

ELB E-BULLETIN

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Welcome to the seventh edition of the e-Bulletin (Volume VII) brought to you by the Employment, Labour and Benefits practice group of Khaitan & Co. This e-Bulletin covers regulatory developments (including those relating to the upcoming labour codes), case law updates and insights into industry practices that impact businesses from a sector agnostic standpoint.

Labour Codes: Story So Far

In this section, we help you in understanding the developments that have taken thus far on the implementation of the 4 labour codes on wages, social security, industrial relations, and occupational safety, health, and working conditions, which received the Presidential assent between the years 2019 and 2020.

Broadly speaking, the labour codes, which aim to consolidate and consequently replace 29 Central labour laws, are yet to be brought into force, barring provisions relating to



Employees' pension fund



Central Advisory Board on minimum wages



Identification of workers and beneficiaries through Aadhaar number for social security benefits

Moreover, even if the codes are fully brought into effect, the same would require the issuance of rules, schemes, and notifications of the relevant governments so as to have a comprehensive revised compliance regime.

Under the labour codes, the 'appropriate government' for an establishment can be the Central Government or the state government, depending on the nature of its operations or the existence of multi-state operations. Such appropriate government has the power to inter alia issue rules detailing some of the substantive aspects broadly set out under the codes and also prescribing procedural compliances such as filings, maintenance of registers, etc. In the past year, several key industrialised states such as Haryana, Delhi, Maharashtra, Gujarat, Andhra Pradesh, Telangana, Tamil Nadu, and Karnataka released draft rules under some or all of the labour codes for public consultation. As of now, 4 out of a total of 36 states and union territories are yet to publish draft rules on the code on wages, while 5 states have not released draft rules on code on industrial relations, social security and occupational safety, health and working conditions.



Separately, the Union Budget 2025 highlighted that gig workers associated with online platforms play a crucial role in driving dynamism within the modern services economy. Recognizing their contributions, the Central Government will facilitate issuance of their identity cards and registration on the e-Shram portal along with entitlement to healthcare benefits under the Pradhan Mantri Jan Arogya Yojana (health insurance scheme providing financial protection for secondary and tertiary healthcare).

In the case of Indian Federation of Application-Based Transport Workers (IFAT) v Union of India and Others Writ Petition (Civil) Number 1068 of 2021, the Supreme Court while addressing concerns regarding the delay in implementing the Code on Social Security, 2020, has directed the Central Government to file an affidavit specifying the timeline for the implementation of the Code on Social Security, 2020.

Regulatory Updates

In this section, we bring to your attention, important regulatory developments in the form of notifications, orders, bills, amendments, etc. witnessed in the past one month in the context of employment and labour laws.

Employees' State Insurance Corporation (ESIC) reintroduces SPREE Scheme

Through a notification dated 1 July 2025, the ESIC has reintroduced a Scheme to Promote Registration of Employers / Employees (SPREE Scheme) of factories / establishments that are covered under the Employees' State Insurance Act, 1948 (ESI Act). The intent of the SPREE Scheme is to encourage more employers to cover themselves under the ESI Act, without any botheration of retrospective coverage / punitive action. The SPREE Scheme will remain valid from 1 July 2025 to 31 December 2025. We have covered this update in detail in our ERGO dated 16 July 2025 which may be accessed [here](#).

Subsequently, on 14 July 2025, the ESIC issued another notification concerning the monitoring of registration initiated by employers / employees under the SPREE Scheme, by the field officers. The notification sets out certain directions that the field officers are required to adhere to, including not undertaking any inspection of the units covered during the operation period of the SPREE Scheme.

Union Cabinet approves the Employment Linked Incentive Scheme (ELI Scheme) introduced by the Employees' Provident Fund Organisation (EPFO)

The Union Cabinet chaired by the Hon'ble Prime Minister of India approved the ELI Scheme on 1 July 2025 with an intent to incentivise employers to engage a greater number of fresh employees to augment employment generation and employability in the country. As per the ELI Scheme, individuals who commence employment for the first time will get one month of their monthly wage (up to a maximum of INR 15,000), and employers will be given incentives for a period of 2 years for generating additional employment. Employers in the manufacturing sector will be entitled to additional 2 years of benefits for such employment generation. The ELI Scheme is bifurcated in two parts wherein, part A concerns the

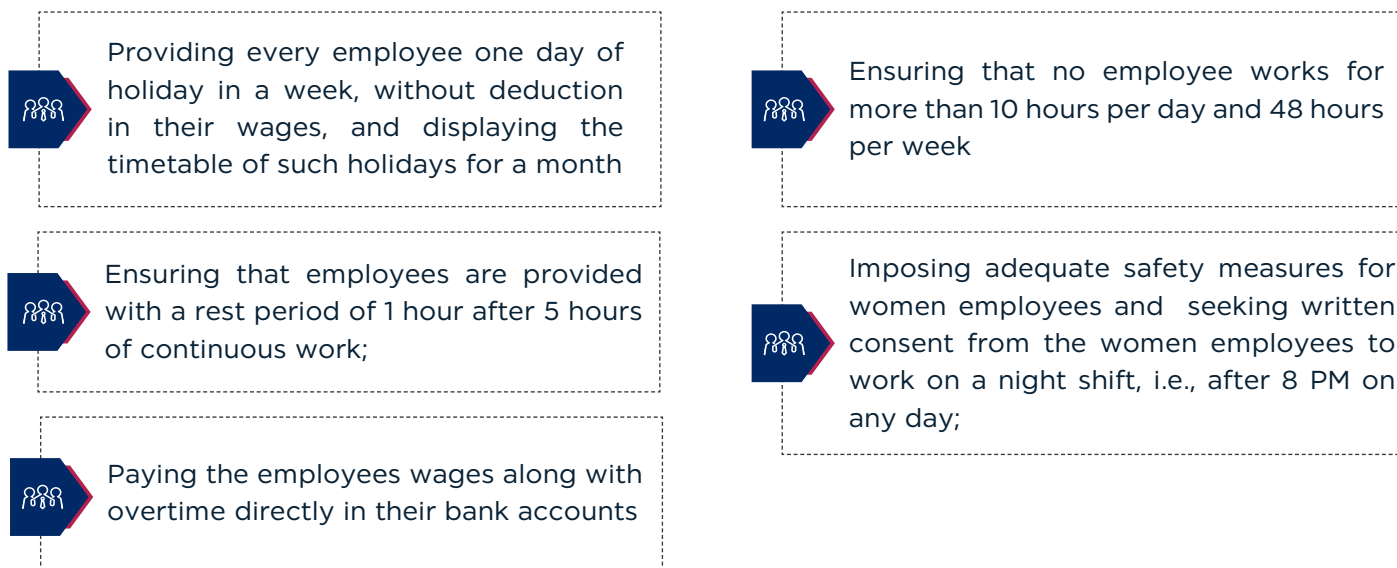


obligations under the ELI Scheme for providing benefits and entitlements to the employees, while part B sets out the eligibility criteria for an employer to be entitled to the incentives set out therein, including in the form of a monthly payment per employee as an incentive to promote employment.

Punjab allows establishments to operate 24*7

As per a notification dated 17 June 2025, the Government of Punjab has permitted all establishments to be open 24*7 on all days of the year for a period of 1 year from the date of the publication of the said notification in the Official Gazette.

Such establishments operating 24*7 are subject to certain conditions such as



EPFO increases auto-settlement limit for advance claims up to INR 5,00,000


On 24 June 2025, the EPFO announced a major enhancement in the limit for auto-settlement of advance claims from INR 1,00,000 to INR 5,00,000. This move has been introduced to ensure that eligible members receive funds faster, specially in case of any exigencies. Additional advance claims will now be processed automatically within 3 days of submission.


Telangana increases the daily working hours limit for commercial establishments


The Government of Telangana through a notification dated 5 July 2025 has exempted the commercial establishments from the applicability of Sections 16 (daily and weekly working hours) and 17 (rest intervals) of the Telangana Shops and Establishments Act, 1988 (Telangana S&E Act). The notification increases the daily working hour limit only for commercial establishments from 8 hours to 10 hours. However, such increase continues to remain subject to the weekly hour limit of 48 hours. In case the employee works beyond 48 hours in a week, the employer will be required to pay overtime wages to the employee in



accordance with the Telangana S&E Act. Further, the employers are required to ensure that

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No employee will be required to work for more than 6 hours in any day unless they have had a rest interval for not less than 30 minutes
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The employee's hours are spread over for not more than 12 hours in any day
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The employee do not work beyond 144 hours in any quarter of year

Certain states introduce guidelines concerning employment of female workers during night shifts

In the past one month, the governments of Goa, Haryana, Himachal Pradesh, Madhya Pradesh and Rajasthan have issued notifications concerning the guidelines to be adhered to as regards employment of women workers during night shifts. Set out below is a short summary of these updates:

- **Goa:** The Government of Goa through a notification dated 23 June 2025 under the Goa, Daman and Diu Shops and Establishments Act, 1973 has permitted shops and establishments to employ women workers during night shift, i.e., from 7 PM to 6 AM, provided the requisite conditions are adhered to.
- **Haryana:** The Government of Haryana through a notification dated 4 July 2025 published in the Official Gazette has set out certain guidelines to be adhered by factories located in Haryana to apply for an exemption under Section 66 of the Factories Act, 1948 (restrictions on employment of woman workers) and thereby employ women workers for night shifts, i.e., from 7 PM to 6 AM.
- **Himachal Pradesh:** The Government of Himachal Pradesh through a notification dated 5 July 2025 has exempted shops and commercial establishments from the applicability of Sections 9 (opening and closing hours) and 10 (close day) of the Himachal Pradesh Shops and Commercial Establishments Act, 1969. Through this notification, employers are now permitted to employ women workers during night shift for a period of 1 year from the date of publication of the notification in the Official Gazette.
- **Madhya Pradesh:** The Government of Madhya Pradesh through a notification dated 27 June 2025 has exempted shops and commercial establishments from the applicability of Section 25 of the Madhya Pradesh Shops and Establishments Act 1958 (prohibition on employment of women workers and young persons from 9 PM to 7 AM).
- **Rajasthan:** The Government of Rajasthan through a notification dated 4 July 2025 published in the Official Gazette on 8 July 2025 has exempted shops and commercial establishments from the applicability of Section 22 of the Rajasthan Shops and Commercial Establishments Act, 1958 (prohibition on employment of women during night shifts).




These conditions, among others, include the employer to


- Obtain consent of the women worker in writing to work during night shift (except in Himachal Pradesh)
- Ensure adequate security and safe transportation facilities are provided to the women workers to pick and drop them at their residence
- Ensure that CCTV cameras are maintained in the work areas where women workers are employed
- Provide safe, secure working condition to ensure no woman worker is disadvantaged.

Gujarat promulgated the Factories (Gujarat Amendment) Ordinance, 2025 (Gujarat Ordinance)


The Government of Gujarat through an ordinance dated 1 July 2025 has introduced certain amendments to the Factories Act, 1948, applicable to factories in Gujarat. These include



Permission for women employees to work during night shifts



Revision and amendment to the provisions concerning overtime hours



Vesting the authority with the state government to increase the working hours limit

We have assessed the Gujarat Ordinance in detail in our ERGO dated 7 July 2025 which may be accessed [here](#).

Karnataka publishes rules for welfare of gig workers

The Government of Karnataka has published draft Karnataka Platform-based Gig Workers (Social Security and Welfare) Rules, 2025 (Rules) in furtherance of the Karnataka Platform-based Gig Workers (Social Security and Welfare) Ordinance, 2025 (Ordinance). We have assessed the Ordinance in detail in our ERGO dated **4 July 2025**. The Rules prescribe various responsibilities for the aggregator and platforms which include, (a) electronically submitting the database of all gig workers who have been engaged with the aggregator for not less than ninety days, wherein any update should be done on a quarterly basis, (b) registration on the web portal with the required information, (c) publishing a designated mechanism on its platform to enable platform-based gig workers to reach out for seeking information regarding fares, earnings and customer feedback, (d) calculating and declaring welfare fees on a quarterly basis, (e) recording specific details of payments to gig workers and deductions for welfare fee, and (f) formulation of internal dispute resolution committee for grievance redressal of gig workers' grievances.

The aggregator will also be liable for interest for delayed payment of the welfare fee (if there is failure to make payment within thirty working days from the end of each quarter).



Case Updates

In this section, we share important judicial decisions rendered in the past one month from an employment and labour law standpoint.

No adjudication is required to raise a claim under Section 33(c)(2) of the ID Act: Bombay High Court (Aurangabad Bench)

In the case of the Superintending Engineer, the Maharashtra Electricity Distribution Company Limited and Others v Pundlik Kondiba Pachpinde and Others Writ Petition Number 4812 of 2018, the respondent challenged the award of overtime wages to retired employees with interest. The respondent contended that the application was not maintainable under Section 33(c)(2) of the Industrial Disputes Act, 1947 (ID Act), as there was no pre-existing right of overtime to the petitioners, especially when the overtime wages were sanctioned and paid in the past. Section 33(c)(2) of the ID Act provides that a question concerning the amount of money or the computation methodology of such money, when a worker is entitled to the money/benefit, can be decided by the labour court.

The respondent claimed that a circular concerning corporate overtime wages policy was not applicable to the respondents and that the claims for overtime payments were not sanctioned/adjudicated. As there was a dispute about the existence of the entitlement of the respondent, Section 33(c)(2) of the ID Act was not applicable. The petitioner claimed that the right of the employees to claim overtime wages is statutorily recognised under Section 59 of the Factories Act, 1948.

The court noted that documents demonstrated that the respondents have performed overtime work, and the rates were also not in dispute. The court opined that a failure of approval by the superintendent engineer (who also never rejected them) does not nullify the claims, specifically when the claims were sanctioned by the executive engineer. The court held that employees had a pre-existing right and there was no justifiable reason to deny them of same.

Daily paid workers are entitled to gratuity payments: Calcutta High Court

In the case of Midnapur District Service cum Marketing and Industrial Cooperative Union Limited v the State of West Bengal and Others Writ Petition Application 2763 of 2025, the applicants were aggrieved that the Controlling Authority had ordered to pay gratuity to an ex-employee when the Payment of Gratuity Act, 1972 (Gratuity Act) was never applicable to them as they had never employed 10 or more persons in the preceding 12 months.

However, it was noted from an audit that the applicant, which was a cooperative society, had 6 employees, but the total sales reflected that other workers must have been there for production (especially when there were various centres such as boat making, carpentry, blacksmithing, etc.), whose information was not produced by the applicant. The applicant clarified that there were a few daily rate works engaged by them. The appellant also claimed that payment to a junior employee of the concerned ex-employee was made in ignorance, and they had tried to get the refund of such amount.



The court noted that, as per earlier precedents, daily-rated workmen were entitled to gratuity in the same way as monthly rated workmen and should be considered for the applicability threshold. The court accordingly held that the applicant was in the purview of the Gratuity Act.

Woman advocates are not entitled to redressal of sexual harassment complaints against other lawyers: Bombay High Court

In the case of *UNS Women Legal Association (Registered) v Bar Council of India and Others* Public Interest Litigation Number 16 of 2017, the petitioner was seeking formulation of a permanent grievance committee in all state bar council offices and bar associations in Maharashtra, for redressal of sexual harassment complaints in view of the guidelines issued by the Supreme Court and the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).

The court held that the POSH Act is applicable only when the relationship of employer and employee exists. Since the Bar Councils are not employers of advocates, the POSH Act will not apply in general to all female advocates of the Bar Council but would be limited to the employees of the Bar Councils. The court highlighted that women advocates have a forum under the Advocates Act, 1961, wherein the Bar Council has jurisdiction to take action against any advocate for misconduct.

Gratuity Act will be applicable even when state pension rules exist: Bombay High Court

In the case of *Chief Executive Officer v Ganesh Gulabrao Nawale* Writ Petition Number 2596 of 2024, the Bombay High Court adjudicated on the contention that Gratuity Act will not be applicable to employees of Amravati Zilla Parishad in view of services and retirement benefits such as pension, gratuity being governed by the provisions of the Maharashtra Civil Services (Pension) Rules, 1982 (Pension Rules) which restricted the maximum amount of gratuity payment to INR 14,00,000 instead of INR 20,00,000 as prescribed under the Gratuity Act. Further, the Zilla Parishad claimed that the ex-employee who retired was disentitled from gratuity payment due to pending judicial matters against him, as the Pension Rules provided for withholding of gratuity amount in case of any pending departmental enquiry or judicial proceedings.

The court reiterated that it is established that unless an establishment is exempted by the appropriate Government under the Gratuity Act, the provisions of the Gratuity Act would be applicable. Further, only if the payment of gratuity under the scheme formulated by the establishment is found to be more beneficial as compared to the amount of payment under the Gratuity Act, an establishment could claim non-applicability of the Gratuity Act. Therefore, the Zilla Parishad was governed by the Gratuity Act, for the extent of gratuity payment. Also, there were no conditions for withholding the gratuity of the ex-employee (such as termination on account of damage or destruction of property, offence involving moral turpitude etc.) as prescribed under the Gratuity Act.

Stigmatic language in termination letter by employer can be defamatory in nature: Delhi High Court

In the case of *Abhijit Mishra v Wipro Limited* Civil Suit (OS) Number 31 of 2021, which concerned a suit



for damages on account of defamation by the plaintiff's employer i.e., the defendant, the plaintiff alleged that imputations made in his termination letter were contrary to his employment contract and caused serious injury to his reputation and goodwill, and the defendant made unsubstantiated defamatory and derogatory statements, to malign his character.

The defendant, in response, argued that the statements were never broadcast or transmitted to members of the public, and hence there had been no defamation. While the court decided that (i) plaintiff's employment was terminated in accordance with the employment contract, and that (ii) consequently the plaintiff was not caused any damage on account of such termination, the court also held that the termination letter contained baseless stigmatic language, giving rise to actionable defamation.

In coming to the conclusion as regards defamation, the court analysed the documents on record to ascertain if the statements made in the termination letter were substantiated or not. The court ultimately found that they were not. Further, as regards the issue of publication, the court held that even though the defendant did not communicate the statements to a third party, it ought to have foreseen the possibility of disclosure of the communication to a third person or the self-compulsion of the employee to disclose it to a subsequent potential employer.

Hence, given that the plaintiff was identifiable by the termination letter, the court held that the defendant had defamed the plaintiff, awarded damages, and directed the defendant to expunge the defamatory statements.


Industry Insights

In this section, we delve into interesting human resources related practices and/or initiatives as well as industry trends across various sectors in the past one month.

India Inc adopts AI for corporate trainings

While the use of AI may provoke varying sentiments from different stakeholders, one thing that seems to be established is that AI is becoming a crucial aspect of global employment landscape. While many employers are wary of the unethical use of AI in their workplace, a different section of employers are trying to embrace AI in a manner which remains profitable for their organization.

Corporate AI trainers have emerged as a result of this demand who assist establishments who are looking to enhance skills of their employees specifically in sectors such as marketing and content creation. Employers also want to train employees about using AI in a proper manner, which increases efficiency while addressing confidentiality concerns. Such AI training courses often run for weeks and cover fundamental as well as guidelines for the usage of popular AI tools. Usage of AI by competent individuals can certainly enhance the productivity of an establishment. Hence, being collaborative with AI seems to be a better strategy than being cautious of AI. However, there are concerns about the actual effectiveness of these trainings as courses may be surface-level and may require upskilling at all levels.



We hope the e-Bulletin enables you to assess internal practices and procedures in view of recent legal developments and emerging industry trends in the employment and labour law and practice landscape.

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