



SAM ELB

FINE PRINT

THE EMPLOYMENT, LABOUR AND BENEFITS NEWSLETTER OF
SHARDUL AMARCHAND MANGALDAS & CO.

FIRST EDITION

PREFACE

We are delighted to announce the launch of the inaugural edition of Shardul Amarchand Mangaldas & Co.'s Employment, Labour and Benefits Fine Print: your business-enabling briefing on what's changing, why it matters, and what steps to take.

Our aim is to equip leadership and HR-legal teams with concise, actionable takeaways to make timely decisions, streamline execution, and unlock business value. We recognise that HR and law go hand in hand, and our approach is designed to help both ends meet while ensuring that your people strategies are fully aligned with legal requirements and best practices.

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HIGHLIGHTS

LEGISLATIVE UPDATES

[Click on each highlight for detailed P.O.V.]



SOCIAL SECURITY

- **PM-VBRY Job Incentives** - Job creation, retention
- **India-UK Social Security** - Reduces company costs
- **ESI SPREE and AMNESTY Scheme** - Resolves long-standing disputes and regularisation



GIG WORKERS

- **New Gig Worker Laws** - Strengthens worker protections



APPRENTICES

- **Apprenticeship Amendments 2025** - Expands training options



WORKING CONDITIONS

- **State Reforms** - improves workplace safety, enhances compliance
- **Flexible Work Hours** - Increases shift flexibility
- **Night Shift Compliance** - Stricter compliance and documentation



HIGHLIGHTS

LEGISLATIVE UPDATES

[Click on each highlight for detailed P.O.V.]



PREVENTION OF SEXUAL HARASSMENT

- **POSH SHe-Box Registration** - Centralizes harassment reporting
- **Tamil Nadu's POSH SOP** - Clarifies complaint handling and mechanism
- **POSH Odisha Mandate** - Tightens sector-specific compliance



INCLUSIVITY AND ACCESSIBILITY

- **SEBI's New Compliance Guidelines for Digital Accessibility** - Enhances user experience for persons with disabilities
- **Delhi's Transgender Rules 2025** - Promotes workplace inclusion

JUDICIAL UPDATES



- **Gratuity Forfeiture** - No criminal conviction required for Gratuity Forfeiture
- **Employment Lock-in** - Financial implication on the employee for breach
- **Termination Evidence** - Absence of documentary evidence can expose employers to legal action
- **Non-Compete** - Not enforceable post-employment, regardless of confidential information concerns
- **POSH Compliance** - Verification of ICs now mandated
- **Gratuity Liability** - Extension of liability to a person with actual control; even after death
- **EPF Claims during Insolvency** - No reassessment of PF claims after moratorium



LEGISLATIVE UPDATES

SOCIAL SECURITY

PM-VBRY Job Incentives

August 1, 2025

Unlocking Opportunity: Navigating the PM Viksit Bharat Rozgar Yojana (PM-VBRY) for Strategic Workforce Growth

UPDATE

The Employment Linked Incentive (ELI) Scheme, now titled as the PM Viksit Bharat Rozgar Yojana (PM-VBRY), effective from August 1, 2025 is designed to encourage net job creation, especially for those in the manufacturing sector. Here's what businesses need to know:

- Employers can receive up to Rs. 3,000 per month for each new employee who remains on the payroll for at least six months. This incentive is available for two years, with an extended window for manufacturing sector employers (up to four years). However, incentives are only available in respect of employees earning up to Rs 1,00,000 per month.
- The scheme rewards not just hiring, but retention.
- While all sectors are eligible, manufacturing enjoys a longer incentive period, signalling the government's intent to boost industrial employment and "Make in India" initiatives.

P.O.V.

The PM-VBRY marks a pivotal moment for businesses across India. PM- VBRY is not just a financial incentive, but a catalyst for strategic workforce planning. Businesses may consider the following to benefit from this scheme:

- Auditing of hiring practices and invest in employee engagement. Given the time-bound nature of the scheme, avoid over-hiring for short-term gains and instead ensure sustainable growth.
- Only "additional" employees count. Hence, demonstrable net job creation is important not just replacement hiring.
- Maintain meticulous records of hiring, payroll, and employment duration to cater to inspection from authorities.
- Robust onboarding, training, and engagement processes will minimize attrition and qualify for the full incentive period.





LEGISLATIVE UPDATES

SOCIAL SECURITY

India-UK Social Security

July 24, 2025

The Big Shift: No More Double Social Security Payments

UPDATE

On July 24, 2025, India and the United Kingdom have entered into a landmark agreement on social security. The social security arrangement eliminates double contributions for short-term assignments. Under this new 'Double Contribution Convention', Indian employees on assignments in the UK (and vice versa) are exempt for up to 36 months from contributing to the host country's social security system. This relief will make cross-border mobility more viable and benefit business and employees alike.

Until now, Indian professionals temporarily assigned to the UK (and vice versa) were saddled with social security contribution in both countries and employers with dual administrative compliance burden. The DCC changes the game:

- Employees on assignment for up to 36 months will only pay social security contributions in their home country.
- Employers are similarly relieved from double contributions, improving cost predictability and competitiveness.

P.O.V.

The DCC is a significant step toward easing talent mobility between two of the world's largest economies, especially benefiting technology, IT services firms and engineering firms. The DCC levels the playing field for Indian and UK businesses, enhances cost competitiveness, and supports global growth ambitions. Key watchpoints are as follows:

- Ensure international assignment planning is aligned with the new DCC provisions.
- Educate employees by communicating the benefits and limitations of the DCC, especially regarding pension accrual and assignment duration.
- Coordinate with payroll and tax advisors to ensure correct application of social security exemptions and avoid compliance pitfalls.
- Tracking of start and end dates to avoid unintentional breaches of the 36-month limit.



LEGISLATIVE UPDATES

SOCIAL SECURITY

ESI SPREE and AMNESTY Scheme

July 1, 2025

SPREE and Amnesty Scheme: A New Era of ESI Compliance and Opportunity for Indian Businesses

UPDATE

The Employees' State Insurance Corporation (ESIC) is reintroducing the SPREE Scheme from July 1, 2025, to December 31, 2025, offering a one-time opportunity for unregistered employers and employees to enrol under the ESI Act without past penalties, with coverage commencing from the date of registration. To enhance efficiency and compliance, ESIC will also launch the SPREE 2025 Mobile App to capture employer data during field visits under the awareness campaign.

Complementing SPREE, the Amnesty Scheme 2025 will run from October 1, 2025, to September 30, 2026, to settle legacy disputes and reduce litigation, including matters related to damages, interest, and coverage. Regional Directors may withdraw cases where dues with interest have been paid and close old cases against insured persons where no action has been taken for over five years, enabling out-of-court resolution, easing compliance, and strengthening trust among stakeholders.

P.O.V.

The SPREE and Amnesty Schemes together present a unique opportunity for businesses to regularize unregistered employees and resolve long-standing ESI-related disputes without facing retrospective penalties or prolonged litigation.

SPREE allows employers to register previously uncovered workers without incurring liabilities for prior periods. The scheme will be especially beneficial for industries with high employee turnover or complex contractor arrangements such as retail, hospitality, construction, and manufacturing.

Employers should audit their workforce records, identify gaps in ESI coverage, and use this window to ensure all eligible employees are registered.

The Amnesty Scheme allows businesses to resolve old cases efficiently. To fully benefit, companies should promptly review the scheme's guidelines, assess eligibility, and act within the prescribed timelines.

Together, these initiatives offer an efficient and expeditious path to compliance.





LEGISLATIVE UPDATES

GIG WORKERS

New Gig Worker Laws

April - September, 2025

India's New Wave of Gig Worker Legislation

UPDATE

India's gig economy is undergoing a seismic regulatory shift. Following Rajasthan and Jharkhand, three major states of Telangana, Karnataka, and Bihar have introduced or enacted dedicated laws to safeguard the interests of gig and platform workers. For businesses operating in ride-hailing, food delivery, e-commerce, logistics, and other platform-driven sectors, these developments signal a new era of compliance, transparency, and worker engagement. An overview of the new regulatory landscape:

Telangana | April 15, 2025. The Telangana Gig and Platform Workers (Registration, Social Security and Welfare) Bill, 2025, proposes a comprehensive welfare architecture, including a dedicated Welfare Board, mandatory registration of workers and platforms, a welfare fund financed by a transaction-based fee, and robust grievance redressal mechanisms.

Karnataka | September, 2025. The Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025, came into force with effect from May 30, 2025, making Karnataka the second state after Rajasthan to implement such a law. It mandates aggregator registration, worker registration with unique IDs, a welfare fund, and detailed transparency requirements around algorithmic management and contract terms.

Bihar | July 24, 2025. The Platform Based Gig Workers (Registration, Social Security and Welfare) Bill, 2025, follows a similar template, signalling a growing consensus among states to institutionalize gig worker protections.

P.O.V.

Strategic next steps for businesses engaging gig workers:

- Map all gig and platform workers, including part-time and multi- platform participants. Ensure your data is accurate and up to date.
- Update contracts to reflect new requirements on termination, payment, and transparency. Ensure all algorithmic decision-making processes are documented and can be explained to workers and regulators.
- Revamp HR, payroll, and compliance systems capable of handling registration, benefit tracking, and dispute resolution across multiple states.
- Proactively participate in consultations and provide feedback to state welfare boards. Early engagement can help shape practical implementation and minimize compliance friction.
- With the central Code on Social Security, 2020, still pending implementation, businesses must track how state and central obligations will interact to avoid double compliance or contribution.

Businesses that invest now in compliance, transparency, and worker welfare will not only avoid legal pitfalls but also position themselves as employers of choice in India's rapidly evolving platform economy.





LEGISLATIVE UPDATES

APPRENTICES

Apprenticeship Amendments 2025

September 03, 2025

Apprenticeship Amendment Rules, 2025 ("Amendment")

UPDATE

The Amendment introduces several significant updates to the Apprenticeship Rules. Notably, it creates a new category of 'degree apprentice', enabling companies to partner with universities for integrated apprenticeship programs.

There are now reservations for persons with benchmark disabilities in both designated and optional trades, and employers can reallocate unfilled slots for freshers or skill certificate holders with approval. The Amendment also mandates a one-year gap between apprenticeships and limits individuals to two apprenticeships in different trades.

Stipends for apprentices have been increased, and the standard contract form has been revised, with tripartite agreements now required for sandwich and degree apprenticeships.

Reporting requirements have changed, with quarterly reports now submitted to the Deputy Regional Central Apprenticeship Adviser. Instructor qualification standards have been updated, and employers are permitted to provide online training and deploy apprentices at client sites.



P.O.V.

Employers can now use degree apprenticeships to secure industry-aligned talent early, reducing future hiring costs, training time, and reliance on expensive lateral hires. Further, with higher stipends still below applicable standard minimum rates for employees, apprentices can remain a cost-effective way to expand capacity and reduce reliance on expensive lateral hires. Online training and client-site deployment furthers this intention, allowing companies to scale apprenticeships across geographies and projects, maximizing value from training investments.

As next steps, employers should:

- Update apprenticeship policies, SOPs, and intake systems to reflect new rules.
- Plan university tie-ups and frameworks for degree apprenticeships; adopt tripartite contracts for sandwich/degree apprentices.
- Implement reservation for persons with benchmark disabilities; adjust selection and tracking accordingly.
- Budget and implement increased stipends effective September 11, 2025.
- Verify and align instructor qualifications with revised criteria.
- Enhance compliance tracking for quotas, gaps, contract formats, and documentation.



LEGISLATIVE UPDATES

WORKING CONDITIONS

State Reforms

March - September, 2025

Gender Equity, Night-Shift Labour Reforms, and Digital Compliance Initiatives Across Indian States

UPDATE

A number of Indian states – i.e. Haryana, Madhya Pradesh, Gujarat, Rajasthan, Uttar Pradesh, Odisha, Bihar, and Assam, have introduced reforms specifically designed to foster gender equity and create safer, more inclusive workplaces for women, particularly during night shifts, while also strengthening workplace safety and compliance.

Certain states have added specific measures:

- **Haryana | May 08, 2025 / Madhya Pradesh | June 27, 2025.** Haryana and Madhya Pradesh mandate presence of female security personnel in case of women working at night.
- **Uttar Pradesh | July 04, 2025.** Uttar Pradesh mandates International Occupational Safety and Health (OSH) standards.
- **Rajasthan | July 04, 2025.** Rajasthan prohibits night work for pregnant women three months before and after childbirth.
- **Assam | March 21, 2025 / Bihar | August 07, 2025.** Assam and Bihar have explicit anti-discrimination rules for hiring, promotion, transfer, and wages. Assam and Bihar have also introduced new Shops and Establishments Acts on respectively introducing digital worker identification numbers and service cards, making it easier to track compliance and for workers to assert their rights. This shift to digital compliance may require businesses to update their HR and payroll systems.
- **Odisha | July 24, 2025.** Odisha requires CCTV cameras in work areas and presence of three woman employees which may include onsite women employer (if any).
- **Delhi | August 07, 2025.** In Delhi, most establishments (except liquor shops) are now exempt from needing prior approval for employing women at night or for setting opening and closing hours, provided they follow prescribed safety and welfare guidelines such as obtaining consent from women employees for working at night, installation of CCTV cameras, transportation arrangements etc. These changes aim to create safer, more inclusive workplaces and offer greater operational flexibility for businesses.

P.O.V.

- Night work for women is only permissible with explicit consent. Employers must document and regularly update consent records.
- Conditions include secure transport, female security guards, medical facilities, proper lighting, and, in some states, women guards at entry/exit points.
- IT/ITES, BPO, and Retail sectors, which often operate 24/7, can consider tapping into a broader talent pool, but would need to invest in robust safety infrastructure and compliance documentation.
- Service cards and digital IDs will make it easier for authorities to audit compliance and for workers to assert their rights.
- Businesses in Delhi will enjoy better operational flexibility avoiding administrative delays.





LEGISLATIVE UPDATES

WORKING CONDITIONS

Flexible Work Hours

July, 2025

Flexibility vs. Welfare: The Gujarat and Telangana Model

UPDATE

Gujarat: July 01, 2025. Gujarat's amendments to the Factories Act introduce several forms of flexibility, such as extended working hours, variable work schedules, and the possibility of employing women during night shifts (with certain restrictions).

Telangana: July 05, 2025. On the other hand, Telangana has exempted commercial establishments from certain working hour and rest interval requirements, but with explicit limits to prevent exploitation.

P.O.V.

- Manufacturing and commercial establishments can now optimize shifts and production cycles, but cannot exceed prescribed limits on total work hours and overtime.
- While flexibility is beneficial, overwork can lead to burnout and safety incidents. Employers must balance business needs with employee well-being and prefer engaging workers in shift work.



Night Shift Compliance

2025

Enhanced Compliance and Documentation: No Room for Error

UPDATE

The recent reforms across various states have introduced a heightened level of compliance and documentation requirements for businesses, particularly those employing women during night shifts. These requirements are not merely procedural; they are designed to ensure the safety, security, and well-being of employees, especially women, in the workplace. However, they also mean that businesses must be extremely diligent in their compliance efforts, as there is little to no margin for error.

P.O.V.

- Regular internal audits, updated policies, and training for HR and line managers are need of the hour.
- Rajasthan's explicit prohibition on night work for pregnant women (three months before and after childbirth) will advance workforce planning.





LEGISLATIVE UPDATES

PREVENTION OF SEXUAL HARASSMENT

POSH SHe-Box Registration

May 30, 2025

Non-Negotiable Digital Compliance

UPDATE

The SHe-Box portal, launched in 2024, is now the primary control centre for POSH compliance. All private sector employers are mandatorily required to register, enabling female employees to lodge complaints online and allowing authorities to monitor compliance in real time. States such as Karnataka, Delhi, Mumbai and Rajasthan have issued specific directions to all employers to upload details of their internal committees on the central SHe-Box portal.

P.O.V.

For organizations with multi-location operations, every location should register and map compliance on the portal. Centralized HR teams should coordinate with local units to avoid compliance gaps.



Tamil Nadu's POSH SOP

June 18, 2025

State SOPs: Uniformity, Clarity, and Accountability

UPDATE

Tamil Nadu's new Standard Operating Procedure (SOP) is a stepwise process for complaint handling defining roles for every stakeholder, and a focus on empowering women to trust the system.

The SOP clarifies that "workplace" under the POSH Act includes not just traditional office spaces but also sites such as company vehicles, guesthouses, residences, hostels, and even online/virtual environments. This means employers must consider all locations and situations where employees interact for work purposes.

P.O.V.

While the POSH Act is specific to women, the SOP encourages employers to extend anti-harassment protections to all genders through internal HR policies, promoting a more inclusive workplace culture.

The employer is required to conduct periodic training of existing staff to sensitise and create awareness regarding the zero-tolerance policy of the employer.

Online harassment is explicitly covered under the SOP, requiring digital workplaces to have robust reporting and redressal mechanisms.

The SOP aims to push organizations toward a culture of prevention, awareness, and gender equality, not just legal compliance. This is likely to improve workplace morale, especially in sectors with high female participation.





LEGISLATIVE UPDATES

PREVENTION OF SEXUAL HARASSMENT

POSH Odisha Mandate

July 23, 2025

Sector-Specific Mandates: Healthcare and Education in the Spotlight

UPDATE

Odisha government's directive for mandatory Internal Committees in all medical, nursing, and pharmacy colleges signals a sectoral tightening of compliance. The government has reiterated that each institution is required to constitute an internal committee, and it is crucial for addressing grievances and fostering a positive and respectful workplace.

P.O.V.

Institutions are required to form or revalidate their ICs and submit compliance certificates within seven days, highlighting the urgency and seriousness of the directive. This directly impacts medical, nursing, and pharmacy colleges, as well as all health facilities, making it critical for these sectors to prioritize compliance, training, and awareness.





LEGISLATIVE UPDATES

INCLUSIVITY AND ACCESSIBILITY

September 25, 2025

Digital Accessibility

UPDATE

SEBI has issued new Compliance Guidelines for Digital Accessibility, requiring all regulated entities to ensure their digital platforms, such as websites, apps, and portals are accessible to persons with disabilities. These guidelines mandate the appointment of IAAP-certified professionals to conduct independent accessibility audits, regular reporting of compliance, and prompt remediation of any shortcomings.

P.O.V.

Employers and businesses must now invest in making their digital services accessible, which may involve redesigning platforms, training staff, and hiring certified auditors.

This move not only ensures legal compliance but also broadens their reach to a more diverse audience, enhances user experience, and demonstrates a commitment to inclusivity and social responsibility.



Delhi's Transgender Rules 2025

July 10, 2025

Delhi Transgender Persons (Protection of Rights) Rules, 2025 ("Rules")

UPDATE

In a progressive move to strengthen the rights of transgender persons, the Delhi Government has notified the Rules under the Transgender Persons (Protection of Rights) Act, 2019. The Rules streamline access to identity cards, mandate welfare measures and strong anti-discrimination safeguards, and place clear duties on employers to ensure a safe, inclusive workplace including appropriate infrastructure and the appointment of a designated complaints officer.

P.O.V.

All employers in Delhi are required to adhere to the Rules which are substantially similar to the existing Central Transgender Persons (Protection of Rights) Rules, 2020 and create a safe and inclusive workplace for transgender employees.





JUDICIAL UPDATES

February 17, 2025

Gratuity Forfeiture

The Supreme Court of India delivered a landmark judgment in Western Coal Fields Limited vs. Manohar Govinda Fulzele, fundamentally reshaping how Indian employers can approach the forfeiture of gratuity for employee misconduct. The Court held that employers may forfeit gratuity for acts involving "moral turpitude" based on findings from a fair internal inquiry, without waiting for a criminal conviction.

Employers should ensure their policies allow for a case-by-case evaluation of whether conduct amounts to "moral turpitude," as there is no statutory definition for the term. It is also important to maintain thorough records of the inquiry, evidence, and reasons for the forfeiture amount to withstand any challenges, and to clearly inform the employee about the process and their right to representation.

(February 17, 2025)



May 14, 2025

Employment Lock-in



The Supreme Court decision in Vijaya Bank and Another vs. Prashant B Narnaware marks a significant moment for employers navigating the tricky waters of lock-in period in employment contracts in India. The Court's clear stance is that if the employment contracts require employees to serve a minimum period (for example, three years), and impose a financial consequence for early departure, such clauses are not considered a restraint of trade, provided they operate only during the employment period. This clarification will support businesses seeking to protect their investments in talent and training. The Supreme Court's reasoning hinges on the fact that these covenants do not restrict an employee's right to seek future employment after the contract ends.

The focus is on ensuring the employee fulfills their commitment during the agreed tenure. The Court recognized that such clauses are often designed to protect legitimate business interests, such as recouping investments in training or onboarding rather than to unfairly bond employees. Accordingly, when drafting these clauses, employers should ensure they are clearly limited to the employment period, that any liquidated damages for early exit are reasonable and justifiable, and that the rationale is transparently communicated to employees. Now is also a good time to review existing contracts to ensure minimum service requirements align with this judicial guidance and do not overreach.

(May 14, 2025)



JUDICIAL UPDATES

July 14, 2025

Termination Evidence

The Delhi High Court's decision in Abhijit Mishra vs. Wipro Limited held that using terms like "malicious conduct" or "complete loss of trust" without documented evidence can be defamatory and expose employers to legal action.

The Court recognized that employees often need to share termination letters with future employers, increasing the risk of republishing any defamatory content. Employers must ensure any reasons for termination are factual, objective, and well-supported, as lack of evidence removes any valid defence. Failure to do so can result in significant damages, mandatory removal of defamatory remarks, and the need to issue a neutral replacement letter, making careful drafting and documentation essential.

(July 14, 2025)



June 25, 2025

Non-Compete



The Delhi High Court's decision in Varun Tyagi vs. Daffodil Software Private Limited reinforces that, under Section 27 of the Indian Contract Act, broad non-compete clauses restraining employees from joining competitors after employment are void, regardless of concerns about confidential information.

The Court emphasized that only narrowly tailored clauses protecting confidential or proprietary information, or preventing client solicitation, may be enforceable, and even then, only if they are reasonable and directly linked to legitimate business interests. Importantly, breaches of non-compete clauses may result in damages but not injunctions to prevent future employment. Indian law does not recognize "partial" or "reasonable" restraints on employment, making it essential for employers to review and update contracts, removing or revising broad non-compete provisions and focusing instead on specific, reasonable confidentiality and non-solicitation clauses.

(June 25, 2025)



JUDICIAL UPDATES

May, 2025

POSH Compliance

The Supreme Court's decision in Aureliano Fernandes vs. State of Goa and Ors. mandates that District Labour Commissioners conduct physical verification in every district to ensure Internal Committees (ICs) are properly constituted as required by Section 4 of the POSH Act. Survey findings must be reported to courts and state authorities, with consolidated data uploaded to the SHe-Box platform for transparency.

The Court warned that employers who fail to comply may face strict penalties, including denial or non-renewal of registrations and licences. The judgment also highlights the importance of support mechanisms like the National Women's Helpline (181) and Cyber Crime Helpline (1930). Employers should expect increased inspections and data scrutiny, making immediate POSH audits, proper IC constitution and training, documentation, and awareness programs essential, as non-compliance now brings significant regulatory, operational, and reputational risks.

(May, 2025)



June 25, 2025

Gratuity Liability



The Kerala High Court in Thankamma and Ors. vs. Regional Joint Labour clarified that under Section 2(f) of the Payment of Gratuity Act, 1972, the term "employer" is broadly defined to include not only the owner but also anyone with actual control over the establishment, such as managers. Importantly, the Court held that the liability to pay gratuity persists even after the death of the original proprietor, with the continuing business or establishment remaining legally responsible for employee benefits.

The judgment ensures that employees' gratuity claims cannot be defeated by technicalities such as the death of the employer.

(July 21, 2025)



JUDICIAL UPDATES

July 09, 2025

EPF Claims during Insolvency

The Kochi Bench of the National Company Law Tribunal ("NCLT") in Regional Provident Fund Commissioner vs. CA Mahalingam Suresh Kumar (Liquidator of M/s raihan Healthcare Private Limited) has given a significant decision on the admissibility of Provident Fund claims during insolvency and liquidation under the Insolvency and Bankruptcy Code, 2016 (IBC).

The NCLT has held that the proceedings under the EPF Act are quasi-judicial and cannot continue after a liquidation has been initiated under the IBC. Once EPF dues for a period have been assessed and a claim is filed with the Liquidator, any re-assessment for the same period after the moratorium/liquidation starts is not permissible. As a consequence, employers should be vigilant about timely and accurate provident fund compliance, especially during insolvency or liquidation.

(July 09, 2025)



Disclaimer

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