

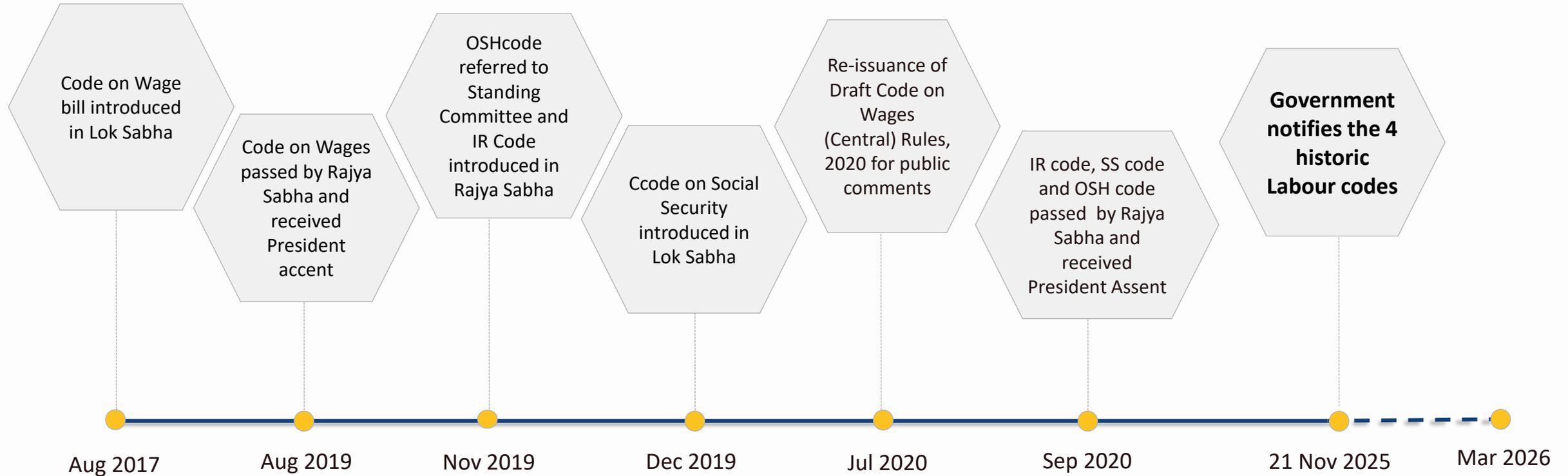


NAVIGATING THE NEW LABOUR CODES

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Journey of the Labour Codes



Effective Date – Transition Period
Rules – New Law Old Rules & Regulations

New Labour Codes – An Overview



The Code on Wages, 2019

The Code on Wages, 2019 standardizes definition of wages, mandates minimum wage compliance, governs timely payment of wages, bonuses, remuneration irrespective of gender

Consolidates 4 laws: Minimum Wages Act, Payment of Wages Act, Equal Remuneration Act and Payment of Bonus Act



The Industrial Relations Code, 2020

The Industrial Relations Code, 2020 simplifies trade union recognition, standing orders, and dispute resolution, while balancing worker rights with employer flexibility for retrenchment, closure, and fixed-term jobs.

Consolidates 3 laws: Trade Unions Act, Industrial Employment (Standing Orders) Act, Industrial Disputes Act



The Code on Social Security, 2020

The Code on Social Security, 2020 extends social security coverage to all employees and workers, including those in the organized, unorganized, gig, and platform sectors

Consolidates 9 laws including PF, ESI, Gratuity, Maternity benefits, Social Security for Unorganized sectors



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

The Occupational, Safety, Health and Working Conditions Code, 2020 sets common safety and welfare standards, requires single registration and license for establishments, and simplifies compliance through digital processes

Consolidates 13 laws governing workplace safety and working conditions

Standardized definition of Wages under Labour Codes

Meaning and Inclusions (Part A)

Means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, in terms of employment, express or implied, where fulfilled, be payable to a person employed in respect of his employment, and includes:

- Basic pay
- Dearness allowance
- Retaining allowance, if any

Specific Exclusions (Part B)

- Statutory bonus
- Value of house accommodation and utilities
- Employer contribution to provident fund or pension together with accretions
- Conveyance allowance or value of travelling concession
- Sum paid to defray special expenses due to nature of work
- House rent allowance
- Remuneration payable under any award or settlement
- Any overtime allowance
- Any commission payable
- Any gratuity payable on termination
- Any retrenchment compensation or retirement benefit payable or ex-gratia payment made

Conditional Inclusions (Part C)

Where the aggregate of specified exclusions as highlighted:

- Exceeds one-half, or such other notified per cent, of all remuneration calculated under this clause
- Amount which exceeds such one-half or other per cent, so notified
- Shall be deemed to be remuneration and
- Shall accordingly be added under this clause.

Value of remuneration in kind (Part D)

Where an employee is given remuneration in kind in lieu of either the whole or part of the wages payable to him, the value of such remuneration, to the extent it does not exceed 15 per cent of total wages payable to him, shall be deemed to form part of wages of such employee.

Common discussions topics based on the Wage components

- Variable Pay – any non-guaranteed payments (FAQ and draft rules)
- Reimbursement based payments – driver, fuel allowance, coupons
- Special allowance (not part of exclusion and FAQ)
- One-time Payments
- Full & Final Settlement

Case Study – considerations of Wages

Components	Amount (INR per month)
Basic Salary	22,000
House rent allowance	11,000
Conveyance allowance	3,000
Special allowance (balancing fig)	8,000
Total Fixed Components - Remuneration for Code	44,000
Add: Variance Bonus	6,000
Total Cost to Company	50,000

Wages – INR 30,000 (basic + special allowance)

- Wages as per Payment of Gratuity Act (last drawn basic + DA): INR 22,000
- Wages as per ESIC Act (basic + cash allowances, excluding bonus): INR 44,000
- Wages as per Maternity Benefit Act: INR 50,000

Case Study – financial impact of certain benefits

Annual CTC – 100

Basic Salary – 40

Excluded allowances – 60

Wages as per code – 50
(i.e. 40 + 10 added back)

Particulars	Current	Labour Code	Increment (%)
Gratuity – 4.81% of basic salary	1.92 (40 * 4.81%)	2.41 (i.e. 50 * 4.81%)	25 %
Leave encashment (only for workers) Assumed 10 days encashment (in excess of 30 days carry forward)	1.09 (40*10/365)	1.36 (i.e. 50*10/365)	26%
Overtime assumed 20 hours per month	7.69 (40/52 weeks/48 hours per week * 240 hours *2)	9.62 (40/52 weeks/48 hours per week * 240 hours *2)	25%

Impact – Prospective, Retrospective, Retroactive ??

What are the key financial impact areas

Provident Fund	ESIC	Gratuity	Leave Encashment	Overtime
<ul style="list-style-type: none">• Act repealed vide corrigendum;• 12-month transition window — existing rules/schemes continue till new scheme is notified	<ul style="list-style-type: none">• Revised wage effective 21 Nov;• enhanced coverage	<ul style="list-style-type: none">• Revised wage effective 21 Nov;• pro-rata eligibility for FTE post one year;• provisioning & actuarial valuation impact	<ul style="list-style-type: none">• Revised wage effective 21 Nov;• casual leave limited to 30 days;• annual encashment for balance;• provisioning impact to be assessed	<ul style="list-style-type: none">• 2× revised wage;• 8 hours/day, 6 days/week;• 144 hours/quarter;• daily spread/intervals to be notified
Can I continue to contribute only on 15,000?	Can I apply the current INR 21,000 wages ceiling?	Fixed Term employee 20 lakh limit	FAQ clarifies new wage definition effective 21 November	Is this applicable to all employees? Shops & Establishment Act?

Employee vs worker – one framework, two definitions !

Employee

Covers any person (other than an apprentice engaged under the Apprentices Act, 1961), 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, whether the terms of employment be express or implied.

Covers all irrespective of role/level/nature of duties/salary

Worker

Covers any person (except an apprentice under the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work, but does not include any person:

- who is employed mainly in **managerial or administrative capacity**; or
- who is employed in a **supervisory capacity** drawing wage of exceeding **INR15,000 (under code on wages) / 18,000 (under code on Occupational Safety, Health and Working Conditions)** per month or an amount as may be notified by the Central Government from time to time

**Areas of
Concern**

**Who all comes under the
purview of supervisory
capacity?**

**Who will come under the
managerial or administrative
capacity?**

Am I an employee or worker?

A person in a managerial capacity responsible for controlling or administering an organisation or a group of staff?

Employee

A person in an administrative capacity working in relation to management of a company? -

Employee

A supervisor in an establishment drawing monthly salary of INR12,000 and has authority over a worker? Will the answer change if salary is INR 22,000?

**Earlier – Worker
Now – Employee**

A highly qualified executive / single contributor technical person with no one reporting to him drawing a salary of one crore annually ?

??

I have many interns in my organisation. Are they all workers?

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Contract workforce – Key terms defined

Contract labour

Workers employed through a contractor

Exclusions:

- **Regularly employed*** by the contractor for the activity of his establishment; and
- employment is governed by **mutually accepted standards of the conditions** of employment; and gets periodical increment in the pay, social security coverage and other welfare benefits.

**Rule 175 - Annual increment of not less than 2 per cent of wages to be given to workers regularly employed by the contractor (so as to be excluded).*

Contractor

A person who undertakes to produce a given result for the establishment,

other than a mere supply of goods/articles of manufacture to such establishment through contract labour;

Or

Provides contract labour for any work of the **establishment as mere human resource.**

Core v/s Non-Core activities

Industry	Probable Core activity?	Illustrative exclusion
Manufacturing	Production Assembly Quality Check Raw material procurement Any other identified?	Canteen Office maintenance Sanitation Security
Service-for e.g. Information Technology	Software development Coding Product design Any other identified?	

On question on determination of core activity aggrieved party may apply to the Joint Secretary

Other compliances

- Full & Final Settlement – 2 days
- Creche facility
- Equal Remuneration
- Health checks
- Grievance redressal committee
- **Anti-Abuse**

Next Steps



THANK YOU

