



LABOUR CODES

Following the implementation of the four labour codes on 21 November 2025, the Central Government pre-published draft rules on 31 December 2025 under the respective codes. The Central Government invited objections and suggestions on these draft rules within a 45-day window (30 days for the draft Industrial Relations Rules, 2025 or 'IR Rules') till 14th February 2026.

Applicability: Who do these Draft Central Rules apply to?

The Draft Central Rules apply specifically to establishments where the Central Government is the "appropriate government." This includes:

- **Sectors:** Mines, Railways, and Central Public Sector Undertakings.
- **Establishments:** Industries carried out by or under the authority of any Central Ministry or Department.
- **Territories:** Establishments in Union Territories without a legislature.

Note: For all other establishments (private sector factories, IT, retail, etc.), the rules to be notified by the respective State Governments will apply.

Key changes under the Labour Codes are as follows:

1. **The New Wage Definition: Section 2(y)** Under the Code, "Wages" include all remuneration (salaries and allowances) as well as:
 - Basic Pay, Dearness Allowance (DA), and Retaining Allowance.

The 50% Rule (Provision to Section 2(y)):

- **Condition:** If, as per the wage definition under the Code on Wages, the total of the first nine excluded payments (sub-clauses (a) to (i), which include bonus, HRA, conveyance, etc.) exceeds one-half (50%) of the total remuneration calculated under this clause.
 - **Result:** The amount that exceeds the 50% threshold shall be deemed remuneration and added back to the "wages."
2. **Strategic Component Mapping: "PF Wages"** To mitigate additional liabilities for both employer and employee, introducing a specific pay head titled "PF Wages" shall be effective. Since EPFO jurisdiction is generally capped at the ₹15,000 ceiling, declaring existing Basic Wages under this head prevents the unnecessary inflation of statutory costs for high-earners while remaining compliant with Section 3(2), which prohibits the arbitrary reduction of wages. In addition to the Basic Wages pay head, the introduction of "PF Wages" will benefit establishments.
 3. **Gratuity** Establishments must follow the provisions of the Social Security Code, 2020, regarding the definition of wages, employees, and eligibility.
 - **Procedural Continuity:** For administrative procedures such as forms, nominations, and recovery processes, establishments should continue using the existing Payment of Gratuity Rules until the respective State or Central government notifies the new Rules under the Code.
 4. **Leave Compliance** Leave compliance now requires dual reference to both the State Shops & Establishments (S&E) Act and the Codes. Historically, the S&E Act lacked an independent wage definition and relied on the Payment of Wages Act. Since the latter is now subsumed by the Code on Wages, the new "50% Rule" wage definition applies. Consequently, leave encashment must now be calculated based on "Wages" as defined by the new Code, while leave entitlements, carry-forward limits, and encashment eligibility remain governed by the respective State S&E Acts.

5. Operational Change: The 2-Day F&F Window Full and Final (F&F) settlement must be completed within two working days of an employee's exit. In accordance with the statutory definition of wages, this timeline applies to unpaid salary, F&F arrears, and leave encashment. Other components, such as Statutory Bonus and Gratuity, remain under the *status quo* with no changes to their respective payout timelines.

6. Additional Requirements:

- **Grievance Redressal:** Mechanisms must be in place for on-roll employees and contract labour.
- **Compliance:** Adherence to all requirements under the new labour codes.
- **Appointment Letters:** To be issued to all employees within 3 months.
- **Employee Benefits:** Annual health examinations and crèche allowances (for employees working in factories/manufacturing units as covered under the OSH Code).
- **Worker Re-skilling Fund:** Established for the re-skilling of retrenched workers. However, the Central or State Government must first notify the specifics of this fund.

7. Labour Codes FAQ Published on 30th Dec 2025:

Following recent clarifications sought on the effective date of wage provisions, the Central Government released a set of FAQs on December 30, 2025. We draw your attention to FAQ Nos. 8, 9, and 17, which address the new wage considerations for Gratuity and ESI implementation (effective November 21, 2025).

Source URL: https://labour.gov.in/sites/default/files/faqs_on_labour_codes.pdf

8. ESI SPREE:

Since the SPREE is extended till 31st Jan 2026, the New Wage definition to be applied and New ESI Coverage to be done under ESI SPREE Scheme where there won't be any interest, damages & Inspection on the employer in this matter.

9. The Role of Section 164 (Savings and Repeal)

Section 164 performs two specific legal functions simultaneously:

1. **The Repeal:** It officially terminates the old Acts. This means the old definition of "wages" (which allowed for many exclusions) is legally cancelled as of November 21, 2025.
2. **The Savings:** It preserves existing rights and administrative procedures so that there is no "legal vacuum."

What Is Saved

- Any contributions already paid or actions taken under the old Act before 21st Nov 2025 remain valid.
- If an employee was already receiving a benefit (like a long-term disability pension) under the old Act, that benefit continues undisturbed.

Court cases or inspections initiated under the old Act will be completed as per the old Act's rules.

Category	Status	Current Legal Position	Source
Gratuity Act, 1972	Repealed	Subsumed into Chapter V of the SS Code. The 5-year eligibility (1-year for Fixed Term) now applies.	Sec. 164(1)
ESI Act, 1948	Repealed	Subsumed into Chapter IV of the SS Code. Coverage is now pan-India and mandatory for 10+ employees.	Sec. 164(1)
New Wage Definition	Effective	Must be used for all ESI and Gratuity calculations. Follow the 50% Inclusion Rule.	Gazette Notification
Procedural Rules	Active (Saved)	Continue to use old ESI/Gratuity Forms and Procedures until the State/Central Govt. notifies new ones.	Sec. 164(2)
Which law to follow?	Hybrid	Definitions & Eligibility: Use SS Code 2020.	FAQ Point 1
		Forms & Filings: Use Old Rules (as per Savings clause).	

Conclusion:

While the feedback window for the Central Rules remains open until mid-February 2026, establishments must account for the following risks:

- Regulatory Volatility:** Potential shifts in the Government's final position may require previously settled compliance processes (mentioned above) to be revisited and adjusted.
- Financial & Compliance Exposure:** If the currently notified definitions remain unchanged and an organization fails to enforce them, it faces significant risks. These include accumulated interest on delayed payments, the administrative burden of settling arrears for separated employees, and unresolved balance sheet liabilities.

To mitigate these, we advise a cross-functional review (HR, Finance, and Legal) utilizing impact modelling. This proactive strategy, vetted by your Legal Team, is essential for adopting the new Labour Code framework.

Updated Act-Wise Comparison of Labour Codes and Required Actions			
S. No.	Existing Act	Labour Code	Impact & Action to be taken
1	Shops & Establishment Act	Not covered under Labour Codes	<p>The compliances are required to be continued under the S&E Act for the establishment registered under the S&E Act: Following</p> <ol style="list-style-type: none"> 1. Registration 2. Registers 3. Returns 4. Working hours / Interval / Spread over / Overtime 5. Leaves & holidays 6. Conditions for 24/7 operations / female employees working in night working hours <p><i>No impact on the above for the establishment already registered under the S&E Act even after the implementation of Codes.</i></p>
2	Contract Labour (Regulation & Abolition) Act, 1970	Code on OSHW	<p>The following are the impacts/changes once the respective states enforce Rules under the Code through the notification:</p> <ol style="list-style-type: none"> 1. CLRA registration / Contract License: Applicability 2. Process for registration: Single window registration under Code on OSHW 3. Registers under CLRA: Unified Registers under OSHW 4. Returns: Unified return under OSHW <p><i>Note: The above-mentioned changes to be implemented once the respective state governments publish the Rules under the Codes</i></p>

3	Minimum Wages Act, 1948	Code on Wages	<p>The following are the impacts/changes once the respective states enforce Rules under the Code through the notification:</p> <ol style="list-style-type: none"> 1. Floor Wages: Minimum wages revision (Central Government not yet published the Floor wages) 2. Registers: Unified Register under Code on Wages 3. Returns: Unified return under Code on Wages 4. Uniform Wage definition 5. The allowances prescribed under the " wage definition " (i.e. Bonus, value of accommodation, PF employer contribution, Conveyance allowance, Leave Travel allowance, any allowances considering the nature of work, any settlement amount, overtime, Commission payable): The sum of these allowances should not exceed 50% of Gross wages. If any such amount exceeds are to be added back to the " Deemed wages". <p><i>Note: The above-mentioned changes to be implemented once the respective state governments publish the Rules under the Codes</i></p>
4	Payment of Wages Act, 1936	Code on Wages	<p>The following are the impacts/changes once the respective states enforce Rules under the Code through the notification:</p> <ol style="list-style-type: none"> 1. Disbursement F&F within 2 working days in case of voluntary resignation and termination 2. Registers: Unified Register under Code on Wages 3. Returns: Unified return under Code on Wages 4. Bank Transfer <p><i>Note: Action to be taken only after the respective states enforce the Rules under the Codes</i></p>
5	Payment of Bonus Act, 1965	Code on Wages	<p>The following are the impacts/changes once the respective states enforce Rules under the Code through the notification:</p> <ol style="list-style-type: none"> 1. There is no change in the existing Bonus calculation (Minimum wages or Rs.7000 whichever is higher) 2. Registers: Unified Register under Code on Wages 3. Returns: Unified return under Code on Wages <p><i>Note: The above-mentioned changes to be implemented once the respective state governments publish the Rules under Codes</i></p>
6	Equal Remuneration Act, 1976	Code on Wages	<p>The following are the impacts/changes once the respective states enforce Rules under the Code through the notification:</p> <ol style="list-style-type: none"> 1. Registers: Unified Register under Code on Wages 2. Returns: Unified return under Code on Wages <p><i>Note: The above-mentioned changes to be implemented once the respective state governments publish the Rules under the Codes</i></p>

7	Payment of Gratuity Act, 1972	Code on Social Security	<p>The following are the impacts/changes:</p> <ol style="list-style-type: none"> 1. Gratuity applicable for fixed-term employees after completion of one year (Eligibility for regular employees remains 5 years) 2. Social Security applicable for Gig workers: Percentage of social security yet to be decided. Gig Workers can register themselves on the Shram Suvidha Portal. However, the social security contribution percentage is not yet decided (Employer and employee equal share or only employer share) 3. Gratuity to be paid on " all Deemed Wages " As per the Wage definition mentioned under the Code)
8	Maternity Benefit Act, 1961	Code on Social Security	<p>The following are the impacts/changes once the respective states enforce Rules under the Code through the notification:</p> <ol style="list-style-type: none"> 1. Registers: Unified Register under Code on Social Security 2. Returns: Unified return under Code on Social Security 3. Eligibility: Remains the existing MB Act (No change) 4. Leave provisions: As per the existing MB Act (No change) <p><i>Note: The above-mentioned changes to be implemented once the respective state governments publish the Rules under the Codes</i></p>
9	Industrial Disputes Act, 1947 & Industrial Standing Order Act	Industrial Relations Code	<p>The following are the impacts/changes once the respective states enforce Rules under the Code through the notification:</p> <ol style="list-style-type: none"> 1. Applicability of Standing Order Certification for all establishments having 300 and more employees (Respective states will decide inclusion/exclusion of industries) 2. Notification to the Labour Authority for lay-off/retrenchment/change in working conditions and approval (As per existing ID Act) 3. Re-skill fund: an amount equal to fifteen days wages last drawn by the worker immediately before the retrenchment, or such other number of days as may be notified by the Central Government, for every retrenched worker in case of retrenchment only; (not yet enforced) 4. Unified Returns <p><i>Note: The above-mentioned changes to be implemented once the respective state governments publish the Rules under the Codes</i></p>
10	Employees Provident Fund Act, 1952	Code on Social Security	<p>The following are the impacts/changes:</p> <ol style="list-style-type: none"> 1. Unified Registration (Not applicable for already registered establishments. New establishments will be allotted PF & ESIC by MCA by default) 2. Impact for employees whose PF contribution is on less than Rs.15000 (Basic wages revised to 50%). No impact for employees already above Rs.15000 wage ceiling 3. Apart from Basic Wages pay head a new introduction of PF Wages will do good to the establishments 4. Single Window remittance

11	Employees State Insurance Act, 1948	Code on Social Security	<p>The following are the impacts/changes:</p> <ol style="list-style-type: none"> 1. Unified Registration (Not applicable for already registered establishments. New establishments will be allotted PF & ESIC by MCA by default) 2. The wages to be considered as per the wage definition under Labour Codes for both eligibility and contribution (excluding the " Excluded wages " definition under the wage definition (a to i) 3. Single Window remittance
12	Employment Exchanges Act, 1959	Code on Social Security	<p>The following are the impacts/changes:</p> <ol style="list-style-type: none"> 1. Vacancy notification to be done through career program portal (Yet to be implemented) 2. ER-1 will continue as per existing process
13	Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act	Code on OSHW	<p>Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 subsumed under OSH Code, 2020. The definition of an Inter-State Migrant Worker has been expanded to include workers who migrate on their own, moving away from the old requirement that they must be recruited specifically via a contractor. The ₹18,000 limit is the "eligibility filter."</p>

Industry Concern Areas

S. No	Major Amendments	Impact of Change	Concern Areas (Clarifications Awaited)
1	New Definition of "Wages"	Excluded components (bonus, OT, commissions, etc.) introduce volatility. If these exceed 50% of total pay, the excess is "added back" to wages.	Volatility & Deductions: Will monthly spikes in "deemed wages" due to one-time commissions lead to compliance violations if PF contributions are reduced the following month?
2	Separation Month Payouts	Large final payouts (bonuses/commissions) risk artificially inflating the "Last Drawn Wage."	Under the new wage definition and the 50% "deemed wage" rule, significant final-month payouts—such as commissions and bonuses—may be partially "added back" to the core wages. This mechanism risks artificially inflating the Last Drawn Wage , which serves as the fundamental base for calculating Gratuity and Leave Encashment. Clarification is required on the specific approach for handling these one-time final payments to prevent a disproportionate and unintended increase in statutory settlement costs.
3	Leave Encashment Basis	Encashment is now based on the new "50% Rule" wage definition rather than just Basic pay.	Legacy vs. New Code: Clarification is needed on whether this applies to leave balances accrued <i>before</i> the 2025 implementation date.
4	Loss of Pay (LOP) & Deemed Wages	If an employee is on LOP for a full month but receives HRA, 50% of that HRA might be "deemed" as wages.	Contribution Liability: Does a "deemed wage" during LOP trigger a mandatory employer PF/ESI contribution even if no actual work was performed?
5	Bonus Eligibility Threshold	The "Core Wage" (min 50% of CTC) may push many employees above the current statutory bonus eligibility ceiling.	Threshold Revision: Will the Government revise the eligibility limit (currently ₹21,000) to account for the expanded definition of "Wages"?

6	ESI Coverage Volatility	Variable pay causes employees to cycle in and out of the ₹21,000 ESI threshold month-to-month.	Registration Window: Will the 10-day ESI registration window be relaxed to allow eligibility checks only after month-end payroll is finalized?
7	Contract Labour in Core Activities	Hiring contractors for "core activities" is now prohibited except under specific sudden volume or intermittent work.	IT Sector Definitions: For service-based industries like IT, is "software development" always a core activity, or can it be outsourced under the "intermittent" exemption?
8	Inter-State Migrant Workers (ISMW)	Definition now includes self-migrated workers. If earning ≤₹18,000/month, they get a "Journey Allowance" for home trips.	Fare Calculation: How is the "fare for a trip to the native place" calculated for the IT/Service sector? Is it based on actuals, or a standard government rate?
9	2-Day F&F Settlement Window	Settlement must be completed within 2 working days of exit for salary and leave arrears.	Operational Deadlock: How should employers handle cases where an employee fails to return assets (laptops/IDs) within the 2-day window?

Contact US –



+91 124 265 6800



enquiry@ucsdcl.com



<https://unitedconsultancy.com/>



Unit No. 852 - 856, 8th Floor, JMD Megapolis, Tikri, Sector - 48, Sohna Road, Gurugram, Haryana - 122018



Novel Business Park, 57, 3rd Floor, 13th Cross, Gajendra Nagar, Anepalya Main Road, Adugodi Post, Bengaluru, Karnataka - 560030



P-1 Taratala Road, Webel IT Park Module No. G01 & 302, Kolkata, West Bengal - 700088



B Square Office Solutions, C-03, 6th Floor, Shree Krishna Centre, Mithakali Six Road, Ahmedabad, Gujarat - 380 006



No 9-1-87 & 9-1-119/1, 304, Eden Amsri Square, Beside Apollo Hospital St. John's Church Road, Secunderabad, Telangana - 500003



1-C, First Floor, Race View Tower, No.71, Mount Road, Guindy, Chennai, Tamil Nadu – 600 032



Office No.310, 3rd Floor, Westport Building S/No.32/1A/1/30-38 & 54 PAN Card Club Road, Baner, Pune Maharashtra - 411 045



Office No.4010, 4th Floor, 1 Aerocity, NIBR Compound, Safed Pool, Andheri Kurla Road, Sakinaka, Mumbai, Maharashtra - 400 072



Door No: 163 - O and 163 - P, Karilakuzhy Building, Kurisummoodu P.O., Changanassery, Kottayam, Kerala – 686104