

KHAITAN &CO ADVOCATES SINCE 1911

ELB E-BULLETIN

December 2025 | Volume VII | Issue XII

Welcome to the twelfth 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, 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 recently released the FAQs on labour codes, and we have covered this aspect in detail in our ERGO. Further, clarifications have been made 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'.

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, Occupational Safety, Health and Working Conditions, 2020 (OSH Code), 3 have not released draft rules on Industrial Relations Code, 2020 (IR Code), and 1 has not released draft rules on Code on Social Security, 2020. Further, states such as Gujarat, Karnataka, Uttar Pradesh and Mizoram appear to have released final rules under some of the labour codes. In the month of December 2025, the governments of Punjab and Bihar have released the draft rules pursuant to the 4 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.

Madhya Pradesh introduces the Madhya Pradesh Labour Laws (Amendment) and Miscellaneous Provisions Act, 2025

The government of Madhya Pradesh has introduced the Madhya Pradesh Labour Laws (Amendment) and Miscellaneous Provisions Act, 2025 (MP Act), which was published in the Official Gazette on 27 November 2025. As per the MP Act,



The threshold for applicability of the Contract Labour (Regulation and Abolition) Act, 1970 (now subsumed under the OSH Code) has been increased from 20 or more workers to 50 or more workers

The definition of factory has been revised to be applicable from 10 or more workers to now 20 or more workers where power is used, and from 20 or more workers to now 40 or more workers where power is not used

Inclusion of "or any industrial establishment" after "a public utility service" under Section 22 of the Industrial Disputes Act 1947 (ID Act) (now subsumed under the IR Code) which deals with the prohibition of strikes and lock-outs, among other aspects



Ministry of Labour and Employment introduces the Industrial Relations Code (Removal of Difficulties) Order, 2025

The Ministry of Labour and Employment has published the Industrial Relations Code (Removal of Difficulties) Order, 2025 (Order 2025) through a notification in the Official Gazette on 8 December 2025. As per the Order 2025, it was clarified that the existing Labour Courts, Industrial Tribunals and National Industrial Tribunals constituted under the ID Act, will continue to adjudicate the existing and new cases, to avoid any administrative and regulatory interruption and ensure continuity in legal proceedings. The Order 2025 has been published to resolve the ambiguity due to the enforcement of the labour codes, which enumerated that under the IR Code, the pending cases will be transferred to the tribunals having corresponding jurisdiction with the IR Code.

Gujarat introduces the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025

The government of Gujarat promulgated the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025 (Gujarat Ordinance) which was published in the Official Gazette on 16 December 2025. The Gujarat Ordinance amends the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2019. We have covered these aspects in detail in our ERGO dated 29 December 2025 which may be accessed here.

Lok Sabha introduces the Right to Disconnect Bill, 2025

The Lok Sabha introduced the Right to Disconnect Bill, 2025 (Bill), which was a private member bill proposed on 21 February 2025. The purpose of the Bill is to give the right to an employee to disconnect from work related telephone calls and emails beyond work hours and holidays and further have an option to refuse to answer work related communication outside work hours. The key features include

- Constitution of an Employees' Welfare Authority, that ensures the welfare of the employees
- Requirement to prepare an annual report to disclose the summary of its activities
- The power of the establishment with 10 or more employees to negotiate with its employees to prepare a charter delineating the terms and conditions in pursuant to this Bill
- The power of the appropriate government to set up digital detox centres and provide such counselling to spread awareness about personal use of digital and communication tools
- Penalty established at the rate of 1% of the total employee's remuneration for different offences, among other aspects



Ministry of Home Affairs extends the Punjab Shops and Commercial Establishments (Amendment) Act, 2025 to Chandigarh

The Ministry of Home Affairs through a notification dated 5 December 2025, has extended the earlier enforced Punjab Shops and Commercial Establishments (Amendment) Act, 2025 (Punjab S&E Act) to the union territory of Chandigarh, thereby extending the amended provisions to Chandigarh, as well. The Punjab S&E Act exempted small businesses, i.e., employing less than 20 employees, from the provisions of the Punjab S&E Act, which will be applicable to Chandigarh as well. We have covered these aspects in detail in our ERGO which may be accessed here.

Uttar Pradesh promulgates the Uttar Pradesh Dookan Aur Vanijya Adhishthan (Sanshodhan) Ordinance, 2025

The government of Uttar Pradesh promulgated the Uttar Pradesh Dookan Aur Vanijya Adhishthan (Sanshodhan) Ordinance, 2025 (UP Ordinance) which was published in the Official Gazette on 19 November 2025, thereby amending the Uttar Pradesh Dookan Aur Vanijya Adhishthan Adhiniyam, 1962 (UP S&E Act). The UP Ordinance

- Expands the definition of "commercial establishment" to include medical practitioners, architects, banking establishments, service platforms, etc
- Expands the definition of "employee" to include individuals engaged through an outsourcing agency
- Exempts establishments with 0-20 employees from the applicability of the UP S&E Act
- Mandates online registration for establishments engaging 20 or employees within 6 months of commencement of such business
- Stipulates that the total number of hours including overtime hours shall not exceed 11 hours in a day (except for stock- taking or making of accounts) and 144 hours in 3 months, among other aspects

Haryana Legislature passes the Haryana Shops and Commercial Establishments (Amendment) Act, 2025

The government of Haryana has introduced the Haryana Shops and Commercial Establishments (Amendment) Act, 2025 (Haryana S&E Amendment Act), which was published in the Official Gazette on 18 December 2025. The Haryana S&E Amendment Act amends the Haryana Shops and Commercial Establishments Act, 1958. The Haryana S&E Amendment Act was earlier published as an ordinance and has now been subsequently introduced as a bill, which has been passed by the Haryana Legislative Assembly. We have covered these aspects in detail in our ERGO dated 18 November 2025 which may be accessed here.



Puducherry notifies revised working hours, overtime limits and safety conditions for women employees

The government of Puducherry has issued few notifications concerning the working hours and overtime limits, guidelines to be adhered to as regards employment of women workers during night shifts, among other aspects, under the OSH Code. Set out below is a short summary of these updates:

i. **Workings hours, rest intervals, spread over:** The government of Puducherry through a notification dated 15 December 2025 has prescribed that a) no worker is permitted to work in an establishment for more than 48 hours in a week; b) the spread over of a work cannot be more than 12 hours in a day; and c) continuous period of work to not exceed 5 hours, among other aspects. Similarly, in another notification dated 15 December 2025, the government of Puducherry has prescribed that a) when a worker works for more than 8 hours in a day and 48 hours in a week, they are entitled to overtime wages; and b) for daily overtime calculations, 15 to 30 minutes are required to be counted as half an hour and time spent over 30 minutes are to be rounded up to 1 full hour, among other aspects.

ii. **Conditions for employment of women at night and in dangerous processes:** The government of Puducherry through a notification dated 15 December 2025 has notified the conditions for employing women employees in night, including the obligation on the employer to ensure safety and security of the women workers, specifically as regards the employees reaching home after their shift. Additionally, in another notification dated 15 December 2025, the government of Puducherry has notified conditions for adequate safety of employment of women in dangerous process in an establishment. These conditions, among others, include the employer to provide suitable respirator, nose mask, adequate safety apparel to the employees.

Rajasthan promulgates the Rajasthan Shops and Commercial Establishments (Amendment) Ordinance, 2025

The government of Rajasthan promulgated the Rajasthan Shops and Commercial Establishments (Amendment) Ordinance, 2025 (Rajasthan Ordinance) in the Official Gazette on 17 December 2025, amending the Rajasthan Shops and Commercial Establishments Act, 1958.

The Rajasthan Ordinance

- Increases the minimum age of an apprentice from 12 to 14 years
- Increases the daily working hour limit for establishment from 9 hours to 10 hours
- Limits the number of overtime hours in a quarter from 50 hours to 144 hours
- Increases the minimum age of children permitted to work for more than 3 hours in any employment from 12-15 to 14-18
- Increases the number of continuous hours of work from 5 hours to 6 hours
- Increases the minimum age of children allowed to work in any employment from 12 years to 14 years, among other aspects



Karnataka introduces the Platform Based Gig Workers (Social Security and Welfare) Rules, 2025

The government of Karnataka has introduced the Karnataka Platform Based Gig Workers (Social Security and Welfare) Rules, 2025, which was published in the Official Gazette on 19 November 2025. The key features include

- Allowances for nominated members of the Gig Workers Welfare Board (Board)
- Time, place and procedure for meetings of the Board
- Procedure for the registration of aggregators or platform by the Board with the relevant details on the designated web portal
- Redressal of grievances by the gig workers with the internal dispute resolution committee of the aggregator or platform
- Sector specific occupational safety and health standards
- Power of the Board to formulate and notify benefits for registered workers, relating mainly to life insurance, disablement benefit, accident benefit, others benefits, among other aspects

Case Updates

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

IC constituted at the aggrieved woman's workplace has the authority to address complaint against a respondent who is an employee of a different department under the POSH Act: Supreme Court

In the case of Dr Sohail Malik v Union of India and Another, Civil Appeal Number 404 of 2024, the Supreme Court of India, examined several procedural requirements under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).

In the present case, the appellant was accused of sexual harassment by the aggrieved woman and a complaint under the POSH Act was filed before the internal committee (IC) at the aggrieved woman's department. Pursuant to this, the appellant filed an application before the Central Administrative Tribunal (CAT) to set aside the proceedings in entirety. The CAT dismissed the application, which was later upheld by the respective High Court leading to the present appeal.

The court noted that there is no bar on the jurisdiction of IC constituted at the workplace of the aggrieved women to inquire into a complaint against a respondent who is an employee of a different workplace. Additionally, the court noted that while the IC at the aggrieved women's workplace may not have the



authority to impose punishment on the respondent, its findings can be implemented by the employer of the respondent.

The court observed that, in a situation wherein the IC constituted at the aggrieved woman's workplace is conducting a preliminary inquiry under the POSH Act, the IC constituted at the workplace of the respondent will be the inquiring authority and may take a decision to initiate disciplinary proceedings.

Deposit of gratuity as a pre-condition to admit appeal under Section 7(7) of the Gratuity Act includes interest on gratuity as well: Kerala High Court

In the case of Managing Director, Kerala State Financial Enterprises Limited v Sri Mathew and Others, Writ Petition Number 11384 of 2025, the Kerala High Court assessed whether under Section 7(7) of the erstwhile Payment of Gratuity Act, 1972 (Gratuity Act), the deposit of gratuity amount as a pre-condition to admitting appeal includes deposit of gratuity amount alone or the gratuity amount along with the interest accrued.

The petitioner argued that the Gratuity Act does not mandate that the interest accrued on the amount due to the employee as gratuity is required to be paid as pre-deposit under Section 7(7) of the Gratuity Act. Further, for raising an appeal, the Gratuity Act mandates the appellant to either produce a certificate of the controlling authority confirming the deposit of amount of gratuity as required under Section 7(4) of the Gratuity Act or deposit such amount with the appellate authority.

The court noted that the amount determined under Section 7(4)(c) of the Gratuity Act includes the amount of gratuity along with the interest accrued. The Court further observed that the purpose of the pre-deposit under Section 7(7) of the Gratuity Act is to ensure that, once the appeal is decided, the amount payable to the employee can be paid without any delay and this amount takes in interest also.

Section 45A of the ESI Act can only be invoked, if either conditions of non-submission or maintenance of any records or the obstruction by the employer during the inspection are satisfied: Supreme Court

In the case of M/S Carborandum Universal Limited v Employees' State Insurance Corporation (ESIC), Civil Appeal Number 14858 of 2025, the Supreme Court observed that the power of the ESIC to determine the contributions payable by the employer as per Section 45A of the erstwhile Employees' State Insurance Act, 1948 (ESI Act) is not an alternative procedure, merely because the records are perceived to be inadequate; rather the requirements under the same must be fulfilled before it can be invoked.

In this case, the respondent had issued a show cause notice alleging that the appellant had neither paid contributions nor submitted returns for the period from August 1988 to March 1992, as per the provisions of the ESI Act. Consequently, the respondent passed an order under Section 45A of the ESI Act, determining the contributions payable with the applicable interest. Aggrieved by this decision, the appellant challenged it before the Employee Insurance Court and later before the Madras High Court, however, both courts dismissed the appellant's petitions.

The court, in this matter, observed that Section 45A of the ESI Act can be invoked, if either conditions of non-submission or maintenance of any records or the obstruction by the employer during the inspection



are satisfied. However, in this case, these conditions were not met. Thus, the correct statutory procedure would be to examine the correctness of the records under Section 75 of the ESI Act, to initiate proceedings under the provision of Section 77 of ESI Act, subject to the stipulated limitation period.

Employment cases cannot be categorised as commercial disputes under the CC Act: Delhi High Court

In the case of ARM Digital Media Private Limited and Others v Ritesh Singh, Civil Suit Number 896 of 2024, the Delhi High Court, observed that employment cases are not commercial disputes under the Commercial Courts Act, 2015 (CC Act).

The plaintiff alleged that the defendant had breached various contractual and fiduciary obligations, arising out of the employment agreement (Agreement) executed between the plaintiff and the defendant. Subsequently, the defendant joined a competing entity, which the plaintiff argued, violated various significant obligations under the Agreement. Thereby, the plaintiff initiated the suit, and subsequently the defendant challenged the same, through this application.

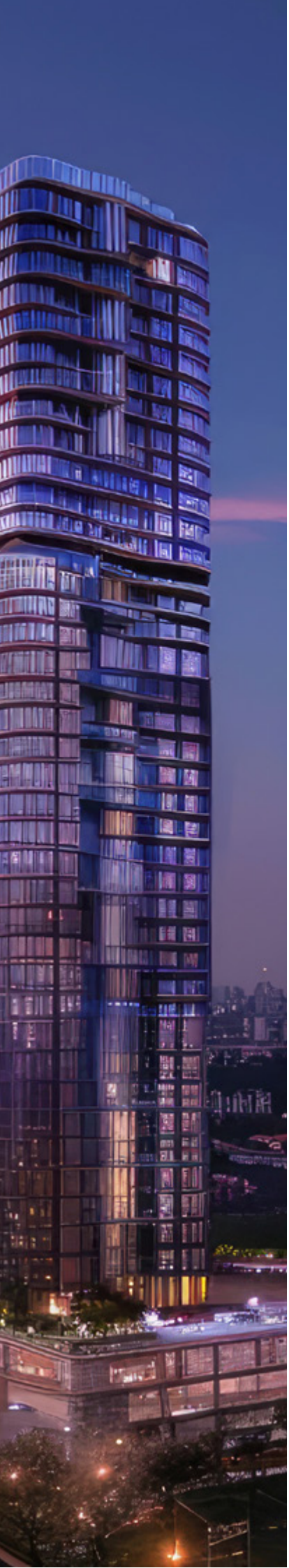
In the present case, the plaintiff argued that the employment disputes are not commercial disputes, however, the defendant on the other hand argued that due to employment agreement being inseparable from the share subscription-cum-shareholder's agreement, the dispute is commercial in nature and can be filed before the commercial court. The court concluded that employment arrangements are personal service obligations and cannot be characterised as commercial in nature. Additionally, the employment arrangements do not come within the purview of Section 2 (1)(c) of the CC Act which expounds on the definition of a commercial dispute. Thus, this application was dismissed.

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.

AI - driven productivity brings in growing attrition rate

With the advent of artificial intelligence (AI) in the past few years within India Inc, it is noted that even though a growing number of employees are using AI tools, only limited employees are spending time, investing in such AI skills. Consequently, employees who actively build their AI skills achieve greater efficiency, making them more employable. However, this leads to higher attrition rate as the employees who are advanced AI learners seek employment with better technology, flexibility and career progression. Additionally, most of the employees at a global level largely use AI at work, for basic functions such as drafting emails or summarising documents. Only a limited number of employees qualify as advanced users, using different AI tools to perform complex tasks. Thus, there is a dual challenge due to the adoption of AI, wherein employers are concerned about jobs disappearing due to AI, and are worried about the reduced collaborative practices and the increased reliance on automated systems.



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.

The contributors to this edition of the e-Bulletin are Anshul Prakash (Partner), Deeksha Malik (Principal Associate), Ajeta Anand (Senior Associate), Varsha Sankara Raman (Associate) and Akshita Sharma (Associate).

For any queries in relation to the e-Bulletin, please email to us at **elbebulletin@khaitanco.com**

ABOUT KHAITAN & CO

Khaitan & Co is a top tier and full-service law firm with 1300+ legal professionals, including 300+ leaders and presence in India and Singapore. With more than a century of experience in practicing law, we offer end-to-end legal solutions in diverse practice areas to our clients across the world. We have a team of highly motivated and dynamic professionals delivering outstanding client service and expert legal advice across a wide gamut of sectors and industries.

To know more, visit www.khaitanco.com

Disclaimer

This document has been created for informational purposes only. Neither Khaitan & Co nor any of its partners, associates or allied professionals shall be liable for any interpretation or accuracy of the information contained herein, including any errors or incompleteness. This document is intended for non-commercial use and for the general consumption of the reader, and should not be considered as legal advice or legal opinion of any form and may not be relied upon by any person for such purpose. It may not be quoted or referred to in any public document, or shown to, or filed with any government authority, agency or other official body.

www.khaitanco.com | © Khaitan & Co 2026 | All Rights Reserved.