 20 or more contract labor in past 12 months.
- Registration by establishment/ license by contractor.
- Rules for wages, working hours, welfare provisions etc

Chapter Layout in Code

Chapter 1: Preliminary

Chapter 2: Registration

Chapter 3: Duties of Employer and Employee

Chapter 4: Occupational Safety and Health

Chapter 5: Health, Safety and Working Conditional

Chapter 6: Welfare provisions

Chapter 7: Hours of Work and annual leave with wages

Chapter 8: Maintenance of Registers and Records

Chapter 9: Inspector cum Facilitators

Chapter 10: Special provisions of employment of women

Chapter 11: Contract labor and ISMW etc

Chapter 12: Offences & Penalties

Chapter 13: Misc

Key Provisions (OSHC Code)

- **Employer Duties:** Ensure no hazards causing injury/occupational disease, comply with OSH standards, annual health examination, safe working environment, disposal of hazardous waste, issue appointment letters. No charges to employees for safety/health.
- **Working Hours:** Max 8 hours per day, but spread over permitted up to 12 hours (with rest interval). Max 6 days per week.
- **Overtime (OT):** OT for work beyond 8 hours at **2X the wage rate**. Max 125 hours in a quarter (Delhi proposed 144 hours).
- **Rest Interval:** 30 minutes after every 5 hours.
- **Weekly Holiday:** One paid holiday.

- **Comp off** for work on weekly holiday must be availed within 2 months.
- **Welfare:** Cleanliness, hygiene, ventilation, drinking water, lighting, toilets. Canteen (100+ employees) and Crèche (50+ employees) mandatory.
- **Appointment Letter:** Mandatory with specified terms (wages, deductions, OT).
- **Women Employment:**
 - **Night Shift:** Consent required for working between 7 PM and 6 AM with safety measures.
 - **Hazardous Jobs:** Permitted with consent and safety measures (except pregnant women).

Contract Labor Provisions

- **Applicability:** Every establishment employing **50 or more** contract labor (previously 20).
- **Core Activity Prohibition:** Employment of contract labor in "core activity" is prohibited.
- **Core Activity Definition:** Any activity for which the establishment is set up and includes any activity essential to such activity.
- **Non-Core Activity:** Sanitation, security, canteen, loading/unloading, courier, gardening, housekeeping, laundry, transport, and intermittent activity.
- **Test for Core Activity:**
 1. Is it incidental/necessary for the industry?
 2. Is it of perennial nature (sufficient duration)?
 3. Is it ordinarily done through regular workers?
 4. Is it sufficient to employ a considerable number of whole-time workers?
- **Exceptions:** Contract labor permitted in core activity if:
 - Normal functioning ordinarily requires a contractor.
 - Activities do not require full-time workers for the major portion of the day.
 - Sudden increase in volume of work needs to be accomplished in specified time.

Leave & Other Provisions

- **Earned Leave (EL):** 1 day for every 20 days worked (eligible if worked 180 days in calendar year).

- **Leave Encashment:** Carry forward up to 30 days; excess can be encashed. Even the 30 days CF is eligible for encashment if desired by the worker.
- **Inter-State Migrant Workers (ISMW):** Earnings up to Rs. 18k/month. Entitled to journey allowance (to and fro fare) once a year and portability of benefits (PDS).

Action Points under OSHWC Code for NGOs

- Prohibition of contract labor in core activity.
- Implement health, safety, and welfare provisions as per OSH standards.
- Issue mandatory appointment letters.
- Annual Health checkup (refer to state rules).
- Review EL provisions for compliance with both OSH Code and State Shops & Establishments Act.
- Leave calendar should be the calendar year, not financial year.

The Industrial Relations Code, 2020

Subsumed Legislations

- The Trade Unions Act, 1926
- The Industrial Disputes Act, 1947
- The Industrial Employment (Standing Orders) Act, 1946

Definition of Industry

"Industry" means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, but does not include —

- (i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or
- (ii) any activity of the appropriate Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or
- (iii) any domestic service; or (iv) any other activity as may be notified by the Central Government;

Key Impact Areas

- **Concept of fixed-term employment**

Introduced with benefits not be less than of a permanent worker

- **Conditions for strikes and lockouts prescribed**

No strikes and lock outs without giving proper notice in compliance with the norms laid down in the code

- **Standing orders**

Required in establishments where 300 or more workers are employed

- **Retrenchment, lay-off and closure provisions**

Not to be applicable if workers are <300; lay-off related provisions will not be applicable if workers are <50

- **Grievance redressal committee mandatory**

5 To be set up where 20 or more workers employed, requires proportionate representation

- **Recognition of Trade Unions**

All possible efforts have been made in order to provide recognition to the Trade Unions in India.

- **Reskilling Fund**

Re-Skilling fund for retrenched employee. Employer to deposit 15 days wages for retrenched employees

Key Takeaways

- NGOs cannot be in denial on applicability of SS laws now
- Expanded coverage of labor laws for NGOs-minimum wages, ESI, Payment of Wages. If not exempted specifically like IR Code, Payment of Bonus, all acts are applicable to NGOs

- Provisions in new Labor Codes are substantive, rules are being framed for implementation of Codes
- Since labor is a concurrent subject, centre and states formulate rules that cannot supersede Labor Codes
- During this transition period, existing rules and regulations under the old acts remain in force to the extent that they are not in conflict with the new Labor Codes' provisions.
- Draft Central rules for all codes prepublished on 30th Dec for public comments invited within 45 days. Rules by States are in draft stage/inviting comments. Full implementation likely by April 2026
- While most SS laws are repealed, the EPF&MP Act is in force
- Examine passing on incremental costs to running grants and donor negotiations for new business proposals with incremental costs going forward
- HR and finance process reengineering and expanded coverage would require increased manpower with the new Codes.
- Compliance framework and stiff Penalties since everything is web based and integrated
- Review and revision of HR Manual after final rules formally issued but provisions in Codes as notified will apply
- Engage with your teams on orientation of codes including finalization of comp and benefits.
- While making preparation for implementation, maintain status quo for some time. Look out for guidance from Ministry of Labor and Employment
- Be consistent in approach once the course of action is finalized

Compliance Checklist under Labor Codes

Wage Code	SS Code	OSH Code
Employee classification	EPF, Gratuity,EL-Basis	Hours and days of Work per week (5/6 days)
Definition of Wages	EPF contribution %	Max hours per day
Revisit and revise comp structure	EDLI contribution %	Leave calendar

Wage Code	SS Code	OSH Code
Minimum Wages (both central & state for multi state orgs)	ESI coverage pan India	CL/SL (not as per codes)
Payment of Wages timelines	Opt in/opt out EPF & ESI	EL eligibility and carry forward. Also consistency of OSH and S&E Act for EL
FnF	Flexi hiring through FTE	Appointment Letter
Deductions from Wages specified	Gratuity for FTE >1 year	Annual health checkup
Equal remuneration for all gender	Retrospective application of Wages for Gratuity	Health & Working conditions
	Compulsory insurance of Gratuity	Welfare provisions
	Vacancy notification on career centre	OSH standards
	Availing SS services	Prohibition forengaging contract labor in core activity
	ISMW	Wage Slip

Other SS Laws - Coexisting

Shops & Establishment Act (State Act)

- **Applicability:** Based on coverage of charitable institutions within the definition of 'Establishment' in the respective State Act.
- **Regulates:** Working hours, holidays, leaves (EL, CL, SL), OT, etc.
- **Earned Leave:** Varies by state. Generally min 240 days for eligibility, 1 EL for 20 days worked, accumulation/carry forward rules apply.

Professional Tax (PT)

- **Levied by:** State/UT on persons earning income.
- **Exempt States:** Delhi, UP, Rajasthan, HP, Uttarakhand, Arunachal Pradesh, Haryana.
- **Compliance:** Registration required in each state for multi-state operations.
Deduction/deposit based on income slabs.

Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act 2013

- **Mandate:** Safe environment policy, Internal Complaints Committee (ICC) if employees >10.
- **Inquiry:** To be completed in 90 days.
- **Reporting:** Annual report to district authority (if >10 employees) and in Directors Report (for companies).

Apprentices Act 1961

- **Mandatory:** Establishments with **30 or more** employees must engage apprentices (2.5% - 15% of workforce).
- **Voluntary:** If strength is 4-29.
- **Training:** 6 months to 4 years.
- **Stipend:** Provided during training. Reimbursement available under NAPS-2 (25% of stipend capped at Rs. 1500/month).
- **Status:** Apprentice is not a worker; labor laws are not applicable.