Code on Wages, 2019: Decoding the 50% Rule from Salary Structure to Statutory Compliance

Introduction

The enactment of the four Labour Codes marks one of the most significant consolidations of employment legislation in India. Brought into force with effect from 21 November 2025, the Codes bring together 29 central labour enactments into four subject-wise codes governing wages, industrial relations, social security, and occupational safety, health and working conditions. Among them, the Code on Wages, 2019 (the "Code") has the most immediate bearing on day-to-day payroll, since it changes the manner in which wages are defined and, consequently, how salary structures, statutory contributions and employment costs are computed.

During a recent webinar organised by Mehta & Mehta, industry experts from the fields of human resources, labour relations and company secretarial practice deliberated on the practical aspects of the Code, with particular focus on the much-discussed "50% rule". The discussion highlighted both the opportunities that a uniform wage framework offers and the areas of uncertainty that employers must navigate carefully while the framework is being operationalised.

Status of Implementation

The Code is in force, but its practical operation depends substantially on the rules framed under it. The Central Rules were notified in May 2026, and the Ministry of Labour has issued FAQs addressing wage calculations and other implementation issues. State-level implementation, however, continues to progress at differing speeds. Gujarat was reported to be the first state to notify final rules under all four codes, while in Maharashtra the rules under the Code on Wages and the Industrial Relations Code were published in the Gazette on 28 April 2026, with draft rules under the remaining codes still under consultation. Other states, including Delhi, were reported to be at the draft stage.

The experts emphasised that where a state has not yet notified its rules, the existing state rules continue to apply until new rules are notified. Employers operating across multiple locations should therefore monitor the position state by state rather than assume a uniform national timetable.

Regulatory Framework and Objective

The Code consolidates four enactments, namely the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976. Its central objective is to simplify wage-related laws through a uniform definition of "wages", replacing the differing definitions that earlier complicated computation and compliance. The Code also introduces the concept of a floor wage fixed by the Central Government, which the appropriate governments must respect while fixing minimum wages.

The speakers cautioned that consolidation does not mean a single figure can be used for every statutory purpose. Individual provisions continue to carry their own conditions of applicability and methods of calculation, and the Code is therefore best understood as a connected framework rather than four laws merged into one formula.

Understanding the Definition of Wages and the 50% Rule

Under the Code, wages begin with basic pay, dearness allowance and retaining allowance. The definition then specifies certain components that are excluded, including specified bonuses, employer contributions to provident fund or pension, conveyance allowance, house rent allowance, overtime allowance, commission, gratuity and retrenchment or termination payments. Where such specified exclusions exceed the prescribed proportion of total remuneration, being fifty per cent, the excess is added back for determining wages.

The presenter clarified that the popular statement that basic pay must now equal 50% of cost to company is an oversimplification. The Code does not prescribe such a universal rule; it operates through an add-back mechanism. By way of illustration, if an employee's total remuneration is ₹1,00,000, basic pay and dearness allowance together amount to ₹30,000 and the specified exclusions amount to ₹70,000, only ₹50,000 may be excluded. The excess of ₹20,000 is added back, and statutory wages therefore work out to ₹50,000. The experts stressed that this was an illustration only and should not be converted into a universal salary formula. The more useful question when confronted with a "50% basic" assertion is: fifty per cent of what, and under which statutory calculation.

Calculate First, Restructure Later

A common reaction among employers is to increase basic pay immediately so that it equals half of CTC. The panel advised against this approach. The recommended sequence is to map each salary component to its statutory treatment, test whether the add-back applies, quantify the cost and employee impact, and only then decide whether restructuring is warranted. The speakers also urged organisations to keep three concepts distinct, namely CTC as a business cost concept, the contractual salary structure, and the statutory wage base as a legal calculation.

From a governance perspective, the experts recommended maintaining a salary component dictionary recording the purpose, payroll code, statutory treatment and supporting rationale for every salary head, so that any exclusion can be defended before an auditor or inspector. Particular attention was drawn to allowances such as special allowance, which should be examined to determine whether they are genuinely identifiable allowances or merely the residual amount left after basic pay and house rent allowance. Employers were also advised to run a before-and-after simulation of gross pay, statutory wage base, deductions and take-home pay, and to test revised payroll logic in parallel before implementation. On the question of take-home pay, it was noted that a higher wage base may increase wage-linked employee contributions but may also increase employer-funded statutory benefits, and the outcome is therefore not automatic.

Overtime: An Area of Genuine Debate

Overtime generated the most extensive discussion. Actual overtime is payment for work beyond the normal working day at a rate not less than twice the normal rate of wages, whereas “overtime allowance” appears among the specified exclusions from wages. Several panellists were of the view that a separate fixed “overtime element” within a salary structure is a misnomer and should be avoided. The presenter referred to the Ministry’s FAQs as treating overtime payment as forming part of the 50% computation, but this point was not settled during the discussion, and employers should verify the position against the current text of the Code, the Central Rules and the FAQs before configuring payroll.

The experts also observed that overtime for a given month is attributable to that month even where it is paid in the following month. Establishments with shift operations commonly adopt a cut-off date for capturing overtime, verify the figures with workers before payment, and communicate the method clearly, which the panel regarded as the most important safeguard against disputes.

Coverage of Employees and Directors

The webinar exposed a genuine uncertainty regarding coverage. The panel’s view was that the core provisions of the Code apply across cadres and extend to executive directors and managing directors who are employees of the company, but not to independent or nominee directors. Entitlements, however, differ by category. Overtime applies only where an employee’s minimum rate of wages has been fixed by the hour, day or a longer wage period, and it was broadly agreed that managerial and administrative personnel, including a managing director, are not entitled to statutory overtime. The definition of “worker” and the salary threshold applicable to supervisory staff were also discussed, but the figures mentioned during the session were not reconciled. These should therefore be verified against the statute and the notifications currently in force.

Minimum Wages, Payment of Wages and Deductions

The speakers highlighted that there is no single national minimum wage. The applicable rate depends on the appropriate government, the category of employment, the skill classification, the geographical area and the notification in force, and multi-state employers were advised to maintain a location-wise and category-wise minimum wage matrix. The floor wage should be regarded as a baseline and not as a replacement for such detailed compliance.

Timely payment of wages was described as a statutory requirement and not merely good HR practice. Final settlement on separation is required within 48 hours. Where contract labour is engaged, the principal employer should satisfy itself that the contractor has the financial capacity to pay wages on time, as the principal employer’s exposure continues where a contractor defaults. Deductions from wages must have a lawful or authorised basis and are subject to an overall ceiling of 50% of wages, and a deduction matrix recording the legal basis, authorisation and maximum amount for each deduction was recommended.

Statutory Bonus and Equal Remuneration

The panel clarified that a performance bonus does not automatically discharge statutory bonus obligations. Eligibility and calculation must be separately assessed and documented, and outsourcing payroll processing does not outsource the employer’s compliance responsibility.

On equal remuneration, the experts observed that differences in pay for comparable work should be explainable by job-related factors such as role, skill, experience and documented performance, and recommended periodic pay-equity reviews, particularly following mergers or where multiple legacy salary structures exist.

Penalties and Liability of Officers

As presented at the webinar, underpayment of wages may attract a fine of up to ₹50,000, with repeat contraventions within five years attracting imprisonment of up to three months, a fine of up to ₹1,00,000, or both. Other contraventions may attract a fine of up to ₹20,000, and failure to maintain records a fine of up to ₹10,000. These figures should be confirmed against the penalty provisions of the Code before being relied upon.

Persons in charge of, and responsible for, the conduct of the business may be held liable alongside the company where consent or attributable neglect is established, though liability is not automatic for every HR or compliance officer. The speakers underscored the responsibility of the board and of Company Secretaries as compliance officers to ensure that adequate systems exist, that compliance dashboards are periodically reviewed, and that gaps are escalated and closed with documentary evidence. Training of the board, including independent directors, on the Labour Codes was also strongly recommended.

Practical Roadmap and Developments to Watch

The presenter proposed a phased approach of thirty, sixty and ninety days, beginning with a diagnosis of salary structures and minimum wage exposure, followed by design, simulation and cost assessment, and concluding with system configuration, parallel testing, employee communication and ongoing monitoring. For management reporting, a simple red, amber and green dashboard was considered more useful than a lengthy legal note.

Participants also raised the revision of the EPF wage ceiling. The Ministry of Labour and Employment has notified a ceiling of ₹25,000 per month, up from ₹15,000, effective from 17 September 2026 (S.O. 5109(E)), giving rise to practical questions for the September payroll, including the identification of employees in the ₹15,001 to ₹25,000 band. Employers should follow any implementation instructions issued by the EPFO. The panel indicated that further sessions would address the definitions under the Code and the 50% rule in greater depth.

Conclusion

The Code on Wages represents far more than a payroll compliance exercise. It bears upon HR policy, finance, employee relations and board oversight, and demands that organisations understand the statutory character of every component of remuneration. The central message of the webinar was that employers should resist restructuring salaries on the strength of a slogan and should instead map wages component by component, quantify the impact and document the reasoning.

As emphasised during the webinar, organisations that embed a structured, evidence-based approach to wage compliance are better equipped to mitigate legal and financial risks, maintain transparent relationships with employees and uphold the highest standards of corporate governance.

To stay informed or access the webinar recording, visit the YouTube channel:
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