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

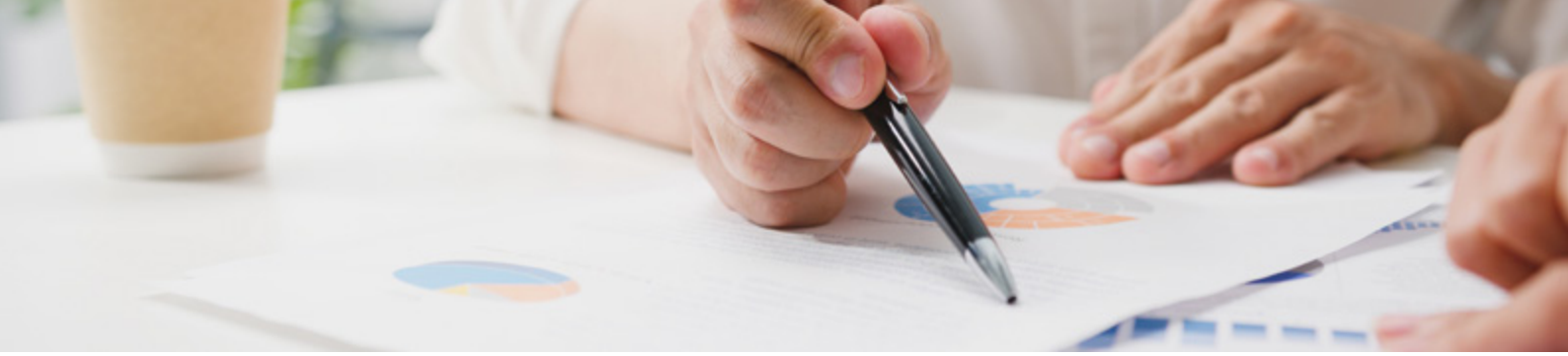
Labour Codes: Story So Far

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. The Government of India has, through a series of notifications dated 21 November 2025, brought into effect the 4 labour codes. We have covered this aspect in detail in our ERGO.

The codes consolidate and consequently replace 29 Central labour laws and bring about a more cohesive and modern framework for compliance. The consolidation exercise in the form of the labour codes does bring with it certain changes in the earlier labour law regime. The digitization of procedures (relating to registration and intimations) and the concept of deemed registration (in case authorities do not register the establishment within the specified timeline) are seen as a positive impact on the ease of commencing business as well as the ease of doing business. Similarly, the substitution of prosecution-oriented framework with facilitation process, whereby an employer would be given an opportunity to rectify any non-compliance, heralds an important change in the approach of the government.

While the Central Government has recently re-notified the draft Central rules under the 4 labour codes, in the absence of finalization and enforcement of Central / state rules, schemes, and notifications, the transition is still in the process of unfolding. Set out below are the updates that we have seen on the labour codes front, recently:

1. **Issuance of FAQs:** The Central Government has released the FAQs on labour codes, and we have covered this aspect in detail in our ERGO. Further, clarifications have been put forth by other authorities including the Employees' State Insurance Corporation (ESIC), through multiple circulars referring to the definition of 'wages' and emphasizing the requirement of the employers to register additional employees who may potentially be covered because of the revised definition of 'wages'. Recently, the Central Government specifically also released FAQs to the Code on Social Security, 2020 (SS Code).



2. **Clarification on gratuity:** The Institute of Chartered Accountants of India has released a set of FAQs addressing key accounting implications arising from the implementation of the new labour codes. These FAQs note that any increase in gratuity liability due to the new labour codes must be recognised as an expense in the profit and loss account for the interim financial statements/results for the period ending 31 December 2025, in line with the applicable accounting standards.

3. **Issuance of rules:** In the past year, several key industrialised states such as Haryana, Delhi, Maharashtra, Gujarat, Andhra Pradesh, Telangana, Tamil Nadu, Bihar, and Karnataka released draft rules under some or all of the labour codes for public consultation. As of now, 2 out of a total of 36 states and union territories are yet to publish draft rules on the Code on Wages, 2019 (Wages Code) and 1 state has not released draft rules on Occupational Safety, Health and Working Conditions, 2020 (OSH Code), Industrial Relations Code, 2020 (IR Code) and SS Code. Further, states such as Gujarat, Uttar Pradesh and Mizoram appear to have released final rules under some of the labour codes. In the month of January 2026, the governments of Punjab, Madhya Pradesh, Rajasthan and Karnataka have released the draft rules pursuant to the labour codes.

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.

Ministry of Labour and Employment (MoLE) increases the threshold for exclusion of supervisors under the Wages Code

On 30 January 2026, MoLE notified the wage ceiling for persons employed in a supervisory capacity for the purpose of coverage in the definition of 'worker' under Section 2(z)(d) of the Wages Code. As per Section 2(z)(d), 'worker' has been defined as a person employed to do manual, unskilled, skilled, technical, operational, clerical or a supervisory work. However, the definition empowers the Central Government to prescribe a wage ceiling limit for covering persons employed in a supervisory role. Accordingly, MoLE has notified the wage ceiling as INR 18,000 per month, i.e., persons employed in supervisory capacity drawing wages exceeding INR 18,000 per month will be excluded from the definition of 'worker' under the Wages Code. The notification is a streamlining step by MoLE to maintain parity with the definition of 'worker' under the other labour codes which already provide for such higher ceiling.

Himachal Pradesh notifies the Factories (Himachal Pradesh Amendment) Act, 2020

Notwithstanding the repeal of the Factories Act, 1948 (Factories Act) by the OSH Code, the government of Himachal Pradesh has notified the Factories (Himachal Pradesh Amendment) Act, 2020 (HP Act), which had received Presidential assent on 7 October 2025. The HP Act amends the Factories Act and specifies that it shall be deemed to have come into force on 9 July 2020. As per the HP Act, for applicability of the Factories Act, the threshold of workers has been increased from a) 10 to 20 in factories where manufacturing process is carried on with the aid of power; b) 20 to 40 in factories where manufacturing process is carried on without aid of power. The HP Act also amends Section 65 of the Factories Act (which concerns power of the state government to make exempting orders), by increasing the threshold for the maximum permissible overtime hours in a quarter from 75 to 115 hours.

Further, the HP Act has also inserted a clause permitting the compounding of first-time offences punishable with fine only by the chief inspector, either before or after prosecution. With the enactment of the HP Act, the Factories (Himachal Pradesh Amendment) Ordinance, 2020 has been repealed.

Delhi introduces the Delhi Shops and Establishments (Amendment) Bill, 2026

The government of the National Capital Territory of Delhi has passed the Delhi Shops and Establishments (Amendment) Bill, 2026 (Bill) to amend the Delhi Shops and Establishments Act, 1954 (Delhi S&E Act). The Bill introduces certain relaxations, including amendment of the applicability of the Delhi S&E Act only to shops and establishments employing 20 or more employees. The Bill further,

- Revises the definition of a child to increase the minimum age from 12 years to 14 years.
- Increases the daily working hour limit from 9 hours to 10 hours, inclusive of rest interval and lunch break.
- Increases the spread over of hours from 10.5 hours (for commercial establishments) to 12 hours in a day, including intervals of rest.
- Extends the continuous working period from 5 hours to 6 hours.
- Increases the weekly working limit from 54 hours in a week / 150 hours in a year to 60 hours in a week and introduces a quarterly overtime cap of 144 hours.

Further, the Bill also imposes adequate safety measures to be adhered by the employers for employment of women employees during night shift, i.e., from 9:00 PM to 7:00 AM during the summer season and from 8:00 PM to 8:00 AM during the winter season, and mandates procurement of written consent from the women employees, to work on a night shift, among other conditions.

Karnataka enacts the Karnataka Labour Welfare Fund (Amendment) Act, 2025

The government of Karnataka has enacted the Karnataka Labour Welfare Fund (Amendment) Act, 2025 (Karnataka LWF Amendment Act), which received the assent of the Governor on 6 January 2026 and was published in the Official Gazette on 7 January 2026. The Karnataka LWF Amendment Act amends the Karnataka Labour Welfare Fund Act, 1965 (Karnataka LWF Act) and has revised its applicability. As per the Karnataka LWF Amendment Act, a) the threshold for applicability of the Karnataka LWF Act has been reduced from 50 persons to 10 persons; and b) contributions can be made through online payment channels (i.e., RTGS / UPI / Demand Draft), replacing the earlier requirement of payment only by cheque or crossed demand draft.

Case Updates

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

Termination when POSH proceedings are pending, is unsustainable and amounts to retaliation: Delhi High Court

In the case of Sharanjeet Kaur v IDBI Bank Limited, Writ Petition (Civil) Number 17666 of 2024, the Delhi High Court held that termination of employment when proceedings under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) are pending, is retaliatory conduct and legally unsustainable. Accordingly, the court set aside the termination of petitioner's employment during the pendency of the proceedings conducted by the internal committee (IC).

The petitioner, an employee of the respondent, had made a complaint alleging sexual harassment against a senior officer of the respondent. The IC without holding a proper inquiry closed the complaint. The petitioner challenged the decision of the IC before the appellate authority which set aside the findings of the IC on the grounds that the procedure under the POSH Act had not been followed.

During the pendency of an appeal under Section 18 of the POSH Act, the respondent terminated the employment of the petitioner on the grounds that she had remained absent from employment for a long duration and should therefore be considered to have voluntarily vacated service. The petitioner challenged the employment termination before the Delhi High Court, claiming that the said action was in connection to her complaint filed under the POSH Act.

The Delhi High Court held that the termination of employment cannot be separated from the pending proceedings under the POSH Act. The court noted that such adverse actions against an employee while a sexual harassment complaint is still under consideration is against the purpose of the POSH Act which is a beneficial legislation. Any adverse action taken against a complainant before the conclusion of IC proceedings acts as retaliation. Accordingly, the court set aside the employment termination of the petitioner, ordered for her reinstatement with full back wages / benefits and awarded compensation.

Non-compete covenants cannot be enforced on speculation or against non-signatory employees: Bombay High Court

In Messe Frankfurt Trade Fairs India Private Limited v Netlink Solutions India Limited Commercial Arbitration Petition (L) Number 40115 of 2025, the Bombay High Court dismissed a petition under Section 9 (interim measures that can be granted by the court) of the Arbitration and Conciliation Act, 1996, where the petitioner sought interim injunctions against the respondents for organising exhibitions competing with the petitioner's business. This was because the first respondent was in breach of the non-compete and non-solicitation covenants of the asset purchase agreement (APA).

By way of background, the petitioner had earlier purchased certain exhibition-related assets and business from the first respondent under the APA, which included a non-compete and non-solicit clause for a period of five years after the closing of the transaction, and binding the seller, i.e., the first respondent. Petitioner argued that the respondents, including a former employee (second respondent) who was not a party to the agreement, were involved in organising similar exhibitions through third parties, and this was in violation of the non-compete and non-solicitation covenants of the APA.

The Bombay High Court held that the petitioner was unable to establish a prima facie case, of breach of the non-compete clause, as there was no direct material placed before the court to evidence the involvement of respondents in the alleged competing activities. The court also noted that the petitioner was aware of these exhibitions almost a year before approaching the court, and this delay weighed against the grant of any interim relief. The court did not place reliance on the report of a private investigator, as the report itself stated that the information was based on unnamed sources and could not be confirmed.

The court also noted that restrictions after the end of employment cannot be applied to ex-employees who have not signed the APA with such covenants. Referring to Section 27 of the Indian Contract Act, 1872, the court noted that post employment non compete restrictions are void. An employer cannot indirectly restrict the right to earn a livelihood of a former employee by extending a contractual covenant to non-signatories. Accordingly, the court dismissed the petition, holding that speculative allegations, delay, and attempts to indirectly restrain lawful competition or employment could not justify interim injunctive relief. However, the court noted that these observations were only for the purposes of determining the petitioner's entitlement to interim measures and should not influence the arbitrator's final adjudication.

POSH Committee cannot recommend disciplinary action if sexual harassment is not proved: Bombay High Court

In Dr Mohinder Kumar v the Chairman, National Bank for Agriculture and Rural Development and Others, Writ Petition Number 1635 of 2021, the Bombay High Court quashed the recommendation and penalty of 'reprimand' imposed on the petitioner by Central Complaints Committee (CCC) on the grounds that if the complaint of sexual harassment is not substantiated, CCC does not have the jurisdiction to recommend disciplinary action.

The petitioner, an employee of the respondent, was accused by a few female employees of recording their videos at the workplace without their consent, and such complaint was referred to CCC under the POSH Act. After the inquiry, CCC noted that the act of recording videos did not fall within the meaning of 'sexual harassment' under the POSH Act, since there was no request for sexual favours, or misuse of the recordings in that manner. However, CCC went on to note that the conduct of the petitioner was not acceptable, as the consent of women was not taken for recording, and created a hostile environment not suitable from a workplace discipline perspective. The CCC recommended that the respondent take action against the petitioner under the applicable service rules. Accordingly, the competent authority imposed a penalty of reprimand on the petitioner without conducting any independent disciplinary inquiry.

The Bombay High Court held that CCC had gone beyond the scope provided under the POSH Act, stating that the POSH Act evidently provides that where a complaint of sexual harassment is not proved, the relevant committee shall recommend that no action should be taken against the respondent. The court noted that the scope of CCC is limited to the complaints of sexual harassment. The Court also noted that the petitioner had conceded to the fact that while he did record these videos, it was only of the women chatting in group, and the petitioner was doing so to gather evidence, as these women caused disturbance through their gathering. Further, the videos could have come in the purview of 'sexual harassment' if the women were in a compromising position or if the videos were used to demand sexual favours.

Further, the court also noted that the employer cannot impose a penalty of reprimand solely on the recommendations of the CCC without application of mind or making an independent inquiry. Accordingly, the Bombay High Court set aside the recommendation made by CCC and the order imposing the penalty on the petitioner.

Allowances form part of 'ordinary rate of wages' for overtime under the Factories Act: Supreme Court

In Union of India v Heavy Vehicles Factory Employees' Union, Civil Appeal Numbers 5185 - 5192 of 2016, the Supreme Court of India dismissed the appeals filed by the petitioners and held that allowance payable to workers are part of the "ordinary rate of wages" considered for calculating overtime wages under Section 59(1) of Factories Act.

The issue before the court was whether the allowances such as house rent allowance, transport allowance, clothing and washing allowance, and small family allowances can be excluded for the purposes of computing overtime wages. To support this, reliance was placed by the appellants on various executive instructions and office memorandums issued by different central ministries, which noted that such allowances should not be included.

The court held that 'ordinary rate of wages' as per Section 59(2) of the Factories Act expressly includes basic wages and all the allowances that a worker is entitled to, except bonus and overtime wages. The court noted that office memorandums or instructions from the central ministries cannot override the statutory entitlements provided by the legislature through enactment of the Factories Act, especially with the central government not having any rule-making authority under the Factories Act in this regard. Such rule-making authority is with the state governments, and Central Government can only issue directions to the state governments.

Emphasising on the beneficial nature of the legislation, the court held that provisions relating to overtime wages must be interpreted in favour of the workers and any interpretation that restricts such entitlement is to be avoided. On the basis of these reasons, the court held that allowances payable to workers cannot be excluded for computing overtime wages under the Factories Act.

Notwithstanding our summary of this case, the Factories Act has been repealed and subsumed by the OSH Code which sets out the computation methodology for overtime payments basis the revised definition of 'wages'.

Contract workers engaged through contractors are not entitled to minimum time scale of regular posts: Supreme Court

The Supreme Court in the case of Municipal Council, Kurnool District, Andhra Pradesh v K Jayaram, Special Leave Petition (Civil) Numbers 17711 - 17713 of 2019 set aside the judgement of the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, and directed payment of annual increments along with minimum time scale to third-party contract workers engaged through contractors by municipal authorities. Minimum-time scale payment refers to the initial wages in a structured pay scale (typically given in government posts) where it is ensured that the employees' payments are in alignment with the time scale of their jobs.

In the present case, the respondents have been engaged by the petitioner through third-party contractors since the 1990s and worked for a prolonged duration despite the change in contractors from time to time. Respondents approached the Andhra Pradesh Administrative Tribunal (Tribunal) to seek parity in pay with the regular employees of the petitioner and regularisation, which was dismissed by the Tribunal. On appeal, the High Court reversed the order of the Tribunal and directed that the respondents be attached to the regular posts and paid a minimum of the time scale.

The Supreme Court, on appeal by the petitioner, held that the High Court failed to consider the fundamental difference between employment and engagement through third-party contractors and that there was no direct relationship between the respondents and the petitioner. The court noted the absence of employer-employee relationship between the petitioner and respondents as payments were being made to contractors who, in turn paid the respondents. Solely, because the respondents worked for prolonged durations or performed similar duties as regular employees, it was not sufficient to claim parity in pay with regular employees. Further, the principle of 'equal pay for equal work' only applied to cases where contractual employees are directly engaged by the state and not where the workers are employed through a contractor. That said, the Supreme Court also asked the appellant/petitioner to take a compassionate and sympathetic view and consider if the jobs of the respondents (who were not disengaged or returned to the contractor on ground of unsatisfactory performance), who were providing uninterrupted services and had posts which appear to be perpetual in nature, can be regularised. The court further clarified that this direction was specific to the present case and should not be taken as a precedent.

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 focuses on hiring of military veterans

India Inc is witnessing a rise in hiring of ex-military personnel across roles in corporate which are beyond traditional roles of security and administration. Such personnel are being hired in logistics, engineering, IT, as well as corporate management roles. This demand in hiring is due to the leadership, skills, discipline and ability to perform in pressure. Finance firms and aviation sector are also increasingly hiring veteran personnel which includes outreach to women veterans.

The veterans are being seen as already trained resources who can contribute to an organisation in an enhanced manner. To support such resources, organisations are providing onboarding and transition support along with role-specific upskilling programmes.

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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