

**ATHENA LEGAL KEY HIGHLIGHTS ON THE IMPACT OF THE NEW LABOUR CODES ON THE
IT/ ITES & SERVICES SECTOR**



ATHENA LEGAL

CONTACT DETAILS

37 Link Road, First Floor,

Lajpat Nagar-III, New Delhi-110024

Tel: +91 (11) 4200 4400

Email: correspondence@athenalegal.in

1. INTRODUCTION

- ❖ The Government of India's notification implementing the four Central Labour Codes, namely, the Code on Wages, 2019 ("Wage Code"), the Industrial Relations Code, 2020 ("IR Code"), the Code on Social Security, 2020 ("SS Code"), and the Occupational Safety, Health and Working Conditions Code, 2020 ("OSH Code"), effective from November 21, 2025, represents a fundamental restructuring of India's labour ecosystem.
- ❖ For the Services Sector, including Information Technology ("IT") and Information Technology Enabled Services ("ITES") industries, this transition necessitates immediate, strategic adjustments to the established compensation models, workforce management policies, and operational structures. The legislative intent is to streamline 29 existing laws into a unified framework, enhancing worker welfare while promoting ease of business.
- ❖ This update summarizes the key legal and compliance implications for Services Sector, including IT and ITES industries.

2. REDEFINED "WAGES" – MAJOR IMPACT ON STATUTORY CALCULATIONS

- ❖ The Codes introduce, unified definition of "wages" across all four Labour Codes. Wages include basic pay, dearness allowance, and retaining allowance, but specifically exclude bonus, HRA, conveyance allowance, overtime allowance, commission, gratuity, and retrenchment compensation among other components.
- ❖ The Critical 50% Threshold Rule: If the excluded allowances and payments exceed 50% (or such other percentage as may be notified by the Central Government) of total remuneration, the amount exceeding such threshold shall be deemed as wages and added back for statutory computation purposes. This ensures at least 50% of the total remuneration constitutes "wages" for statutory purposes.

 **Impact:** *This provision directly affects calculation of PF, ESIC, gratuity, retrenchment compensation, overtime wages, and bonus. This may significantly increase employer statutory contribution costs for the Services Sector, including IT/ITES companies with allowance-heavy salary structures, characterized by high variable pay and minimal basic pay components. Companies should, therefore, comprehensively review all salary structures, recalculate gratuity provisions, update HRMS/payroll systems for new wage calculations.*

3. TIMELINE FOR PAYMENT OF WAGES

- ❖ As per the Wage Code, Employers are legally mandated to strictly adhere to the following payment schedules based on the employment cycle:

- a) **Daily Basis:** At the end of the shift.
- b) **Weekly Basis:** On the last working day before the weekly holiday.
- c) **Fortnightly Basis:** Within two days after the end of the fortnight.
- d) **Monthly Basis:** Before the 7th day of the succeeding month.

❖ In all cases of separation (resignation, dismissal, retrenchment, or closure), all outstanding wages must be settled within two (02) working days of the employee's exit.

Impact: *The statutory requirement to settle final dues within two (02) days, forces a drastic departure from the IT sector's standard 30–45 day exit cycles. This compressed timeline compels companies to rapidly accelerate asset recovery and complex pay calculations, ensuring IT, Finance, and HR teams coordinate in real-time to meet the strict 48-hour deadline.*

4. OVERTIME AT DOUBLE RATE WITH MANDATORY EMPLOYEE CONSENT

- ❖ Under the new labour codes, overtime work is governed by a strict framework of voluntary consent and mandatory compensation.
- ❖ Section 25 of the OSH Code read with Rule 34 of the Draft Occupational Safety, Health and Working Conditions (Central) Rules, 2025 (“**Draft OSH Rules**”) establishes that no employee can be compelled to work beyond the standard eight (08) hour per day, and forty-eight (48) hours per week. Section 27 of the OSH Code read with Rule 62 of the Draft OSH Rules, further provides that, where in an establishment, an employee works for more than eight (08) hours in any day as daily wager, or for more than forty-eight (48) hours in any week, as the case may be, he/she shall in respect of such overtime work be entitled to wages at the rate of twice the rate of wages. No worker shall be allowed to work overtime exceeding one hundred forty four (144) hours in any quarter of a year. Furthermore, no employee shall be required to work overtime without their explicit consent, prioritizing worker autonomy and well-being. When the employee consents to work overtime, then in accordance with Section 14 of the Wage Code, the employer shall pay the employee for every hour or for part of an hour so worked in excess, at the overtime rate which shall not be less than twice the normal rate of wages. Section 50(1) of the Wage Code read with Rule 51 of the Draft Code on Wage (Central) Rules, 2025 requires every employer to maintain electronically or in physical form: i) Employee Register in Form I; ii) Register of Wages, Overtime, Advances, Fines and Deductions for Damage and Loss in Form IV, and iii) Attendance Register-cum-Muster Roll in Form IX.

❖ **Impact:** For IT and BPO companies with 24/7 operations, the new labor codes introduce significant changes. Overtime work is now strictly voluntary, meaning employees must explicitly agree to it, and it must be paid at twice the normal rate of wages. This shift complicates workforce planning during peak times and increases operational costs. To adapt, organizations must improve shift planning to reduce reliance on overtime, implement strict tracking for consent and work hours, and revise vendor contracts to reflect these new compliance and cost requirements.

5. FIXED-TERM EMPLOYEES

❖ Definition of Fixed Term Employment (FTE)

Fixed Term Employment (“FTE”) is defined under the IR Code and the SS Code as the engagement of a worker on the basis of a written contract of employment for a fixed period. The key statutory characteristics of this tenure are that the hours of work, wages, allowances, and other benefits provided to an FTE shall not be less than those of a permanent employee doing the same or similar work. Furthermore, FTEs are statutorily eligible for all benefits available to permanent employees (including gratuity) on a proportionate basis, even if their period of employment does not extend to the qualifying period required by law for permanent staff.

❖ Gratuity for Fixed Term Employees

- a) Position under the SS Code and Draft Central Rules, 2025: Under the Code on Social Security Code, 2020, the statutory five-year continuous service requirement for gratuity is explicitly waived for Fixed Term Employees (FTEs), making gratuity payable immediately upon the expiry or termination of their contract on a pro-rata basis. The Draft Social Security (Central) Rules, 2025 (“**Draft SS Rules**”) operationalize this by setting a minimum eligibility threshold period of one (01) year of continuous service. Furthermore, Rule 34 of the Draft SS Rules dictates that for calculation purposes, any service period exceeding six (06) months (following the initial year) must be rounded off to the nearest full year, ensuring FTEs receive proportionate benefits similar to permanent staff without the long-term tenure obligation.
- b) Position under the IR Code and Draft Model Standing Orders: Under the Industrial Relations Code framework, and its Draft Model Standing Orders under the Draft Industrial Relations (Central) Rules, 2025, an FTE must get the same benefits as a permanent worker, and is specifically made eligible for gratuity after completing one (01) year of service under the fixed-term contract. For every completed year (and part above six months), the employer must pay gratuity equal to 15 days’ of last-drawn wages.

❖ **Impact:** The gratuity provisions in India's SS Code, and IR Code, significantly increase costs for companies reliant on fixed-term employees (FTEs). This may lead to more frequent payouts for short project cycles, and the need for revised vendor contracts, HR policies, payroll systems, and budgeting to ensure compliance.

6. CONTRACT LABOUR PROHIBITED IN "CORE ACTIVITIES"

- ❖ Part I of Chapter XI of the OSH Code applies to establishments with fifty (50) or more contract labour employed through contractors. Section 57 of the OSH Code further prohibits employment of contract labour in core activities of any establishment.
- ❖ However, principal employers may engage contract labour in core activities if: (a) normal functioning is such that the activity is ordinarily done through contractors; (b) activities do not require full-time workers for the major portion of working hours or for longer periods; or (c) sudden increase of volume in core activity requiring accomplishment in specified time. The appropriate Government shall appoint a designated authority to advise on whether any activity is a core activity or otherwise.

 **Impact:** *The OSH Code significantly impacts companies that depend on contract labour for core functions such as development and operations. Establishments engaging 50 or more contract workers must identify and segregate core and non-core activities, restructure their workforce by moving core roles to direct or fixed-term employment, and realign vendor arrangements to fit limited statutory exceptions.*

7. GRIEVANCE REDRESSAL COMMITTEE WITH EQUAL WORKER REPRESENTATIVES REQUIRED

- ❖ As per the IR Code, every industrial establishment employing twenty (20) or more workers must have one (01) or more Grievance Redressal Committees for resolution of disputes arising out of individual grievances. The Committee shall consist of equal number of members representing employer and workers, with total membership not exceeding ten (10) members.
- ❖ The chairperson shall be selected from among employer and worker representatives alternatively on rotational basis every year. There must be adequate representation of women workers, not less than the proportion of women workers to total workers employed

 **Impact:** *The IR Code requires organisations with twenty (20) or more employees to set up a formal Grievance Redressal Committee to handle individual employee complaints. This means companies must create a structured system with equal representation from management and employees, rotate the role of chairperson each year, and ensure fair representation of women. As a result, employers may need to adjust existing HR processes, and invest additional time and resources to meet these compliance requirements.*

8. GIG AND PLATFORM WORKERS – NEW SOCIAL SECURITY OBLIGATIONS

- ❖ Chapter IX of the SS Code provides first-time legal recognition of gig workers, platform workers, and aggregators.
- ❖ Aggregators must contribute at a rate not exceeding 2% but not less than 1% (as may be notified by the Central Government) of annual turnover for social security funding. Critically, the contribution shall not exceed 5% of the amount paid or payable by an aggregator to gig workers and platform workers. Aggregators must make self-assessment and pay provisional contribution by 30th of June each year.
- ❖ Aggregators must share details of gig/platform workers quarterly for registration and updation on the designated Central Government portal.

 **Impact:** *Companies engaging gig or platform workers now face new compliance burdens under Chapter IX of the SS Code, which may increase operational costs, necessitate the implementation of tracking and reporting mechanisms, and prompt a reassessment of existing flexible vendor and freelance engagement models.*

9. WOMEN PERMITTED IN NIGHT SHIFTS WITH MANDATORY SAFETY MEASURES

- ❖ Section 43 of the OSH Code permits the employment of women in all establishments and for all categories of work. Further, women may be employed in night shifts before 6:00 a.m. and after 7:00 p.m., subject to their consent and compliance with the prescribed conditions relating to safety, holidays, working hours, and other statutory obligations of the employer.
- ❖ The Draft OSH Rules, prescribe the following mandatory conditions for employment of women during night shifts:
 - (a) written consent of the woman employee; (b) compliance with maternity benefit provisions under the SS Code;
 - (c) adequate transportation facilities for pick-up and drop at residence; (d) well-lit workplace including passages to toilets, washrooms, drinking water facilities, entry and exit points, with CCTV surveillance; (e) safe, secure, and healthy working conditions; (f) dedicated telephone numbers displayed conspicuously in establishment and vehicles; (g) in below-ground mines, not less than three (03) women employees on duty at any place; and (h) compliance with Sexual Harassment of Women at Workplace Act, 2013.

 **Impact:** *For Service Sectors, including IT/ITES companies, while this offers greater flexibility in workforce scheduling, it also places clear responsibilities on employers to ensure safe transport, secure and well-lit workplaces with surveillance, and accessible emergency support systems. As a result, organisations may need to invest in additional infrastructure, safety measures, and compliance processes to lawfully engage women employees during night hours.*

10. RETRENCHMENT/CLOSURE PERMISSION REQUIRED ONLY FOR 300+ EMPLOYEE UNITS

- ❖ Chapter X (Special Provisions Relating to Lay-off, Retrenchment and Closure in Certain Establishments) of the IR Code 2020 applies to industrial establishments in which not less than three hundred (300) workers (or such higher number as may be notified) were employed on average per working day in the preceding twelve (12) months. This represents an increase from the previous threshold of hundred (100) workers.
- ❖ For such establishments, no worker with less than one (01) year continuous service shall be retrenched until prior permission of the appropriate Government is obtained. Similarly, closure of such establishments requires prior permission with ninety (90) days' advance application to the appropriate Government.

 **Impact:** *Large companies with three hundred (300) or more workers, require prior government permission for retrenchment of employees with one (01) year of service or for closure, making careful planning and compliance essential.*

11. SIMPLIFIED COMPLIANCE – SINGLE REGISTRATION, LICENSE & RETURN

- ❖ The Labour Codes introduce unified registration processes, pan-India single licenses, and unified annual returns replacing multiple filings under different laws. Digital compliance and electronic record-keeping are mandated across all Labour Codes. An Inspector-cum-Facilitator model shifts enforcement from purely punitive to facilitation-based approach.
- ❖ Employers must maintain unified registers including employee registers, muster rolls, wage registers, and other prescribed records electronically or manually. Wage slips must be issued electronically or manually before payment of wages.

 **Impact:** *This significantly reduces administrative burden and improves ease of doing business for companies with multi-location operations across India. The unified digital framework eliminates duplication of filings and streamlines compliance monitoring, enhancing India's attractiveness for Global Capability Centres and multinational IT operations.*

12. CRITICAL NOTE ON IMPLEMENTATION TIMELINE

- ❖ The four Labour Codes came into effect from November 21, 2025. Draft Central Rules were published in December 2025 for public consultation, with objections invited until 45 days from publication. During the transition period, existing labour laws' rules continue to apply until new rules are finalized and notified. Companies should, begin immediate preparation while monitoring final rule notifications and state-specific implementations.

13. CONCLUSION

- ❖ The four Labour Codes represent the most comprehensive reform of Indian labour law in over seven (07) decades. For the Service Sectors, including IT/ITES companies, these changes necessitate strategic workforce planning, significant system upgrades, policy overhauls, and substantial compliance investments. However, they also offer opportunities through simplified compliance frameworks, greater flexibility in certain areas (such as the 300-worker threshold), and a more modern legal architecture suited to digital-first operations. Proactive preparation and robust implementation will be critical to navigating this transformational legal landscape successfully.

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