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A DECADE YOUNG, A CENTURY STRONG

SAM ELB ALERT

LABOUR CODES 2025
KEY SOCIAL SECURITY CLARIFICATIONS AT A GLANCE

INTRODUCTION

In the aftermath of the four Labour Codes ("**Codes**") having come into effect from November 21, 2025, many questions have arisen regarding their meaning and implementation, and the Central Government and its functionaries have begun to issue clarifications.

Set out below is a concise summary of key clarifications and directions emerging from recent communications and FAQs to assist employers in navigating the transition of India's social security regime.

ELB Team

ESIC CIRCULAR ON IMPLEMENTATION OF THE CODE ON SOCIAL SECURITY, 2020
(November 28, 2025)

The circular highlights immediate definitional changes with practical impact on benefit eligibility.

- The definition of "dependant" under Section 2(24)(c) of the Code on Social Security, 2020 ("**SS Code**") now includes a widower and a grandparent, rendering them eligible for dependent benefits under the Employees' State Insurance Scheme ("**ESI Scheme**").
- The definition of "family" for a woman employee under Section 2(33)(e) of the SS Code now includes her father-in-law and mother-in-law, enabling their access to medical benefits.

ESIC ADVISORY TO EMPLOYERS ON REGISTRATION, COVERAGE AND WAGES
(December 10, 2025)

- The advisory reiterates the harmonised "wages" definition under Section 2(88) of the SS Code and explains that the revised definition may extend benefits under the ESI Scheme to previously excluded employees.
- The Employees' State Insurance Corporation ("**ESIC**") has advised that all establishments must promptly register any newly eligible employees on the ESIC Employer or Shram Suvidha portals, including contractual employees, and facilitate the availing of benefits.
- Employers have further been instructed to ensure timely payment of contributions.

ESIC GUIDANCE ON WAGE HARMONISATION & SPREE-2025 COMPLIANCE WINDOW

- ESIC's guidance note elaborates the operational application of the new "wages" construct including practical illustrations of ESI contribution calculations. In essence, where the exclusions from wages exceed 50% of the total remuneration, such excess will be added back as wages for social security contributions.
- Employees drawing total remuneration above the erstwhile threshold may still be coverable if, after applying the add-back, statutory "wages", fall at or below the eligibility limit.
- The note also publicizes SPREE-2025 (Scheme for Promotion of Registration of Employers and Employees), a one-time registration scheme open until December 31, 2025, offering immunity from inspections, retrospective demands, and penalties for past periods to establishments and employees registered within the window.
- The ESIC urges employers to register all coverable establishments and employees digitally and to align with the harmonised wage definition to ensure accurate monthly contributions.

ESIC CIRCULAR ON CHANGE IN ESI COMPLIANCE PURSUANT TO THE SS CODE

(December 13, 2025)

- The ESIC has issued a circular noting pan-India enforcement of all four Labour Codes from November 21, 2025 and setting out verbatim the "wages" definition under Section 2(88), including the provisos on the 50% exclusion cap and in-kind remuneration.
- The circular directly links the new wage definition to two consequences: changes in employee coverability and changes in contribution amounts.
- The circular also provides a scenario analysis demonstrating how add-backs of excessive exclusions can push previously non-coverable employees into ESI or alter contribution figures at a 4% composite rate example used for illustration.
- The circular instructs employers to update recordkeeping and payroll calculations to reflect the new statutory base and reiterates that SPREE-2025 (an amnesty scheme) closes on December 31, 2025, after which retrospective liabilities may arise for unregistered coverable employees.

EPFO FAQs ON COMPLIANCE AND RECOVERY

(December 12, 2025)

The Employees' Provident Fund Organisation's ("**EPFO**") comprehensive FAQ addresses continuity and initiation of proceedings as the SS Code comes into force, highlighting the interplay between the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("**EPF Act**") and SS Code.

- It confirms that inquiries and assessments initiated under Sections 7A (money due from employer), 7B (review), and 7C (escaped amount) of the EPF Act prior to November 21, 2025 will continue, but must conclude within two years from commencement of the SS Code, i.e., November 20, 2027.
- New inquiries may continue under Section 7A of the EPF Act until repeal, as inquiries under Section 125 of the SS Code (assessment of dues from employer) require fresh notification of authorised officers.
- The definition of wages applicable in inquiries under Section 7A of the EPF Act will be as per the EPF Act until November 21, 2025. Upon notification of the new provident fund scheme, inquiries under the SS Code will utilize the definition of wages contained in the SS Code.
- No new initiation may address periods beyond five years retrospectively.
- No new initiation can be instituted under Sections 7B and 7C of the EPF Act.
- For damages and interest, existing authorisations continue. Pre-Code periods attract the interest rate as per the EPF Act, while post-Code interest under Section 127 of the SS Code awaits rate notification and will be applicable upon such notification.

EPFO FAQs ON COMPLIANCE AND RECOVERY (Contd...)
(December 12, 2025)

- Inspections under the SS Code require issuance of the inspection scheme and appointment/jurisdiction notifications for Inspector-cum-Facilitators, and are hence not applicable at this time.
- Recovery proceedings continue under existing authorisations under the EPF Act.
- Ongoing matters under Section 7A of the EPF Act will continue with the same authorised officers and jurisdiction as under the EPF Act, and notices for such ongoing inquiries must be issued under the EPF Act rather than under the SS Code.
- New matters under Section 125 of the SS Code, when instituted, must be concluded within 2 years and hearings will be held on a regular basis (weekly).

PRACTICAL TAKEAWAYS FOR EMPLOYERS

Across EPFO and ESIC communications, the immediate actions are consistent:

1. Align benefit eligibility and beneficiary records with revised dependants and family definitions
2. Register establishments and all coverable employees without delay
3. Leverage SPREE-2025 before it closes
4. Recalibrate payroll to the harmonised wage definition and the 50% add-back rule
5. Anticipate increased social security costs as the statutory wage base and contributions expand

- For EPF matters, expect continuity of ongoing inquiries under the EPF Act with the same officers and procedures, alongside a gradual shift to Code-based inquiries once authorised officers and procedural notifications are issued.

We are closely monitoring developments and will share updates as the rollout progresses.

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