

Gratuity under new labour codes: Govt clears confusion, says rule applies from THIS date - Money News | The Financial Express

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Government clarifies that gratuity under new labour codes will apply prospectively from November 21, 2025, ending confusion over retrospective impact. FAQs also explain wage rules, PF, overtime and fixed-term employee benefits.

[New Labour Codes 2025](#): Confusion over how gratuity will be calculated under the new labour codes has finally been addressed, with the government making it clear that the revised rules will apply from November 21, 2025.

The clarification comes as part of a **fresh set of FAQs released** by the Labour Ministry, aimed at resolving lingering doubts around implementation timelines, wage definition, and social security provisions.

### Gratuity calculation from April 1

One of the biggest concerns among employees and employers was whether gratuity calculations would be revised for past service periods. The answer is no. A section of employees was also confused about whether the revised gratuity calculation would be implemented from April 1 — here too, the answer is no.

The government has now clarified that gratuity under the new labour codes will apply from November 21, 2025, the date of implementation.

“Gratuity will be applicable w.e.f. 21st Nov, 2025 i.e. date of enforcement of the Code. Establishments may make provision as per accounting norms,” the labour ministry said in one of the FAQs.

**This means, no retrospective recalculation of gratuity for past years and new wage definition will apply only going forward.**

Additionally, the FAQs also state that gratuity will be calculated based on last drawn wages at the time of exit (retirement/resignation/death) under the new rules.

### Why there was confusion in the first place

The confusion largely stemmed from multiple timelines:

- Labour codes were implemented from November 21, 2025
- Draft rules were released later on December 30, 2025 for public consultation
- Government aimed for full operational rollout by April 1, 2026

This led many to assume that key provisions like gratuity calculation might apply from April 2026.

However, the government has now reiterated that November 21, 2025 remains the effective date, even as consultation on rules continued.

### What changes in gratuity calculation under new rules

The FAQs make it clear that gratuity will now be linked to the revised definition of wages, which has a direct impact on payouts.

#### **Key points:**

Only specified wage components under the Code on Social Security will be considered

Any payments outside defined components will not be included in gratuity calculation

For contract workers, contractors will bear gratuity liability after 5 years of service

#### Big relief for fixed-term employees

In a significant clarification, the government has said that fixed-term employees will be eligible for gratuity after just one year of service, provided the contract runs for that duration.

This is a major shift from earlier norms where a minimum of five years was typically required.

50% wage rule: What counts and what doesn't

The FAQs also shed light on the widely discussed 50% wage rule, which affects salary structuring and ultimately gratuity and PF.

#### Key clarifications include:

Overtime is included in wage calculation

Gratuity, ESI, and retirement benefits are excluded from wage definition

Employer PF contributions and statutory bonus are included only for specific calculations

Also, if allowances exceed 50% of total remuneration, the excess will be added back to wages, increasing the base for social security benefits.

### Other key takeaways from the FAQs

#### **Minimum wages vs wages**

Minimum wages are statutory and fixed by the government, while wages depend on employment terms — but cannot fall below the minimum threshold.

#### **Performance incentives excluded**

Annual performance bonuses will not be treated as wages for calculations under the labour codes.

#### **Overtime eligibility expanded**

**Overtime provisions apply to employees (not just workers)** whose wages are covered under the Code on Wages.

#### **ESI threshold unchanged (for now)**

The ₹21,000 monthly wage limit for ESI coverage continues to apply even after the codes came into force.

#### **Leave, working hours and other provisions**

- Standard working hours remain 8 hours per day / 48 hours per week
- Overtime will be paid at twice the normal wage rate
- Workers can carry forward up to 30 days of leave, with no limit if leave is denied by employer
- Creche facilities will be available irrespective of gender composition

#### **Summing up...**

The latest FAQs attempt to remove ambiguity around the labour codes, especially on gratuity — one of the most sensitive components of employee benefits.

No retrospective impact — gratuity changes apply only from November 21, 2025

For employees, this brings clarity on payouts, while for employers, it helps in restructuring salary components and compliance ahead of full implementation.

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