LEGAL INSIGHT

Labour Codes 2025: Key Changes, Industry Impact & Transformational Reforms for Workers

Employment and Labour Law Team

For Industry: Immediate Cost and Compliance Pressures

Definition of "Wages"

Earlier: Under the Payment of Wages Act, 1936 and Payment of Bonus Act, 1965, "wages" included basic wages, dearness allowance, and cash value of food concessions but house rent allowance, overtime, bonus, commission, and travelling allowance were excluded. Employers could structure basic pay as low as 30-40% of total Cost to Company.

The Code on Wages, 2019, Section 2(y), fundamentally reshapes the definition of "wages", encompassing basic pay, dearness allowance, and retaining allowance as expressly included components. Where these components fall short of 50% of total remuneration, additional allowances are assumed or deemed included in the wage base for calculating provident fund contributions, gratuity, overtime wages, and bonus eligibility. This directly impacts retrenchment compensation, overtime pay, and statutory benefits calculations. The three-year limitation period for employee claims increases liability exposure for delayed compliance, compared to previous fragmented claim procedures.

The revised wage definition is likely to result in higher employer contributions towards social security of employees, impacting PF contributions, ESI obligations, and gratuity liability calculations. While employers are not statutorily mandated to restructure entire CTC architecture, the assumption of 50% wages for specific statutory payments (retrenchment compensation, overtime, notice pay, and bonus eligibility) when components fall short of the 50% threshold creates material financial exposure for organizations with large workforces.

Fixed-Term Employment: Gratuity and Benefit Parity

Earlier: Under the Payment of Gratuity Act, 1972, fixed-term employees required five continuous years of service to qualify for gratuity. Employees terminating after 4.9 years received zero gratuity.

Section 53 of the Code on Social Security, 2020, introduces gratuity eligibility for fixed-term employees after one year of continuous service, which is reduced from five years previously. Additionally, Section 89 of the Industrial Relations Code mandates identical wages, allowances, and all benefits afforded to permanent employees performing substantially similar work. This dual

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provision eliminates historical arbitrary cost advantages of contract labour employment models, fundamentally altering workforce structuring economics, particularly for sectors reliant on project-based or seasonal hiring cycles.

Industries heavily dependent on contract labour - IT services, manufacturing, retail, and logistics - face immediate reassessment of workforce composition strategies. The elimination of wage cost advantages and the one-year gratuity trigger create incentives for either reduced fixed-term hiring or accelerated permanent staff conversion. Organizations must recalculate true cost-of-employment for contract versus permanent roles, accounting for immediate gratuity exposure after 12 months of service. Previously, fixed-term workers earned 30-40% less than permanent employees for identical work; now wage parity is statutorily mandated.

Extended Strike Notice Requirements

> **Earlier:** Under the Industrial Disputes Act, 1947, strike notice requirement was six weeks, with strike commencement permitted after 14 days of notice.

The Industrial Relations Code, 2020, Section 38, extends the advance notice requirement for strike initiation from six weeks to 60 days, with prohibition on strike commencement within the first 14 days of notice. Notably, the expanded definition of "strike" now encompasses "mass casual leave" where 50% or more workers exercise leave on a given day, eliminating loopholes previously available to workers and unions. This results in longer periods of uncertainty for production planning, especially in just-in-time and continuous-process industries, requiring stronger backup staffing and supply chain plans than under the earlier 6-8 week notice framework.

Worker Re-skilling Fund: Enhanced Retrenchment Burden

> **Earlier:** Under the Industrial Disputes Act, 1947, retrenchment compensation only equalled 15 days' average wages multiplied by years of service. No reskilling or income support mechanisms existed.

The IR Code mandates that employers contribute an amount equivalent to 15 days' last drawn wages of each retrenched worker to a Worker Re-skilling Fund, in addition to statutory retrenchment compensation, with funds credited to worker accounts within 45 days of retrenchment. This substantially increases the immediate financial outlay associated with large-scale workforce reductions, effectively doubling severance-related costs compared to previous retrenchment compensation alone, creating significant working capital implications during economic downturns.

The mandatory 45-day reskilling fund deposit requirement creates significant cash flow pressure. It eliminates the traditional ability to spread severance costs over time and creates immediate working capital strain, particularly during economic crises when retrenchment clusters occur simultaneously across sectors.

For Workers: The Transformational Victories

The one-year gratuity eligibility represents revolutionary protection for India's estimated 40-50 million fixed-term employees in IT services, manufacturing, and retail sectors. Previously, workers with 4.9 years of service received zero gratuity; now, immediate severance equivalent to 3-4 months' salary is guaranteed upon contract termination.

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Section 89 of the Industrial Relations Code further mandates identical compensation across employment forms, eliminating the historical practice where fixed-term workers earned 30-40% less than permanent employees for identical work. These provisions, enforceable through penalties of ₹ 50,000 - ₹ 1,00,000 (escalating to imprisonment for repeated violations), transform wage parity and gratuity entitlements from discretionary benefits into statutory rights, unprecedented in India's labour law.

The Code on Social Security 2020 extends formal legal recognition to gig and platform workers for the first time, mandating aggregators contribute 1-2% of annual turnover to government-managed social security funds. This covers life and disability insurance, accident protection, health and maternity benefits, and old-age pensions. The 10+ million gig economy participants now have statutory worker status with formal social security access. Previously unprotected from accidents or injury, gig workers now have mandatory coverage mechanisms.

The real test of these Codes will lie in how they are enforced, which depends on the finalisation of State rules and the capacity of enforcement mechanisms. Until greater clarity emerges, a balanced approach balancing proactive compliance planning with smooth transition steps remains the most prudent legal strategy.

Statutory Mapping: Pre & Post Labour Codes 2020

Topic	Old Act	Old Provision	New Code	New Provision
Wages Definition	Payment of Wages Act, 1936	Sec 2(vi): Basic + DA + allowances (excludes HRA, bonus, commission)	Code on Wages, 2019	Sec 2(y): Basic + DA + retaining; if allowances exceed 50%, excess = wages
Gratuity Eligibility	Payment of Gratuity Act, 1972	Sec 4(1): 5 years continuous service required	SS Code, 2020	Sec 53: Fixed-term: 1 year (pro-rata); no 5-year minimum
Strike Notice	Industrial Disputes Act, 1947	Sec 22: 6 weeks notice for public utility services	IR Code, 2020	Sec 38: 60 days advance notice; no strike first 14 days
Fixed-Term Parity	None specific	N/A: No statutory parity mandated	IR Code, 2020	Sec 2(o): Fixed-term = same wages/benefits as permanent
Wages Claims Limit	Payment of Wages Act, 1936	Sec 15(2): 12 months limitation period	Code on Wages, 2019	Sec 45(6): 3 years from claim arising
Retrenchment Compensation	Industrial Disputes Act, 1947	Sec 25F(b): 15 days wages per completed year	IR Code, 2020	Sec 53: 15 days wages + 15 days to Re-skilling Fund

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