



# THE COMPLIANCE WATCH

QUALITY | WILL TO WIN | BUILDING & LEVERAGING RELATIONSHIPS



## UCS POV | Gratuity Insurance

**Shaiju Mathew**  
Chief Operating Officer

Gratuity is an essential retirement benefit for employees working in various sectors in India. The Payment of Gratuity Act 1972, is applicable for establishments having 10 or more employees. Gratuity is a statutory mandate for the employees who have completed 5 years of service with the same employer and gratuity cost should be borne by the employer which is over and above the wages fixed for the employee as per the employment contract. Therefore, gratuity cost cannot be part of wages fixed for the employee nor can they be deducted from the wages. The gratuity is payable to an employee on exit from the same employment after he/she has rendered continuous service for not less than five years on his/her retirement, resignation, or his/her death or disablement due to employment injury or illness.. In the event of death or disablement owing to work-related injury or illness, the five-year employment criteria will not apply, and gratuity will be computed for the time up to the date of death or disablement.

”

### *Gratuity*

*is calculated on the wages (Basic & DA) of the employee at the time of exit/26days\*15days\*Number of years of service with the same employment subject to a ceiling of Rs.20,00,000 (Twenty Lacs).*



- UCS POV : Gratuity Insurance
- Clarification on Aadhaar sharing issue by UIDAI
- Fast-track labour codes: India Inc
- Labour Court tells Nippon Express to pay ₹1.1 crore overtime wages to drivers
- New rules to let Uttar Pradesh women work in factories at night
- EPS recast in works, higher contributions likely to be allowed
- EPFO Members Alert! Do this work related to PF account soon, otherwise you will not be able to check your passbook balance
- What is ESIC scheme, who is eligible, what are its benefits

Gratuity is a payment made to an employee when he or she leaves the same job (as per the conditions mentioned above). An employee's gratuity is computed as 15 days of salary on the last drawn basic and dearness allowances. Gratuity is calculated on the wages (Basic & DA) of the employee at the time of exit/26 days\*15 days\*Number of years of service with the same employment subject to a ceiling of Rs.20,00,000 (Twenty Lacs). The gratuity amount received by the employee in his/her entire work span is exempt from Income Tax up to a ceiling of Rs.20,00,000. Therefore, the employer may have to take the declaration from the employee at the time of settlement regarding the gratuity amount received during the past employment and the Income-tax to be deducted accordingly. As per Section 2(a) of the Payment of Gratuity Act, "year of service" shall be considered as 240 days for the establishments that work for 6 days in a week and 190 days shall be considered for establishments that work for less than 6 days in a week. The definition of "days of work" shall be inclusive of weekly off, holidays and all approved leaves. Given the same, the employee who has worked with the same employer for 4 years and 240/190 days shall be eligible for gratuity and the work period of six months and above should be rounded up to one year for gratuity payment calculation.

As per section 4A of the Payment of Gratuity Act, the appropriate Government may notify the enforcement of Compulsory Gratuity Insurance coverage for the establishment of the gratuity fund through a separate gazette notification. The Commissioner of Labour, Andhra Pradesh, issued a gazette notification M1/8842/2010, dated 04.12.2010, informing the state of Andhra Pradesh of the mandatory gratuity insurance.

Other states are yet to issue a notification in this regard. Establishments with offices solely in the state of Andhra Pradesh must register for the Compulsory Gratuity Insurance Coverage, which must be extended to the state of Telangana (as Telangana State has adopted the Acts and Rules of Andhra Pradesh). As per the definition of "Appropriate Authority" under the Payment of Gratuity Act, the Central Government Labour Authority shall be the authority for the establishments having offices in more than one state and for the rest the respective State Government Labour Department. As on date, only the State of Andhra Pradesh had issued notification for enforcement of Compulsory Gratuity Insurance coverage which may include the state of Telangana. As per section 4A, the government may exempt those establishments from the compulsory insurance coverage if they have already created an approved Gratuity fund in accordance with the conditions prescribed in Section 2(5) of the Income Tax Act 1961.

## Clarification on Aadhaar sharing issue by UIDAI

This is in pursuant of the Press Release dated 27 May 2022 by the Bengaluru Regional Office, UIDAI. It is learnt that it was issued by them in the context of an attempt to misuse a photoshopped Aadhaar card. The release advised the people to not to share photocopy of their Aadhaar with any organization because it can be misused. Alternatively, a masked Aadhaar which displays only the last 4 digits of Aadhaar number, can be used. However, in view of the possibility of the misinterpretation of the Press Release, the same stands withdrawn with immediate effect. UIDAI issued Aadhaar card holders are only advised to exercise normal prudence in using and sharing their UIDAI Aadhaar numbers. Aadhaar Identity Authentication ecosystem has provided adequate features for protecting and safeguarding the identity and privacy of the Aadhaar holder.

**Source : Press Information Bureau**



## Fast-track labour codes: India Inc

India Inc has urged the labour ministry to fast-track roll-out of the labour codes through extensive consultations with the states to generate confidence, as was done ahead of the goods and services tax roll-out, and to implement one code at a time to help industry transition to the new regime.

The Confederation of Indian Industry (CII) is in discussions with officials of the labour ministry at the Centre as well as states and has asked them to operationalise the labour codes at the earliest to address the demands for employment generation and competitiveness. “The codes ensure substantial reforms towards ease of doing business such as electronic submission, on-line responses, deemed approval, rationalisation of approvals, third-party testing and elimination of many clearances and hence should be urgently operationalised,” said R Mukundan, chairman, CII National Committee on Industrial Relations.

Shishir Jaipuria, president of All India Organisation of Employers of the Federation of Indian Chambers of Commerce & Industry said the labour codes will promote entrepreneurship and more investments, and create a congenial environment through bilateral consultations and better industrial relations. “Implementation of the codes will be a win-win situation for all the stakeholders. We would like the codes to see the light of the day at the earliest,” said Jaipuria.

The Indian Staffing Federation, in a recent letter to labour minister Bhupender Yadav, suggested that the ministry hold consultations with the states at regular intervals to clear their doubts and bring them on the same level of understanding as with other central laws. “They should host workshops with the remaining states to clear any further doubts. The same process was adopted for the GST implementation. The doubts once clarified shall boost the confidence to manage the implementation without further hurdles,” said Lohit Bhatia, president, Indian Staffing Federation. The industry is keen that the government implement the Social Security Code, 2020 and the Code on Occupational Safety, Health and Working Conditions before the Code on Wages and the Industrial Relations Code. These codes are low-hanging fruits with hardly any contentious provisions, according to industry representatives. “If there is any likelihood, please roll-out one code after another to ease the industry into the labour code. This shall also facilitate pragmatic results,” said Bhatia.

At present, companies have to abide by more than 100 state and central labour laws, according to industry representatives, entailing 27,000 compliances and 13,033 different tax returns. To ease the process of compliance, the labour ministry has consolidated 29 central labour laws into four codes: on wages, social security, occupational health and industrial relations. While Parliament approved the Code on Wages in August 2019, the other three were passed in September 2020. According to the labour ministry, the majority of states and union territories, except four, have come on board and pre-published draft rules. The labour codes are expected to offer greater flexibility in rolling out short-term work contracts, make hiring and firing flexible, and make industrial strikes harder.



**Source : *Economic Times***



## Labour Court tells Nippon Express to pay ₹1.1 crore overtime wages to drivers

The Principal Labour Court, Chennai, has directed Nippon Express India (P) Ltd., which provides logistics service to car maker Renault-Nissan, along with its contractor Arkayees Consultant to jointly pay overtime wages totalling ₹1.1 crore to 43 drivers.

In their petitions, the drivers said about 75 employees were working for Nippon since March 11, 2011. All of them worked for 12 hours a day, but the management gave salary only for eight hours and did not pay overtime wages as per the law, they alleged. As per a settlement reached on November 30, 2011, the management had been paying overtime wages and the drivers sought the same for the period prior to the agreement. The respondents argued that the case was not maintainable. The Labour Court ruled that Nippon Express comes under the definition of "Motor Transport Undertaking", as it transported the machineries of Renault-Nissan from one place to another for monetary consideration. It dismissed the company's plea that it comes within the ambit of "Shops and Establishment Act," as no Registration Certificate had been furnished in support of its argument.

The Court ruled that the petitioners were engaged by Nippon through Arkayees and therefore there was an employer-employee relationship between them. The petitioners were entitled to receive the overtime wages under Section 26 of the Motor Transport Workers Act, it said. The Labour Court said Arkayees was also liable to pay overtime wages along with Nippon Express as per the Contract Labour (Regulation and Abolition) Act. It told the respondents to pay the amount within three months from May, 17, failing which the drivers would be entitled to 9% interest per annum on the amount thereafter.

**Source : *The Hindu***

## New rules to let Uttar Pradesh women work in factories at night



Coming to the aid of women workers in factories in UP, the state government has laid down provisions making it mandatory for employers to provide to women who want to work in night shifts (after 7pm) facilities like free transport and food besides washrooms and restrooms. Additional chief secretary, labour Suresh Chandra, told TOI that the government has made the changes for women factory workers for the ease of doing business. "Earlier, every employer had to seek permission for allowing women to work after 7pm. The process was time-consuming as it first had to be approved by the labour officer and then directed to several other officers before the final nod. After the new notification, all employers who fulfil the guidelines will be able to easily get women workforce to discharge the duty," he said.

As per the new notification released by the government on Friday, no factory owner can sack women workers if they refuse to work after 7pm, and if they are willing to work, the employer will have to provide certain facilities to them. Also, no woman worker shall be bound to work before 6am and after 7pm without her written consent. The notification also mentions that the women staff working between 7pm and 6am shall be provided sufficient supervision. "From 7pm to 6am, not less than four women workers shall be allowed to work on a premises or a particular department," the order states.

The employer will have to inform the inspector of factories of the region concerned about the arrangements proposed by him regarding the employment of female workers. The inspector will have the maximum period of seven days for verification. The employers will have to send a monthly report electronically to the inspector of factories about the details of women workers engaged during night shift and inform about any untoward incidents to the inspector of factories and the local police station. The order also mentions that the employers will have to take appropriate steps to prevent sexual harassment.

**Source : *Times Of India***



## EPS recast in works, higher contributions likely to be allowed

The government is set to allow higher voluntary contributions to the pension accounts as part of a major revamp of the Employees' Pension Scheme, 1995. The move is aimed at bringing EPS-95 on a par with the National Pension Scheme to enhance the retirement options. The labour ministry also plans to open the EPS to all individuals while enhancing the minimum pension to Rs 3,000 based on the contribution by individuals. At present, all EPFO subscribers are enrolled under EPS with contributions to the pension account capped at the wage of Rs 15,000. This prohibits high-salaried individuals to enhance their retirement kitty under EPS and instead go for other retirement schemes offered by private players or the NPS. "Various changes are being considered to make the scheme comprehensive while expanding its subscriber base," a senior government official told ET. The changes, however, will be brought in after the implementation of the Social Security Code, 2020.



According to the official, who spoke on the condition of anonymity, the labour ministry is also contemplating to alter the investment pattern of the pension pool to maximize returns as the country moves towards defined contributions. This will be a departure from the existing scheme under which the pensioners are given pension from the pooled account in which 8.33% of the employee's pay is contributed by the employer and 1.16% of the employee's pay is contributed by the central government. Currently, there are six million EPS subscribers and the government aims to enhance the subscriber base to 10 million over the next few years.

**Source : *Economic Times***

## EPFO Members Alert! Do this work related to PF account soon, otherwise you will not be able to check your passbook balance

Employees' Provident Fund Organization (EPFO) has made it mandatory for all account holders to do e-nomination. If the account holders do not do this, then in any case on the death of the account holder, there is a big problem in claiming the deposit amount. Many employees across the country deposit some part of their salary in their PF account as Provident Fund. This amount is very useful in retirement and sometimes in unwanted circumstances. The amount deposited by the employees in their PF account, in most cases the same amount is deposited by the employer organization in the account.

### How to Check Your Passbook Balance

Many employees working in the private sector keep changing their organization from time to time, so their PF account number also keeps changing. In such a situation, they can see the total amount deposited in their PF account by logging in through UAN number. You can easily access the passbook of your PF account by logging in with the UAN number.

### E-nomination made mandatory

If you want to access your passbook by visiting the EPFO website, then you will have to first make an e-nomination for it. As soon as the passbook page is opened, a pop-up window for e-nomination appears on the website.

In this, if you do not file e-nomination, then this pop up window does not go away from the website page. Hence, it is now mandatory for the account holders to do e-nomination, otherwise they will not be able to access their passbook account.

**Source : *Business League***



## What is ESIC scheme, who is eligible, what are its benefits

**The Employees' State Insurance Scheme of India (ESIC)** is a multi-faceted Social Security Scheme designed to provide socio-economic protection to 'employees' in the organised sector. ESIC Scheme is administered by a statutory corporate body called the Employees' State Insurance Corporation. It protects its employees against the events of sickness, maternity, disablement, and death as a result of a work-related injury, as well as provides medical care to insured employees and their families. According to official data released in January 2022, almost 10.28 lakh new members joined the ESIC-run social security plan in November 2021, compared to 12.39 lakh the previous month, providing insight into formal sector employment in the country.

### Who is eligible for ESI?

According to the FAQs on the ESIC website, with effect from January 1, 2017, the monthly wage ceiling for coverage of an employee is Rs. 21,000 per month. It is the employer's responsibility to enrol eligible employees in the ESIC program. The contributions are based on the workers' earning ability as a fixed proportion of their salary, yet they are awarded social security benefits based on individual needs without discrimination.

### How are contributions made?

The ESI Scheme is a self-funding program. Employer and employee contributions are primarily used to support the ESI funds, which are provided monthly at a fixed percentage of salaries received. State governments are also responsible for 1/8th of the cost of medical benefits, stated the FAQs. The company contributes 3.25 percent and the employee contributes 0.75 percent for all employees earning Rs 21,000 or less per month in salary, for a total share of 4 percent. Another notable characteristic of the Scheme is that an employee's insurance number remains the same as long as he or she remains within the ESIC wage limit. Changing jobs will not affect an employee's insurance status, and his or her insurance number will remain the same.

### Is it mandatory for the Employer to register under the scheme?

Yes, under Section 2A of the Act and Regulation 10-B, it is the employer's legal responsibility to register their factory/ establishment under the ESI Act within 15 days of its applicability to them. The section 46 of the Act envisages following six social security benefits. However, there are conditions to avail these benefits According to the ESIC website, these are the benefits that can be availed from ESI scheme.

**Medical Benefit:** From the moment an insured person starts insurable employment, he and his family receive full medical care. There is no limit on how much an Insured Person or a family member can spend on treatment. On payment of a nominal annual premium of Rs 120/-, medical care is also provided to retired and permanently disabled covered persons and their spouses.

**Sickness Benefit(SB) :** During periods of certified sickness for a maximum of 91 days per year, insured workers are entitled to Sickness Benefit in the form of cash compensation at the rate of 70% of salaries. To be eligible for illness benefits, the insured worker must contribute for 78 days during the course of a 6-month period.

**Maternity Benefit (MB) :** Maternity Benefit during confinement/pregnancy is payable for twenty-six (26) weeks, with a one-month extension on medical advice, at the full salary rate, subject to payment for 70 days in the preceding two Contribution Periods. Maternity Benefit during confinement/pregnancy is payable for twenty-six (26) weeks, with a one-month extension on medical advice, at the full salary rate, subject to payment for 70 days in the preceding two Contribution Periods .

### Disablement Benefit:

**Temporary disablement benefit (TDB) :** From day one of entering insurable employment & irrespective of having paid any contribution in case of employment injury. Temporary Disablement Benefit at the rate of 90% of wage is payable so long as disability continues.

**Permanent disablement benefit (PDB) :** The benefit is paid at the rate of 90% of wage in the form of monthly payment depending upon the extent of loss of earning capacity as certified by a Medical Board.

**Dependants Benefit(DB):** DB paid to the dependants of a deceased Insured person in the form of a monthly payment at a rate of 90% of wage in circumstances where death occurs due to a job injury or occupational hazard.

### Other Benefits :

**Funeral Expenses:**From the first day of insurable work, a sum of Rs.15,000/- is payable to dependents or the person performing final rites.

**Confinement Expenses:** An insured woman or an I.P. in respect of his wife in the event of confinement in a location where appropriate medical services are not accessible under the ESI Scheme.

**Source : Economic Times**





UCSCompliTool is a technology to ease the complexities of navigating through the changing Labour laws. With our past experiences and feedbacks, we have developed an in-house Software solution and have created this robust mechanism which represents our motto – Compliance simplified. It provides a real time and 360-degree view of compliance status for the Principal employer (CompliTool - Compliance) and with risk matrix to monitor the contractors (CompliTool - Audit). We have developed a Role Based Access Control model and being a cloud-based system, we are offering an absolute security and protection of data.

**Following are some of the Major benefits of the Tool:**

- Real Time Statistical Data
- Informative Tool
- Transparency
- Ease of Documentation
- Ease of Monitoring
- Highlighting of Critical Points
- Security and Data Confidentiality
- Centralization of Data
- Readily Available Documents
- Data Integrity
- Extensive Reporting
- User friendly Dash Boards
- Overall compliance review from front end maneuver

**For Demo, Please write to us at [enquiry@ucsdcl.com](mailto:enquiry@ucsdcl.com) or Call us @ 0124 2656264**





## ABOUT US

United Consultancy Services is one of the leading consulting firms in India providing compliance, advisory and audit services in the field of Labour Laws, Human Resource Development and Legal matters pertaining to Industrial Relations. We provide meaningful, forward looking and compliance oriented solutions to help organizations grow while being compliant under labor laws. Proactive teams led by domain experts, use insight, experience and best practices to understand complex issues of publicly listed and privately owned clients and simplify compliance.

With over 30 years of existence and with more than 200 professionals the firm provides robust compliance services and solutions on complex requirements under Labour law. The information shared in the newsletter is on the basis of Government notifications and newspaper articles. This is for general information purposes only and does not constitute legal advice. Please reach out to your UCS contact or the Company legal counsel before taking any action.



**We Simplify Compliance For You.**



Unit No: 852 - 856  
8th Floor JMD Megapolis,  
Tikri, Sector 48, Gurugram  
122001, Haryana



0124 - 2656800



[enquiry@ucsdel.com](mailto:enquiry@ucsdel.com)



[www.unitedconsultancy.com](http://www.unitedconsultancy.com)

<https://unitedconsultancy.com/>