The India Labor Codes—a Six-Month Review

Atul Gupta, Trilegal

June 2026

Current Status

- **Implementation status:** On **21 November 2025**, the Ministry of Labour and Employment brought into force the four Labour Codes (replacing **29 existing central labour laws**)—the **Code on Wages, 2019** (Wage Code), **Industrial Relations Code, 2020** (IR Code), Code on Social Security, 2020 (SS Code) and **Occupational Safety, Health and Working Conditions Code, 2020** (OSH Code) (together, the “Labour Codes”).

  a) **IR Code and OSH Code:** Implemented in full.

  b) **Wage Code and SS Code:** Substantively implemented in large part; certain **procedural aspects** remain pending operationalization. EPF Act also repealed via corrigendum.

  c) **Central Rules have been notified**

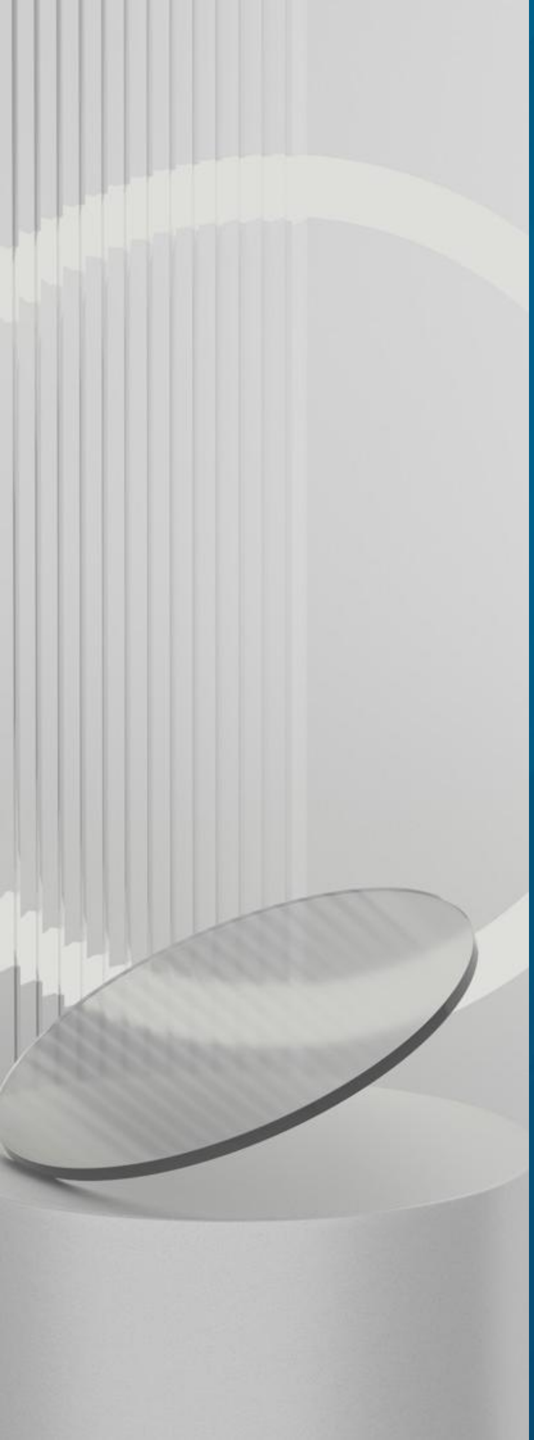
- **Key uncertainty (practical compliance impact):** State Governments have not yet notified the corresponding Rules.
- Certain matters that are rules-dependent - for example, prescribed formats for registers and records, rules around employee health check-up’s, etc., are not fully implementable in a uniform manner today.
- In practice, employers are generally expected to continue following the legacy rules and formats under the repealed laws to the extent they are not inconsistent with the Labour Codes, until new Rules are issued.

Current Status

- **What is already effective (actionable now):** Key **substantive provisions that do not depend on State Rules**, including the new definition of "**wages**" (which can affect contribution/benefit calculations and payroll structure), are already in force and apply from **21 November 2025**.
- Accordingly, companies should prioritize a 'wage-structure' impact assessment and other substantive compliances that are not rule-dependent (for e.g. changes in the contract labour related provisions).

Intent vs Impact

Intent	Impact / Reality
Uniformity in law / simplification	• **Uniform wage definition** across all Codes – good or bad? • Clubbed 29 statutes into 4 Codes – old wine in new bottle?
Address gaps in law/archaic laws	• New provisions on **union recognition** • New provisions for '**gig workers**' • Retained **old and subjective** definition of "**worker**" • No provisions addressing ambiguities linked with "**remote work**" • **Government permission** for retrenchment remains
Ease of doing business	• **Decriminalization** • **e-governance** mechanism to facilitate filing of online returns, online applications • **Higher threshold** in factories to seek government permission for retrenchment – 300 workers • New **Contract Labour** definition / Prohibit CL in **Core Activities** • OSH Code provisions on ***leave* and *working hours*** – creating **new contradictions** with State laws • **Ambiguities around Overtime** entitlement for well-paid employees remain • **2 day timeline** for end of service payments • No wage threshold for **wage deductions**
Worker welfare & social security	• Pro-rata **gratuity & benefits** for fixed-term employees • Social security cover extended to **gig & platform workers** • 15 days' salary **reskilling fund** contribution on retrenchment • State Rules pending – **uniform compliance** still uncertain



New “Wage” Definition – A move in the right direction?

New definition of ‘wages’

TRILEGAL

New labour codes cost TCS, Infosys, HCLTech over Rs 4,000 crore in Q3

New wage code: Why govt's new compensation rules are a hasty composition

[New wage code: Why govt's new compensation rules are a hasty composition - BusinessToday]

New labour codes: Indian companies face higher wage expenses; manpower costs may increase 5-15% across sectors

New definition of 'wages'

Three parts to the definition of wages:

1. **Inclusion - "all remuneration whether by way of *salaries, allowances or otherwise*, expressed in terms of money or capable of being so expressed *including* -** basic pay; dearness allowance; and retaining allowance, if any
2. **Exclusions –** Specified components are excluded (e.g., HRA, employer PF/pension contributions, bonus, overtime, commission, gratuity/termination payments, conveyance/travelling concession, etc.).
3. **The 50% proviso:** If total exclusions exceed 50% of all remuneration, the excess is added back and treated as "wages" (*anti-subterfuge clause*)
4. **Second proviso on equal remuneration and payment of wages:** conveyance allowance, HRA, remuneration under settlement, overtime allowances are considered wages for these two purposes.
5. **Explanation on *Remuneration in Kind***: Value of remuneration in kind (if any) is counted only up to 15% of total wages.

New definition of ‘wages’

TRILEGAL

How does it create an impact:

Cost of “*dependent benefits*” likely to go up:

Where statutory entitlements or contributions are computed with reference to “wages” (i.e. are dependent on what amounts to ‘wages’ for coverage or calculation), the relevant base may increase - particularly for allowance-heavy compensation structures.

This can impact **gratuity and other wage-linked benefits**.

In practice, payroll structures have historically been designed with a relatively higher proportion of allowances.

The 50% proviso only applies where ‘excluded’ components are higher. It’s a misinterpretation that **“wages” is capped at 50% or basic salary must be 50%.** If the included components are already higher, the “wages” base can be **more than 50%** of total remuneration.

Example for increase in Gratuity Cost:

Salary Component		
Basic Salary	40,000	Included
HRA	20,000	Excluded
Special Allowance / Flexi	40,000	Included
Total	**100,000**	
"Wages"	80,000 (80%)	Previously 40% for Gratuity calculation

Questions and complexities:

- Some companies are increasing basic salary to INR 50,000 and saying wage structure is "compliant". Cost goes up even more!
- Flexi basket may comprise of varying tax saving allowances, like conveyance / transport allowance, LTA for personal travel, children education, NPS, etc., that employees can choose based on personal preferences. **Does that create varying 'wages' for similarly placed employees**?
- Excluded components (like HRA and Conveyance) are not considered for Gratuity. **Do we not count such components for Maternity Benefit**, Retrenchment Compensation, Minimum Wage, Leave Encashment, Overtime, as well?

Another Example – How to account for PF

TRILEGAL

Salary Component	
Basic salary	*7,500 (inc)*
HRA	*7,500 (exl)*
Employer PF @ 12%	*900 (exl or outside)?*
Total 1 (PF outside rem)	15,000
Total 2 (PF within rem)	15,900

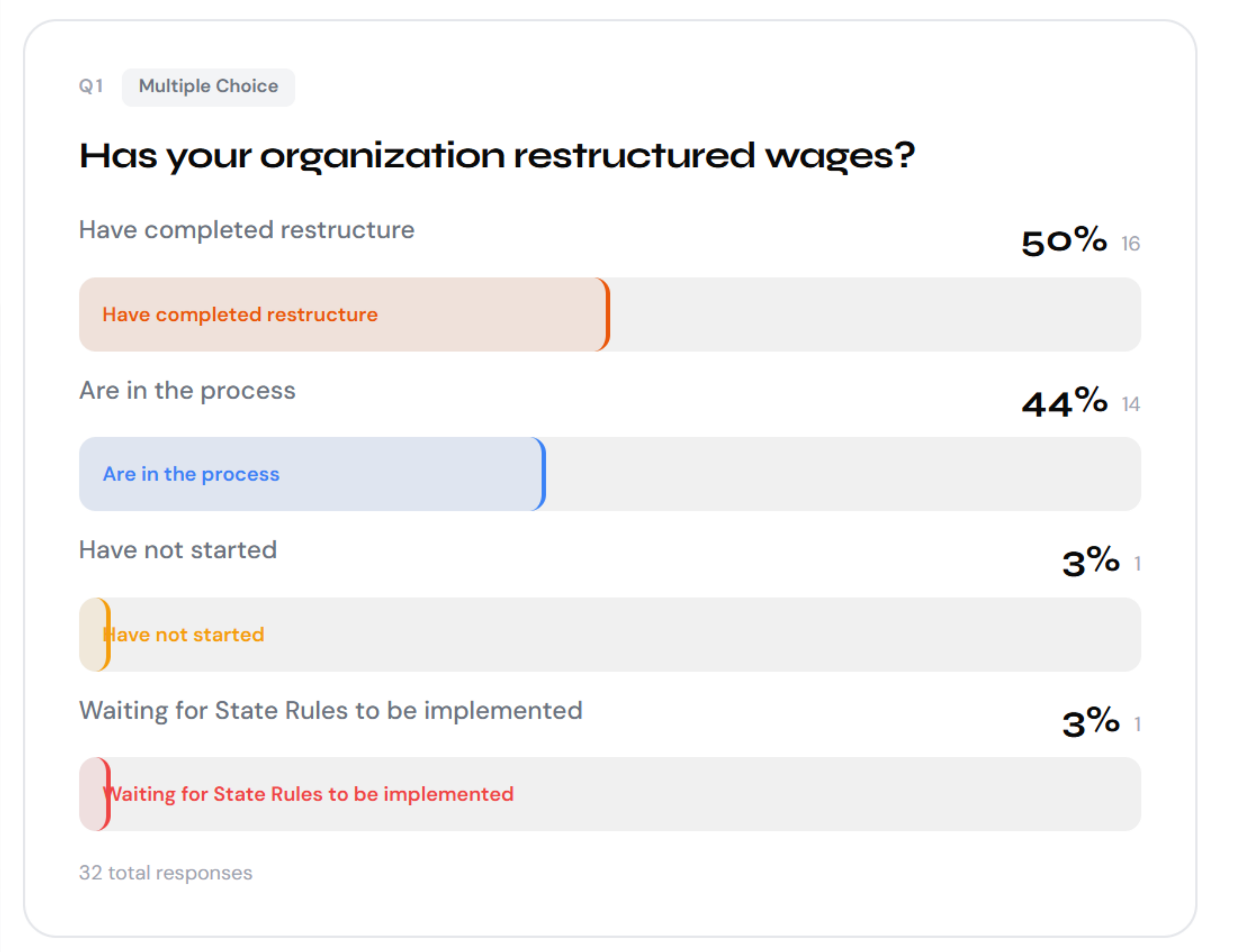
Questions and complexities:

- Is Employer PF an "exclusion" or "outside remuneration" **for purpose of 50% proviso**?
- If PF is kept within remuneration as an "exclusion", 50% proviso would apply (since exl 8400 > inc 7500), and wages = INR 7950. Then PF too must be revised to 12% of 7950 = INR 954. Circular calculation continues.
- If PF is kept outside remuneration, 50% proviso would NOT apply (7500 : 7500), and wages = INR 7500.
- Fundamental to salary re-design. Varying approaches observed amongst clients.

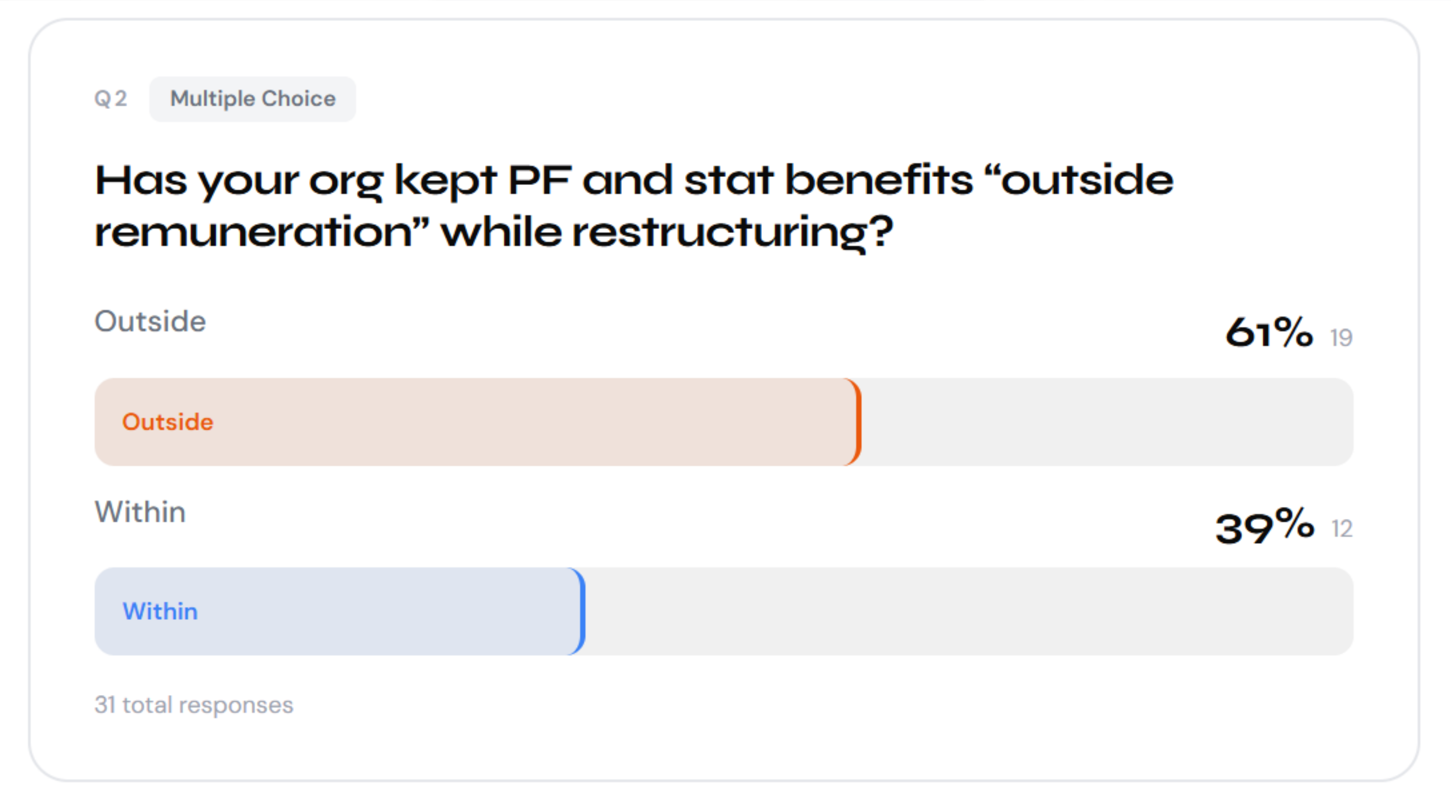
Other cost impact changes

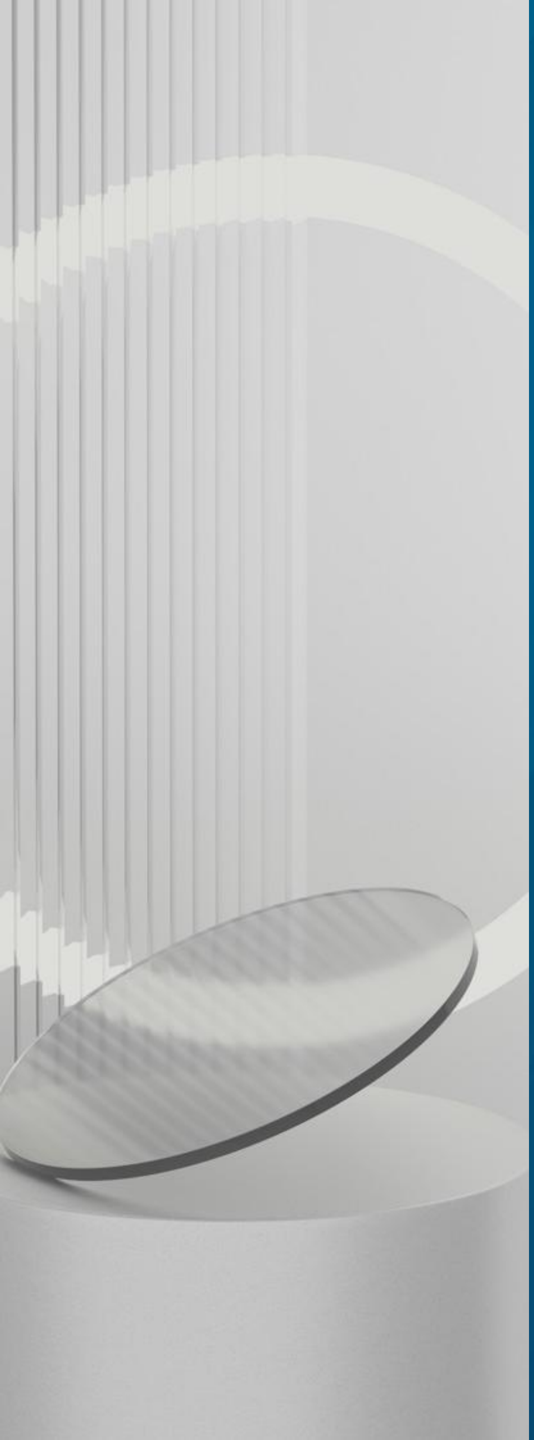
- **Benefits for fixed term employees -** Fixed term employees are entitled to all benefits extended to permanent employees, proportionate to their tenure, regardless of completion of the qualifying period. They are now entitled to gratuity on pro-rata basis also.
- **Worker reskilling fund -** For all workers who are retrenched, employers to contribute 15 days salary to worker reskilling fund (in addition to paying retrenchment compensation.
- **Annual health examination**: State specific eligibility on age and class of establishment (Section 6 OSH). Wide implications of Section 14 on employee rights reg. health.
- **Annual encashment of accrued privilege leaves -** The OSH Code allows "workers" to encash accrued annual leaves above the accumulation limit (30 days under OSH Code) at the end of year. Impact on leave policy design going forward and cost.
- **Welfare Facilities (OSH) –** Canteens (100 workers), locker rooms, bathing places (Sec 24). Section 22, Safety Committee (applicability as per State Rules, can cover commercial est).
- **Gig Workers/Aggregators -** The Central Government is expected to introduce social security schemes for gig and platform workers, and aggregators will be required to make contributions. Overlapping state-level legislation will also need to be assessed.

Audience Poll/Questions



Audience Poll/Questions





Worker – who and why?

Worker – who and why?

TRILEGAL

Dominant Nature Of Duties Determines 'Workman' Status Under Industrial Disputes Act, Not Designation: Supreme Court

On December 11, 2025, the Delhi High Court ruled that airline pilots fit the definition of 'workman' as per the labour law (Section 2(s) of Industrial Disputes Act, 1947). This means they can pursue claims for unpaid salaries, extra flying hour incentives and related dues in the labour court.

In our considered view, the concept of the workman has undergone a drastic change and is no longer restricted to a blue collared person but even extends to white-collared person. A couple of decades ago, an industry would have meant only a factory, but today industry includes software and hardware industry, popularly known as the Information technology industry. [CIT vs Texas Instruments]

Worker – who and why

- Previously who is a worker and who isn’t primarily only mattered in an exit scenario. Often addressed via ‘*managed exits*’.

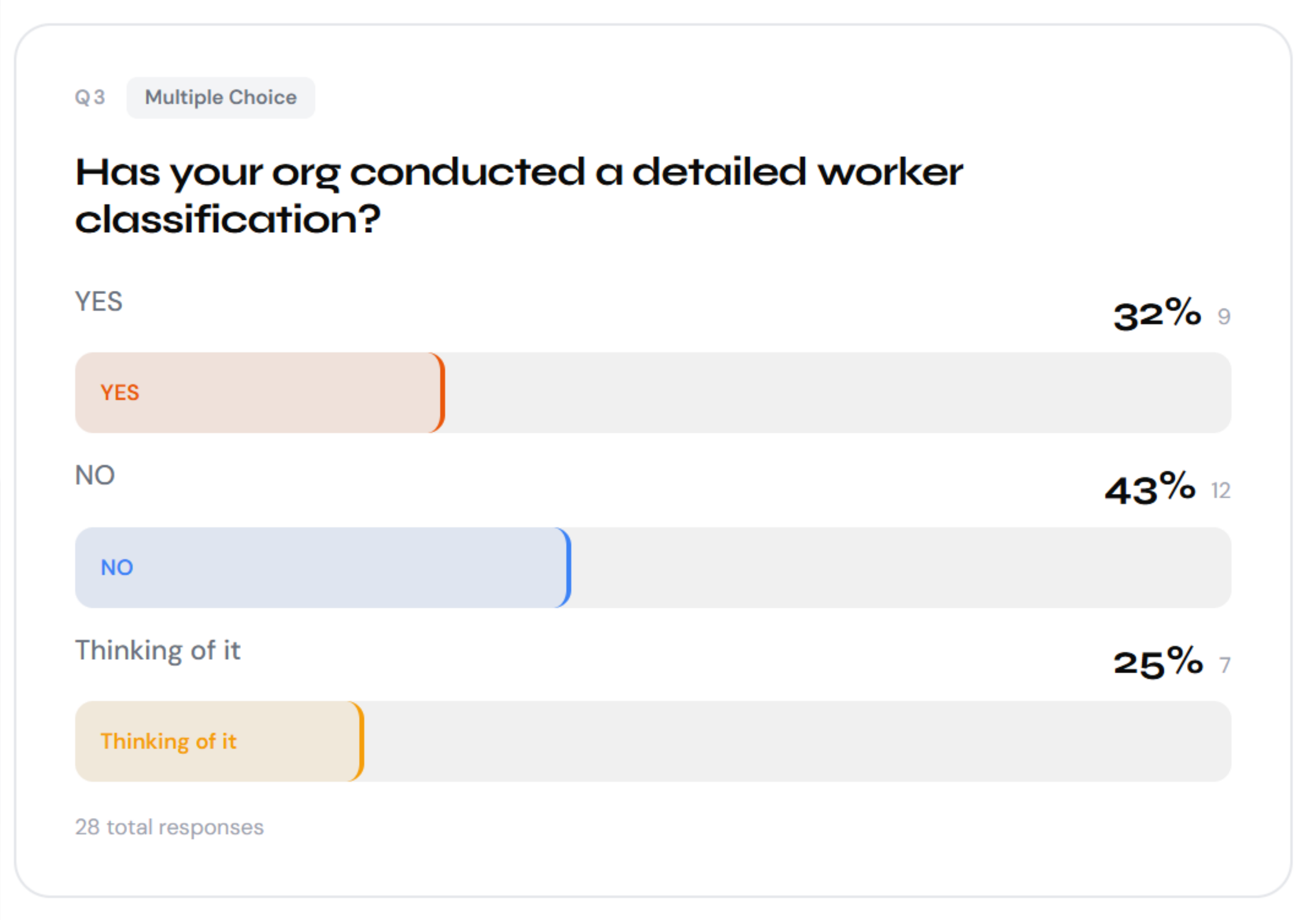
- With Labour Codes, employers can’t avoid doing this assessment for in-service staff to be able to comply with the law (example, OSH Code annual leave encashment, working hour rules, GRC requirements).

- Applying these requirements across all employees (not just workers) would come at higher cost and compliance burden.

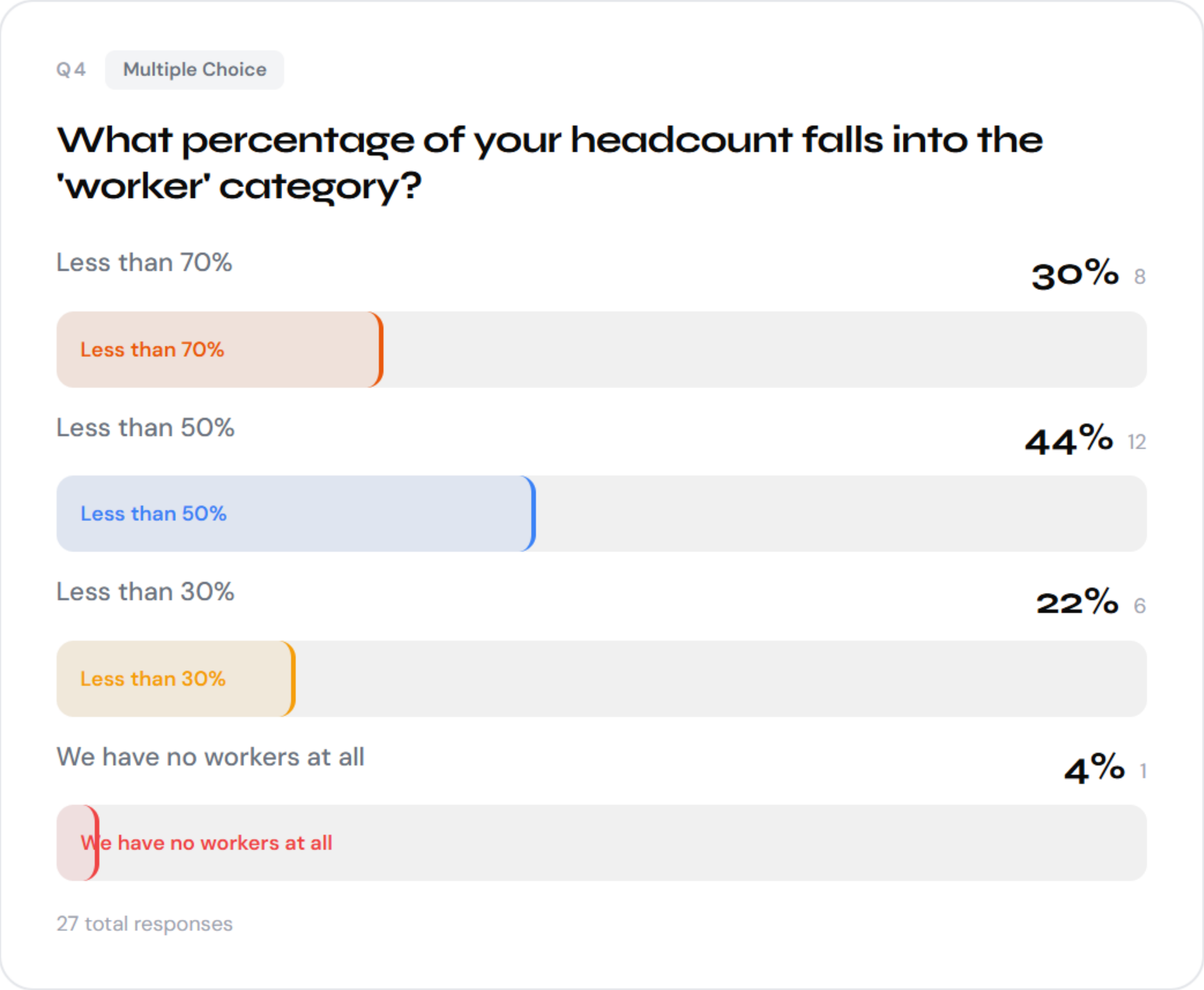
- Definition of ‘worker’ remains largely unchanged – highly subjective and dependent on assessment of actual roles, responsibilities and dominant function.

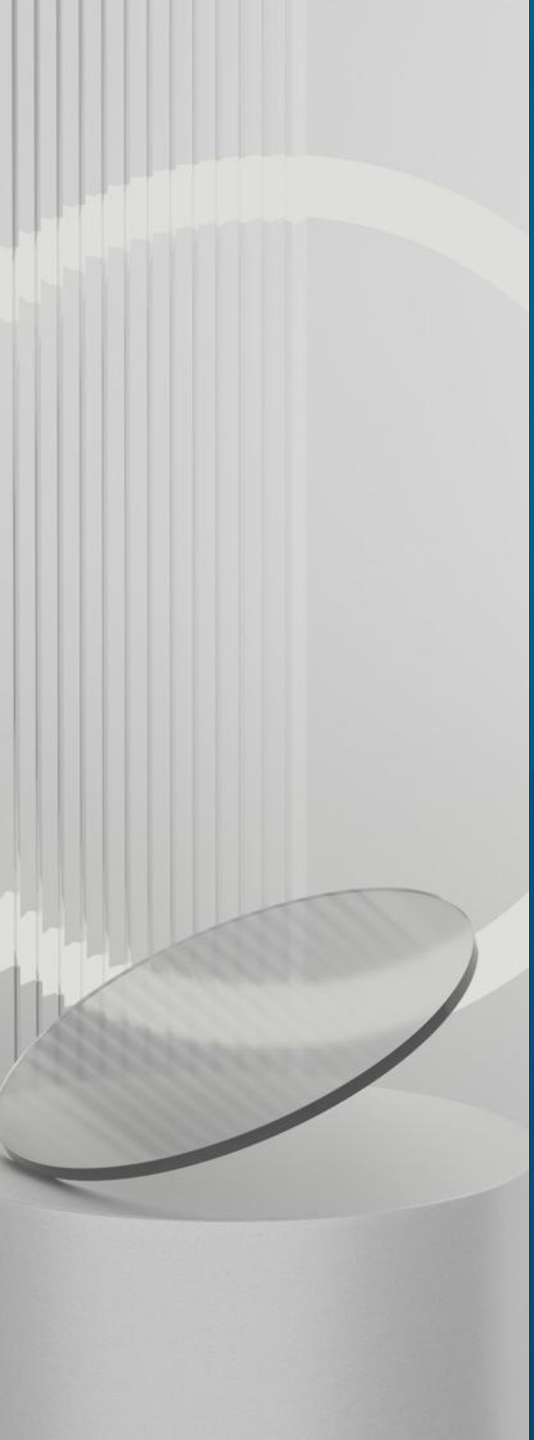
- Incidence of claims and disputes on significant rise even in service/knowledge/IT firms

Audience Poll/Questions



Audience Poll/Questions





Contract Labour

Contract Labour – Impact on industry

- **Engagement of contract labour -** Employers are now prohibited from engaging 'contract labour' in core activities of an establishment, barring certain customary and emergency exceptions built into this prohibition. Important to assess if contract labour has been engaged in any core activities.

57. (*1*) Notwithstanding anything contained in this Part, employment of contract labour in core activities of any establishment is prohibited:

No requirement for government notification

(*p*) "core activity of an establishment" means any activity for which the establishment is set up and includes any activity which is essential or necessary to such activity:

(*m*) "contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker but does not include a worker (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;

Contract Labour – Impact on industry

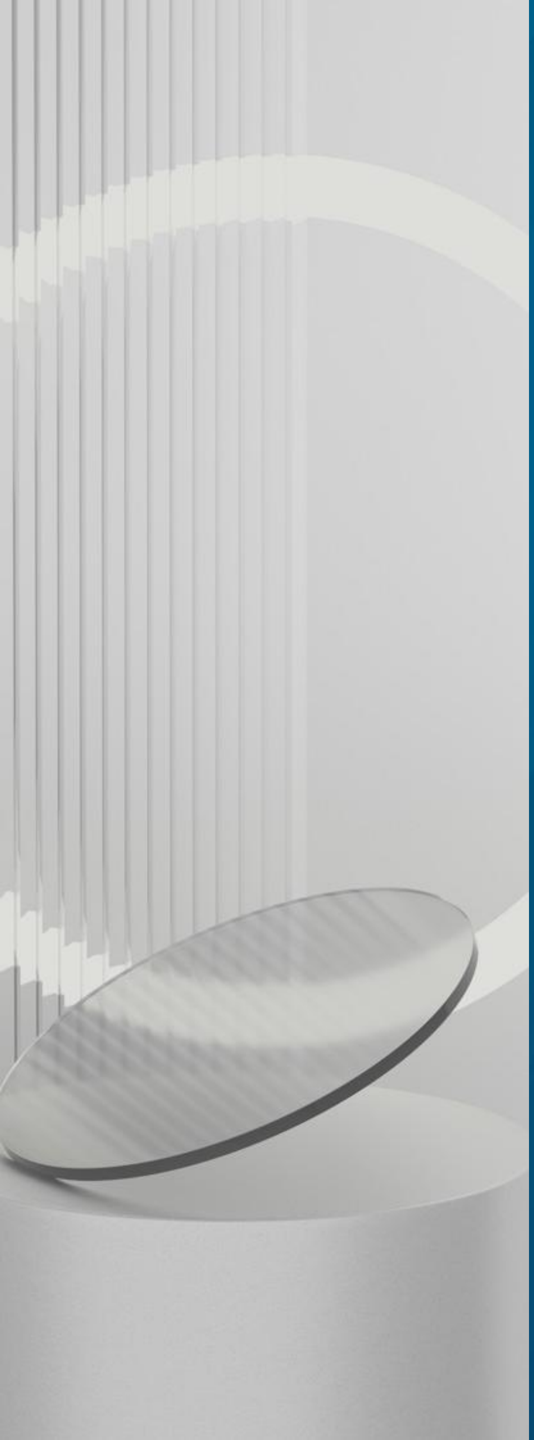
- **Key exceptions –** Highly subjective in nature, specially (a)

(*a*) the normal functioning of the establishment is such that the activity is ordinarily done through contractor; or

(*b*) the activities are such that they do not require full time workers for the major portion of the working hours in a day or for longer periods, as the case may be;

(*c*) any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.

(*xi*) any activity of intermittent nature even if that constitutes a core activity of an establishment;



Leave and Working Hours

Leave

- **OSH Code**
  - Every “worker” – 1 day leave for 20 days of work.
  - Carry forward – 30 days, limit doesn’t apply if leave request rejected.
  - Encashment – permitted annually. Ambiguity on whether this must be for all accumulated leave or only those that are at risk of forfeiture (i.e., above accumulation limit).

(*viii*) without prejudice to clause (*vi*) such worker shall be entitled on his demand for encashment of leave at the end of calendar year;

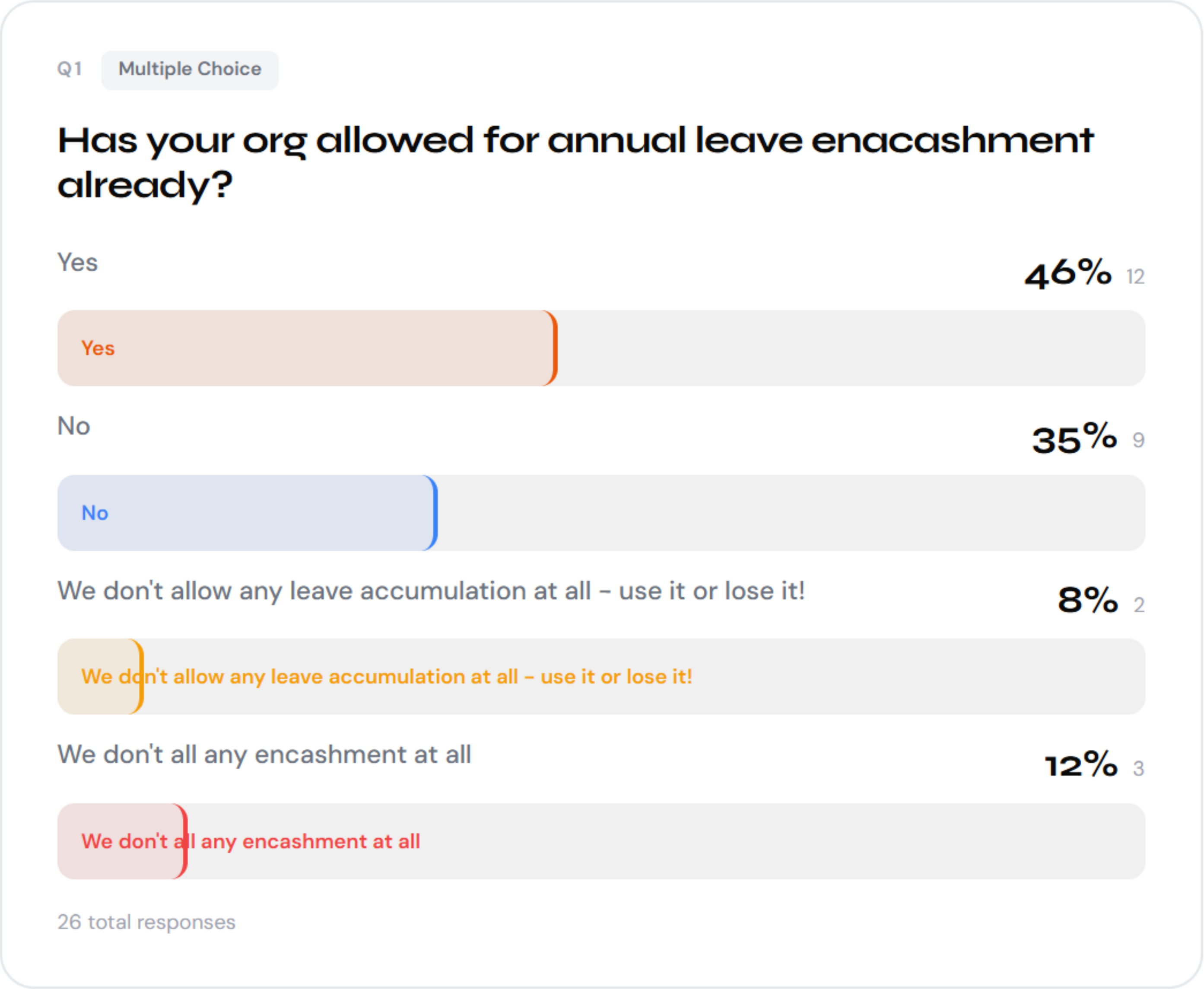
(*ix*) such worker shall be entitled, where his total number of leave exceeds thirty days under sub-clause (*a*) of clause (*vii*), to encash such exceeded leave.

- **Shops Act**
  - State specific and varying entitlements. Cover “employees” not only workers.
  - Some states exempt managerial / supervisory, others don’t.
  - Carry Forward – often 45 days or more
  - Encashment – only at end of service
  - Based on ‘daily average of his total full-time earnings’ or similar. Different from ‘wages’ under OSH Code.

Working Hours

- **OSH Code**
  - Applies to workers – 8 hours/day (Section 25 OSH Code)
  - Overtime and Spread-over – As per state rules.
    - ❑ Karnataka (Draft Rules)
      - ✓ Default (Rule 29): 48 hours / 10.5 hours
      - ✓ Tiered (Rule 32): For 4/5/6-day work week (11.5/10/9-hours respectively), without OT. Seems to exceed the OSH Code daily limit of 8-hours.
      - ✓ OT limit 144 hours in a quarter, Payable on 2x “wages”
- **Shops Act**
  - State specific and varying entitlements. Cover “employees” not only workers.
  - Some states exempt managerial / supervisory, others don’t.
    - ❑ Karnataka Shops Act
      - ✓ 9 hours/day and 48 hours/week
      - ✓ Spread-over: 12 hours/day
      - ✓ OT limit: 50 hours in a quarter, Payable on 2x “Normal Wages” = basic + allowances

Audience Poll/Questions



Audience Poll/Questions

TRILEGAL

Q 5 Multiple Choice

Have you permitted annual encashment of all leave or only leave that may be forfeited?

All accumulated leave 5% 1

All accumulated leave

Only leave that would lapse 81% 17

Only leave that would lapse

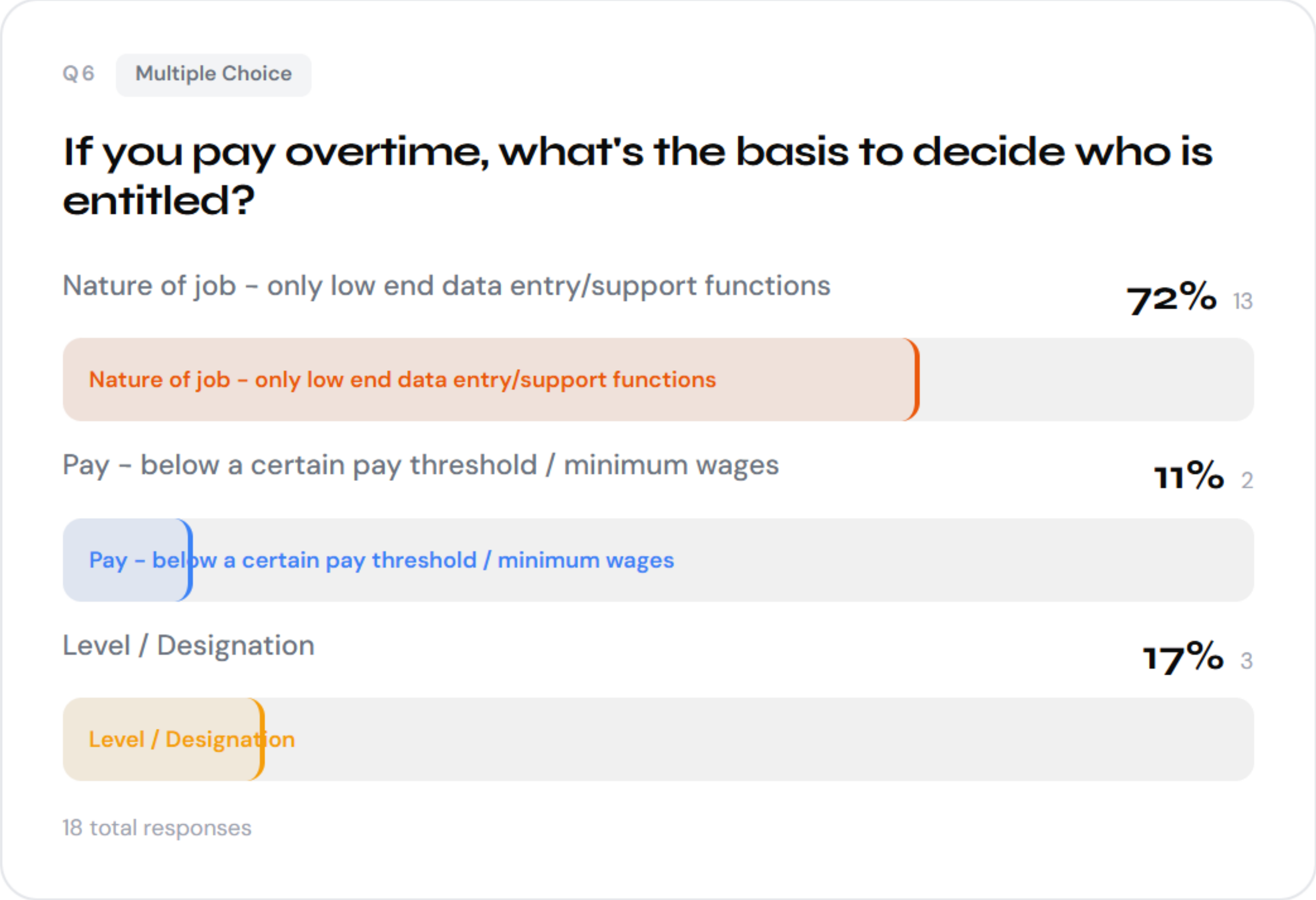
Only leave that would lapse if leave application is rejected 14% 3

Only leave that would lapse if leave application is rejected

21 total responses

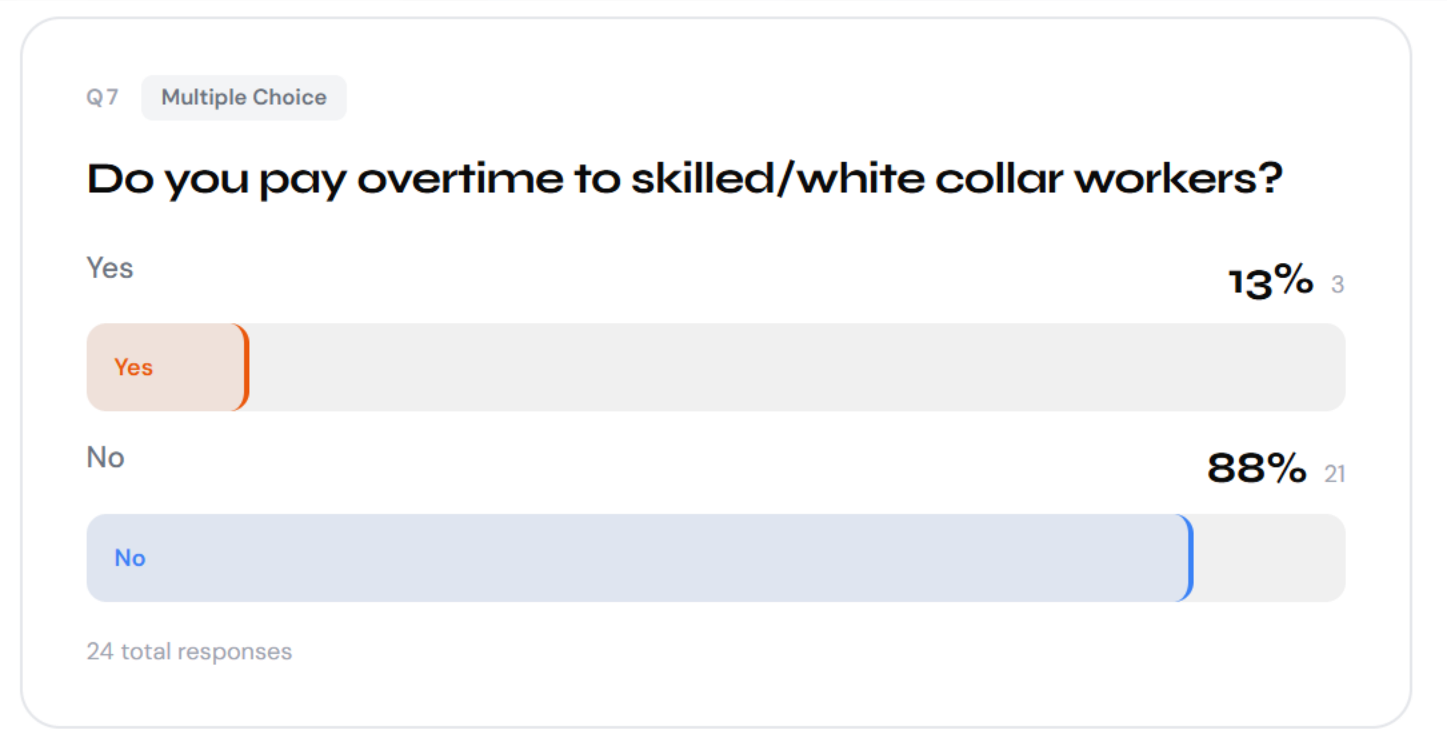
Audience Poll/Questions

TRILEGAL



Audience Poll/Questions

TRILEGAL



Other Changes

- **Disciplinary proceedings -** will need to be completed within 90 days from the date of suspension of a worker.
- **Provisions on deductions -** No applicability threshold/ceiling provided in Wage Code. Provisions on deductions may apply to senior employees.
- **Recognition of trade unions/negotiating council -** Provisions included in IR Code on recognition of trade union / forming negotiating council.
- **Mandatory prior registration to employ** – new establishments need to register before employing any '*employee*' (Section 3(7)). Will impact business commencement / deal closing mechanics in M&A where acquirer is setting up a new entity.
- **Overtime** – worker consent required for overtime.
- **Pay Parity -** The Wage Code has now made the provisions on equal remuneration gender neutral. The Wage Code proposes a neutral approach and disallows "any discrimination on the grounds of sex" in matters of recruitment for same or similar work or in the conditions of employment. Definition of "same or similar work" expanded to include "experience".
- **Others** – Other areas of change like definition of strike, national MW, increase in headcount limit for government approval for closure/retrenchment, etc.

Operations / Governance changes

TRILEGAL

- **Setting up grievance redressal mechanism (Section 4 IR Code) -** All establishments with 20 or more workers to set up GRC. Equal representation of workers / employer representatives, and every decision to be approved by majority of worker representatives. Further, workers can dispute their termination / dismissal before the GRC. Claims within 1 year and appeal to conciliation officer.

Atul Gupta

Partner – Labour and Employment

+ 91 97400 73428

+91 80 4343 4646

atul.gupta@trilegal.com

Bangalore

LinkedIn Profile

ABOUT ATUL

Atul Gupta is a senior partner in Trilegal's Employment Practice and is one of India's foremost employment law practitioners. Over the years, he has established his credentials as a leading authority and thought leader on Indian labour and employment laws. His views on key developments have regularly featured in national newspapers and are sought by major industry and trade bodies.

Atul's practice covers all aspects of employment law, with extensive capabilities and experience in dealing with high value, complex and sensitive matters. He regularly advises and represents clients on matters of senior executive hiring; bespoke compensation and benefit structuring; large scale M&A, acqui-hire, outsourcing/insourcing deals with significant employment law elements; workplace harassment and misconduct investigations (*Atul is an AWI-CH certified investigator)*, including sensitive sexual harassment and corruption matters; large scale employee exits and workforce restructurings and closures; regulatory assessments on social security compliances; complex and sensitive senior employee separations and enforcement of restrictive covenants; strategic union negotiations and bargaining, amongst others.

Atul has created the firm's industrial relations practice and regularly assists clients in complex labour issues involving trade unions.

Atul regularly conducts training sessions for clients on effective management of employment law risks and sexual harassment prevention, including capacity building workshops for Internal Committee members.

Atul is a regular panellist and speaker at various international and national conferences including the American Bar Association's (ABA) Section of Labour and Employment Laws, International Bar Association's (IBA) Employment Committee, the Inter-Pacific Bar Association (IPBA) and ELA. He is also a regular speaker at CII's National Committee on Employment and Industrial Relations, amongst others.

CREDENTIALS

- Education: University of Pune
- Admissions: Bar Council of Karnataka

RECOGNITION

- Ranked in Band 1 for Labour and Employment by Chambers and Partners (Asia Pacific) consistently.
- Leading Partner – Labour and Employment, Legal 500 (2025 and before).
- Lexology Index/Who's Who Legal (WWL) - Global Leader and Thought Leader - Labour & Employment.
- 'Distinguished Practitioner' for Labour and Employment - Asialaw Profiles (2023 - 2025).
- Labour and Employment Lawyer of the Year - Asialaw Awards 2024
- India Business Law Journal's, A-list 2024 of top 100 lawyers in India.
- Standout Lawyer – Thomson Reuters

Atul Gupta

Partner – Labour and Employment

TRILEGAL

+ 91 97400 73428

+91 80 4343 4646

atul.gupta@trilegal.com

Bangalore

LinkedIn Profile

SELECT REPRESENTATIVE MATTERS AND CLIENTS

Representative list of a few of Atul's key clients on employment and industrial relations matters include:

- **McKinsey**
- **Micron Technology**
- **Honeywell**
- **Bank of America**
- **Wells Fargo**
- **Eli Lilly**
- **Prosus**
- **Capgemini**
- **Accenture**

Atul has advised Huhtamaki on a complex factory relocation matter, including strategy and approach to achieve the relocation despite opposition from the employee's trade union.

Atul has also advised Bank of Baroda on critical employment and union related matters, in India's first three-way merger of Vijaya and Dena Bank into Bank of Baroda.

RECENT INTERVIEWS

- **ET Now:** Four Labour Codes Implemented In India: Acts Notifed; Rules Will Be Issued In 5-7 Days
- **CNBC TV-18:** Indianomics | India's Labour Codes: Relief for Small Firms, Rising Gratuity Woes for Big Companies
- **CNBC TV-18:** New Labour Codes To Free Small Cos From Regulatory Burden But Higher Gratuity Outgo To Hit Big Firms

RECENT ONLINE PUBLICATIONS

- **Moneycontrol:** OPINION | The Labour Codes: To wait or not is the dilemma
- **Business Today:** Opinion piece on "New wage code: Why govt's new compensation rules are a hasty composition"
- **Lexology:** Three new labour codes enacted
- **The Economic Times:** India Inc to feel weight of bulkier payslips: Rise in cost of bonus, gratuity, overtime benefits to raise cos' salary outgo
- **Times of India:** New labour codes: Indian companies face higher wage expenses; manpower costs may increase 5-15% across sectors
- **Times Now:** New Labour Codes 2025: Why Your Boss Can't Reduce Your Salary Anymore?
- **Mint:** Labour codes: Gratuity, leave encashment get a boost, maternity payout doesn't
- **CNBC TV-18:** New labour codes streamline regulations, though job gains may take time: Industry observers
- **News18:** For The First Time, New Labour Codes Bring Gig & Platform Workers Into Social Security Net: What It Means
- **Bloomberg:** Labor Codes Have Companies Scrambling; India's Growing Spotlight
- **Bloomberg Quint:** Opinion piece on labour reforms in the age of Covid-19
- **People Matters:** Major workplace and HR developments in 2020

Atul Gupta

Partner – Labour and Employment

TRILEGAL

+ 91 97400 73428

+91 80 4343 4646

atul.gupta@trilegal.com

Bangalore

LinkedIn Profile

RECENT ONLINE PUBLICATIONS

- **Moneycontrol:** Indian companies to experience escalation in compliance costs under the new labour codes
- **CNBC TV-18:** Who gets gratuity after 1 year instead of 5 - An FAQ on the new Labour Code changes
- **PeopleMatters:** Labour codes flip HR priorities - experts map the shifts to watch
- **Business Standard:** Labour codes: Real estate expects up to 10% spike in baseline labour cost
- **New Indian Express:** States mostly aligned with new Labour Codes
- **Fortune India:** Tech sector expects significant benefits from new labour laws
- **Business Today:** New labour codes: Take-home pay may dip as PF and gratuity rise under unified definition of wages
- **The Hindu:** Labour experts welcome labour codes, but urge Govt to address likely teething issues
- **The Hindu Business Line:** Labour codes create a national framework for gig workers' benefits, but more clarity awaited
- **India Today:** From gratuity to gig worker insurance: What new labour laws mean for employees
- **Legal Era:** Trilegal Partner Atul Gupta Says On Launch Of New Labour Codes In India
- **India.com:** ATTENTION employees: From gratuity, national minimum wage to gig worker insurance, check Centre's 4 labour codes
- **The CSR Journal:** New Labour Codes: Four New Codes Redefine Work, Wages and Worker Protections
- **Fortune India:** Govt gives life to Labour Codes, trade unions, experts debate over consequences
- **Economic Times:** India Inc to Feel the Weight of Bulkier Payslips

RECENT PRINT PUBLICATIONS

- **Mint:** How the latest labour codes will benefit most employees [Pg:13]
- **The CSR Journal:** Real estate expects up to 10% spike in baseline labour cost [Pg:04]
- **Fortune India:** New rules formalise framework for gig workers, but more clarity awaited [Pg:03]

For more information, please visit our website

WWW.TRILEGAL.COM

The information contained in this may address a specific requirement for the recipient and must not be construed as advertisement or solicitation in any form or manner.