New Labour Codes: What changes for Employee Benefit Liabilities?

Disclaimer

The views presented here are based on the information available until *November 21, 2025*. Responses would change as further information and interpretation emerges.

Major Changes

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Impact on all companies

- Revision of the definition of "wages"
- Impact on gratuity liability and PF contributions
- Effects on non-statutory benefits.

Impact on companies with contractual employees

- Vesting for FTEs reduced from 5 years to expiry of contract term.

SSC 2020 Definition of "Wages"

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Basic Pay + Dearness allowance + Retaining allowance + Excess of exclusions over 50% (see table below) = Wages

Exclusions

- (a) Any bonus payable under any law which doesn't form part of the remuneration payable under the terms of employment
- (b) Value of any house-accommodation, supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by any Government order
- (c) Any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon
- (d) Any conveyance allowance or the value of any travelling concession
- (e) Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment
- (f) House rent allowance
- (g) Remuneration payable under any award or settlement between the parties or order of a court or Tribunal
- (h) Any overtime allowance
- (i) Any commission payable to the employee
- (j) Any gratuity payable on the termination of employment
- (k) Any retrenchment compensation or other retirement benefit payable to the employee or any ex-gratia payment made to him on the termination of employment

Total remuneration includes wages as above + other allowances + exclusions from adjacent table except items (j) and (k).

Items (a) to (i) in the adjacent 'exclusions' list must not exceed 50% (or the % notified by the Government) of total remuneration. Excess over the 50% threshold will be deemed as wages.

Change in definition of "Wages"

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Step 1 — **Determine "Total Remuneration"**

- This should exclude all the items in the exclusion list (j) to (k) like gratuity payable, ex-gratia/ retrenchment benefit, etc.

Step 2 — **Include only the following as part as "Wages"**

- Basic pay + Dearness allowance + Retaining allowance.

Step 3 — **Apply the 50% test**

- If the excluded items [i.e., from (a) to (i) in the "wages" definition] exceeds 50% of total remuneration, the value in excess of 50% will be added to the wages.

Step 4 — **"Wages" for the purpose of PF and gratuity benefits should be the higher of**

- Basic pay + Dearness allowance + Retaining allowance, and.
- 50% of total remuneration.

Example I

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The company’s salary structure has basic salary and some items of the exclusion list (a) to (i) like HRA, LTA, Conveyance allowance, PF contribution and (j) to (k) like gratuity payable and other retirement benefits.

	Basic Salary	Exclusions from (a) to (i)	Exclusions from (j) to (k)	CTC
Example I	40	55	5	100

Step 1

- **Determine “Total Remuneration”**
- **95**
- **(exclude gratuity payable and other retirement benefits from CTC)**

Step 2

- **Include only the following as part of “Wages”**
- **40**
- **(only basic salary is applicable in this example)**

Step 3

- **Apply the 50% test**
- **55 vs 50% of 95**
- **(exclusions are more than 50% of total remuneration)**

Step 4

- **“Wages” should be the higher of**
- **40**
- **47.5 (50% of total remuneration)**
- **47.5**

Example 2

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The company's salary structure has basic salary and some items of the exclusion list (a) to (i) like HRA, LTA, Conveyance allowance, PF contribution and (j) to (k) like gratuity payable.

	Basic Salary	Exclusions from (a) to (i)	Exclusions from (j) to (k)	CTC
Example 1	45	45	10	100

Step 1

- **Determine "Total Remuneration"**
- **90**
- **(exclude gratuity payable and other retirement benefits from CTC)**

Step 2

- **Include only the following as part of "Wages"**
- **45**
- **(only basic salary is applicable in this example)**

Step 3

- **Apply the 50% test**
- **45 vs 50% of 90**
- **(exclusions are equal to 50% of total remuneration)**

Step 4

- **"Wages" should be the higher of**
- **45**
- **45 (50% of total remuneration)**
- **<u>45</u>**

Example 3

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The company's salary structure has basic salary and some items of the exclusion list (a) to (i) like HRA, LTA, Conveyance allowance, PF contribution and (j) to (k) like gratuity payable.

	Basic Salary	Exclusions from (a) to (i)	Exclusions from (j) to (k)	CTC
Example 1	60	35	5	100

Step 1

- **Determine "Total Remuneration"**
  - **95**
  - **(exclude gratuity payable and other retirement benefits from CTC)**

Step 2

- **Include only the following as part of "Wages"**
  - **60**
  - **(only basic salary is applicable in this example)**

Step 3

- **Apply the 50% test**
  - **60 vs 50% of 95**
  - **(exclusions are less than 50% of total remuneration)**

Step 4

- **"Wages" should be the higher of**
  - **60**
  - **47.5 (50% of total remuneration)**
  - **60**

Actions points for employers

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How can the employers comply with SSC 2020?

- Companies need to test the salary structure and determine the "wages" applicable.
- If the revised "wages" exceed the current Basic + DA, companies should assess the resulting impact on its liabilities.
- Later, align the salary structure to dispense with the "testing" at each valuation date.
- In-hand salary could be lower as PF, NPS contributions (if opted for) would increase and CTC is unchanged, leading to more employee queries.
- Check whether all salary components other than basic, DA and RA fall within the "exclusions" list (a) to (i) (slide 4) when defining total remuneration.
- Uncertainty persists on how CTC elements outside the "exclusions" list (a) to (i) should be treated – whether they default to "wages" or only count toward total remuneration.

Financial impact

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Quantitative impact on gratuity liability

- If the "wages" increase from 40 to 50, (i.e., 25%), the gratuity liability will also rise by 25%.

How should the additional liability be accounted for?

- This is a one-time change that is likely to increase the salary used to calculate the retirement benefits viz. gratuity, PF.

- The increase in gratuity liabilities caused by the change in salary definition will be recognised immediately in the P&L account under the heading 'Past Service Cost/ (Credit)' [PSC] under Ind AS 19 and IAS 19 (revised 2011).

- The PSC relating to employees who have vested benefits will be recognised immediately in the P&L account under AS 15 (revised). For employees yet to vest benefits, the PSC will be recognised on a straight-line basis over the remaining vesting period.

- Under US GAAP ASC 715, the PSC is first recognised in full in the accumulated other comprehensive income. In the future years, the amount to be recognised in the net periodic benefit cost must, at a minimum, be the total PSC divided by the expected future service of employees.

Impact on PF contribution and other benefits

What other consequences may follow?

- PF contributions would increase in line with “wages” definition leading to higher future periodic costs.
- Other non-statutory benefits could change if salary structure is revised in the future.
- Example, if privilege leave encashment is linked to basic salary, revisions in salary structure will directly increase the privilege leave liabilities.

Companies with FTEs

Change in the vesting condition

- Gratuity would now be payable to fixed term/ contractual employees on a pro-rata basis based on actual service rendered without any vesting condition.
- The existing vesting condition of 5 years for other permanent employees remain unchanged.

How will this change in vesting condition affect the company's financial statements?

- Companies that did not provide for the fixed term employees' gratuity would now need to keep a provision with a corresponding P&L charge.

For further queries

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