

INDIA'S NEW LABOUR CODES

PART – 2 (IMPLEMENTATION OF NEW WAGE CODE)

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Agenda

- ❖ Status of New Labour Codes – Implementation Roadmap
- ❖ Implementation
- ❖ ESI Circular regarding the implementation of Code of wages
- ❖ Future impact

New Labour Codes

The Government of India has consolidated 29 central labour laws into 4 Labour Codes.

- ❖ Code on Wages, 2019
- ❖ Industrial Relations Code, 2020
- ❖ Code on Social Security
- ❖ Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020



Objectives of the Labour Codes

❖ Consolidation of Labour Laws

To merge multiple existing labour laws into a single, simplified and uniform legal framework.

❖ Ease of Compliance for Employers

To reduce compliance burden by simplifying registrations, returns and procedural requirements.

❖ Digitization of Processes

To promote online systems, digital filings and technology-driven compliance mechanisms.

❖ Balanced Framework for Employers and Employees

To ensure a fair balance between business flexibility and protection of employee rights.

❖ Effective Enforcement

To strengthen implementation, monitoring and enforcement of labour laws.

Status of New Labour Codes – Implementation Roadmap

Out of these, 3 Labour Codes are currently in the implementation-waiting phase, pending issuance of: Final Government Rules & State-wise notifications

These Codes will become effective only after formal notification by the Central and State Governments.

We will keep you updated on same. Accordingly, we have to prepare internal systems in advance for smooth transition.

The Code on Wages, 2019 – Key Highlights

- ❖ **Single Definition of Wages -**
Uniform wage definition across laws; allowances beyond 50% treated as wages, impacting PF, Gratuity and Bonus.
- ❖ **National Floor Wages -**
Minimum wages applicable to all employments; States cannot go below the national floor level.
- ❖ **Timely Payment of Wages-**
Wages to be paid on or before the 7th day of the following month; Full & Final settlement within 2 working days of separation.
- ❖ **Limited Deductions -**
Total deductions capped at 50% of wages, ensuring wage protection.
- ❖ **Principal Employer Responsibility -**
Principal Employer liable for statutory bonus to contract labour.

Definitions:-

Who Is an Employee?

- ❖ The Code on Wages defines the term “**employee**” in a very wide manner.

It includes any person employed in an establishment to perform manual, operational, supervisory, managerial, administrative, technical or clerical work, whether the terms of employment are express or implied.

However, the definition **specifically excludes**:

- ❖ Apprentices, and
- ❖ Members of the Armed Forces of the Union.

What Are “Wages”?

- ❖ Section 2(y) of the Code on Wages defines “**wages**” through a **three-layered structure**, bringing clarity and uniformity across all labour laws.

- ❖ **Main Clause**

“Wages” means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money, which is payable to an employee in respect of employment or work done, if the terms of employment are fulfilled.

❖ PART A

Inclusive Part

The definition **expressly includes** the following components:

Basic Pay

Dearness Allowance (DA)

Retaining Allowance, if any

These components form the **core wage base** for statutory purposes.

❖ PART B

Exclusions

The Code provides **specific exclusions** from wages, including:

Bonus

House Rent Allowance (HRA)

Employer's contribution to PF or pension

Conveyance allowance

Overtime allowance

Commission

Gratuity

Retrenchment compensation and other terminal benefits, etc.

❖ PART B

Exclusions

Explanation.—

Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not **exceed fifteen per cent.** of the total wages payable to him, shall be deemed to form part of the wages of such employee;

❖ PART C

Additional Costs

The Code does not specify about them but these are the Costs which are now to be kept separately in your appointment letters in separate Annexure :

- For Example :
- Any Monthly Gratuity Provision
- EDLI + Administrative Charges to PF

GOLDEN RULES (CONDITIONS TO BE FOLLOWED) :

1. Part a shall not be less than 50% of the Gross CTC (A+B)
2. Part A shall meet the applicable minimum wages of applicable state & respective employee category.

GOLDEN RULES (CONDITIONS TO BE FOLLOWED) :

3. ESI and EPF are now to be calculated only on part A only.

(HRA or other allowances are now not included in calculations)

4. ESI has to be applied for newly covered employees.

Further, you can Register these employees from the Current Date (upto 31st December 2025) and pay contribution from the date of registration of employee and not for the previous period.

(Show Date of Joining as Current Date of Enrollment)

(Spree scheme)

GOLDEN RULES (CONDITIONS TO BE FOLLOWED) :

1. EPF PRESENT SALARY LIMIT – Rs. 15000 : (ON PART A ONLY)

No Revision of the same as rumored has been there and you can keep the maximum Contribution ceiling as Rs. 1800.

2. ESI PRESENT SALARY LIMIT – Rs. 21000 : (ON PART A ONLY)

Salary Component Mapping

	Salary Component	Wage Classification	Wage Classification
❖ A – PART	Basic Salary	Part of Wages	Included under clause (i)
❖ A - PART	Dearness Allowance (DA)	Part of Wages	Included under clause (ii)
❖ B – PART	House Rent Allowance (HRA)	Excluded from Wages	Excluded under clause (f)
❖ B- PART	Transport / Conveyance Allowance	Excluded from Wages	Excluded under clause (d)
❖ B- PART	Statutory Bonus	Excluded from Wages	Excluded under clause (a)
❖ B- PART	Employer's PF Contribution (EPFO / PF Trust)	Excluded from Wages	Excluded under clause (a) Excluded under clause (c) – contribution to fund
❖ B – PART	Leave Travel Allowance (LTA)	Excluded from Wages	Excluded under clause (e) – special expense
❖ B- PART	Employer's NPS Contribution	Excluded from Wages	Excluded under clause (c) – contribution to fund

Example 1: Compliant Salary Structure (No add-back required)

An employee, Mr. A, has a total monthly remuneration of ₹20,000, which is below the ₹21,000 threshold.

Salary Component	Amount	Included/Excluded for Wages
Basic Pay + DA + RA	₹12,000	Included (60% of TR)
Allowances (HRA, Conveyance, etc.)	₹8,000	Excluded (40% of TR)
Total Remuneration (CTC)	₹20,000	
50% of TR limit for exclusions	₹10,000	
Actual Exclusions	₹8,000	

Conti....

In this case, the actual exclusions (₹8,000) are less than the 50% limit ₹10,000). The ESI "wages" for calculation are the actual included components:

Total ESI Wages: ₹12,000 (Basic + DA + Retaining Allowance)

- ❖ Employee ESI Contribution: 0.75% of ₹12,000 = ₹90
- ❖ Employer ESI Contribution: 3.25% of ₹12,000 = ₹390
- ❖ Total ESI Contribution: ₹480

Example 2: Non-Compliant Salary Structure (Add-back required)

An employee, Ms. B, has a total monthly remuneration (TR) of ₹20,000. Her salary is structured differently.

Salary Component	Amount	Included/Excluded for Wages
Basic Pay + DA+ RA	₹8,000	Included (40% of TR)
Allowances (HRA, Conveyance, etc.)	₹12,000	Excluded (60% of TR)
Total Remuneration (TR)	₹20,000	
50% of TR limit for exclusions	₹10,000	
Excess Exclusions	₹12,000 - ₹10,000 = ₹2,000	

Here, the actual exclusions (₹12,000) exceed the 50% limit (₹10,000) by ₹2,000. This excess amount must be added back to the "wages":

Conti....

Total ESI Wages: ₹8,000 (Basic+DA+RA) + ₹2,000 (Excess Add-back) = ₹10,000

- ❖ **Employee ESI Contribution:** 0.75% of ₹10,000 = ₹75
- ❖ **Employer ESI Contribution:** 3.25% of ₹10,000 = ₹325
- ❖ **Total ESI Contribution:** ₹400

The Social Security Code, 2020 aims to standardize the wage base to ensure fair and consistent calculation of social security benefits, including ESI.

Example 3: High Allowances, within ESI Limit

Ms. C earns a total monthly remuneration (TR) of ₹20,000. Her structure has high allowances.

Salary Component	Amount (₹)	Status (for calculation)
Basic Pay + DA + RA	₹9,000	Included
Allowances (HRA, Conveyance, etc.)	₹11,000	Excluded components
Total Remuneration (TR)	₹20,000	
50% of TR limit for exclusions	₹10,000	
Excess Exclusions (added back to wages)	₹11,000 (actual) - ₹10,000 (limit) = ₹1,000	

Total ESI Wages: ₹9,000 (Basic + DA+RA) + ₹1,000 (Add-back) = ₹10,000

❖ **Employee ESI Contribution:** 0.75% of ₹10,000 = ₹75

❖ **Employer ESI Contribution:** 3.25% of ₹10,000 = ₹325

Key Takeaway

- ❖ Even though her actual Basic Pay is low, the 50% rule ensures her statutory
- ❖ ESI wage base is higher, leading to increased contributions compared to the pre-Code era

Example 4: High Allowances, above ESI wage Limit

Ms. E earns a total monthly remuneration (TR) of ₹46,000, which is above the ₹21,000 threshold. Her structure has also high allowances.

Salary Component	Amount (₹)	Status (for calculation)
Basic Pay + DA + RA	₹ 20,000	Included
Allowances (HRA, Conveyance, etc.)	₹ 26,000	Excluded components
Total Remuneration (TR)	₹ 46,000	
50% of TR limit for exclusions	₹ 23,000	
Actual exclusions	₹ 26,000	
Excess Exclusions (added back to wages)	₹ 26,000 (actual) - ₹ 23,000 (Limit) = ₹ 3,000	

❖ **Total ESI Wages:** ₹ 20,000 (Basic + DA) + ₹3,000 (Add-back) = ₹23,000

Which is above ₹21,000 ESIC wage limit, hence, Exempted from ESIC.

Example 5: High Allowances, Wages Under Limit, Add- back, Required

Ms. F earns a total monthly remuneration (TR) of ₹30,000, which is above the ₹21,000 threshold. Her structure has also high allowances.

Salary Component	Amount (₹)	Status (for calculation)
Basic Pay + DA + RA	₹ 12,000	Included
Allowances (HRA, Conveyance, etc.)	₹ 18,000	Excluded components
Total Remuneration (TR)	₹ 30,000	
50% of TR limit for exclusions	₹ 15,000	
Actual exclusions	₹ 18,000	
Excess Exclusions (added back to wages)	₹ 18,000 (actual) - ₹ 15,000 (limit) = ₹3,000	

Conti....

Total ESI Wages: ₹ 12,000 (Basic + DA+RA) + ₹3,000 (Add-back) = ₹15,000
Which is below ESIC wages limit i.e ₹21,000.

Calculate ESI Contributions:

- **Employee Share:** 0.75% of ₹15,000 = ₹112.5
- **Employer Share:** 3.25% of ₹15,000 = ₹487.5
- **Total ESI Deposit:** ₹112.5 + ₹487.5 = ₹600

Example 6: High Allowances, Wages Under Limit, Add- back , Required

Ms. F earns a total monthly remuneration (TR) of ₹40,000, which is above the ₹21,000 threshold. Her structure has also high allowances.

Salary Component	Amount (₹)	Status (for calculation)
Basic Pay + DA + RA	₹ 16,000	Included
Allowances (HRA, Conveyance, etc.)	₹ 24,000	Excluded components
Total Remuneration (TR)	₹ 40,000	
50% of TR limit for exclusions	₹ 20,000	
Actual exclusions	₹ 24,000	
Excess Exclusions (added back to wages)	₹ 24,000 (actual) - ₹ 20,000 (limit) = ₹4,000	

Conti..

Total ESI Wages: ₹ 16,000 (Basic + DA) + ₹4,000 (Add-back) = ₹20,000

Which is below ESIC wages limit i.e ₹21,000.

Calculate ESI Contributions:

- ❖ Employee Share: 0.75% of ₹20,000 = ₹150
 - ❖ Employer Share: 3.25% of ₹20,000 = ₹650
- Total ESI Deposit: ₹112.5 + ₹487.5 = ₹800

Penalties Under the Code on Wages

What Employers Need to Know

Legal Reference: Chapter VIII (Sections 52–56)

Non-compliance under the Code on Wages can lead to monetary penalties and, in serious or repeated cases, prosecution. The consequences depend on the nature of the violation and whether it is a first-time or repeat offence.

1. Underpayment of Wages

Includes minimum wages, overtime, bonus, etc.)

❖ **First-time default:**

Employer may be fined up to **₹50,000**

❖ **Repeated default (within 5 years):**

Employer may face imprisonment up to 3 months, or fine up to ₹1,00,000, or both

2. Breach of Other Provisions of the Code

(Any violation of rules, orders, or procedural requirements)

❖ **First-time default:**

Fine up to ₹20,000

❖ **Repeated default (within 5 years):**

Imprisonment up to 1 month, or fine up to ₹40,000, or both

3. Record Maintenance Failures

(Non-maintenance or incorrect maintenance of statutory records)

❖ **Initial default:**

Fine up to ₹10,000

❖ **Subsequent violations:**

Treated as serious non-compliance and penalised under higher penalty provisions

Compliance Relief

- ❖ For record-related lapses or procedural violations, the Inspector-cum-Facilitator generally provides a chance to rectify the default within a prescribed time frame before prosecution.
- ❖ **This corrective opportunity is not available if the same violation is repeated within 5 years.**

For any questions, feel free to contact our team:-

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THANK YOU!

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