

# Labour regulations and employer compliances

# Agenda

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03 Applicability, timing and key compliances

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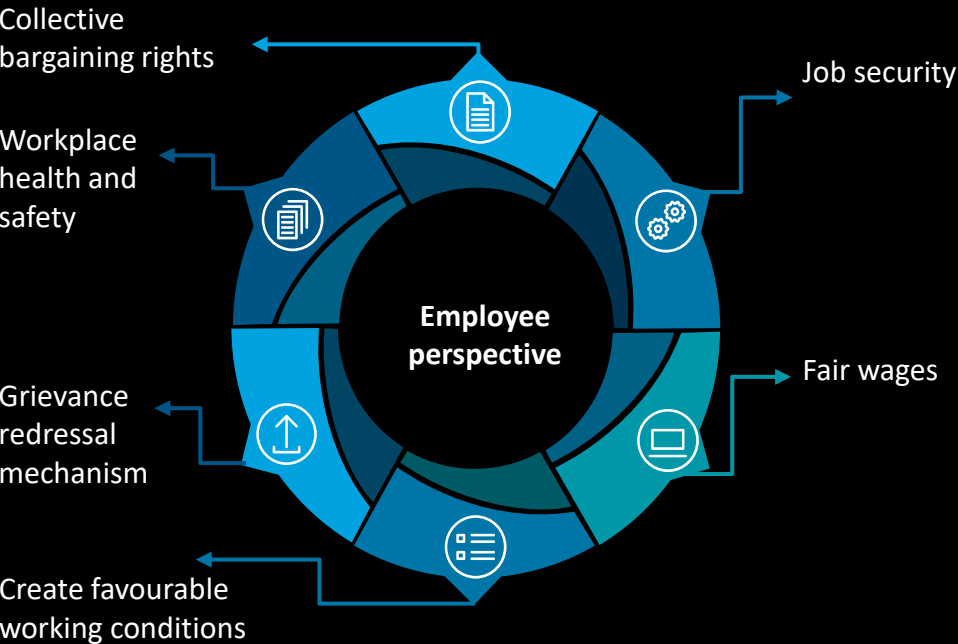
07 Way forward

# Objectives of labour regulations

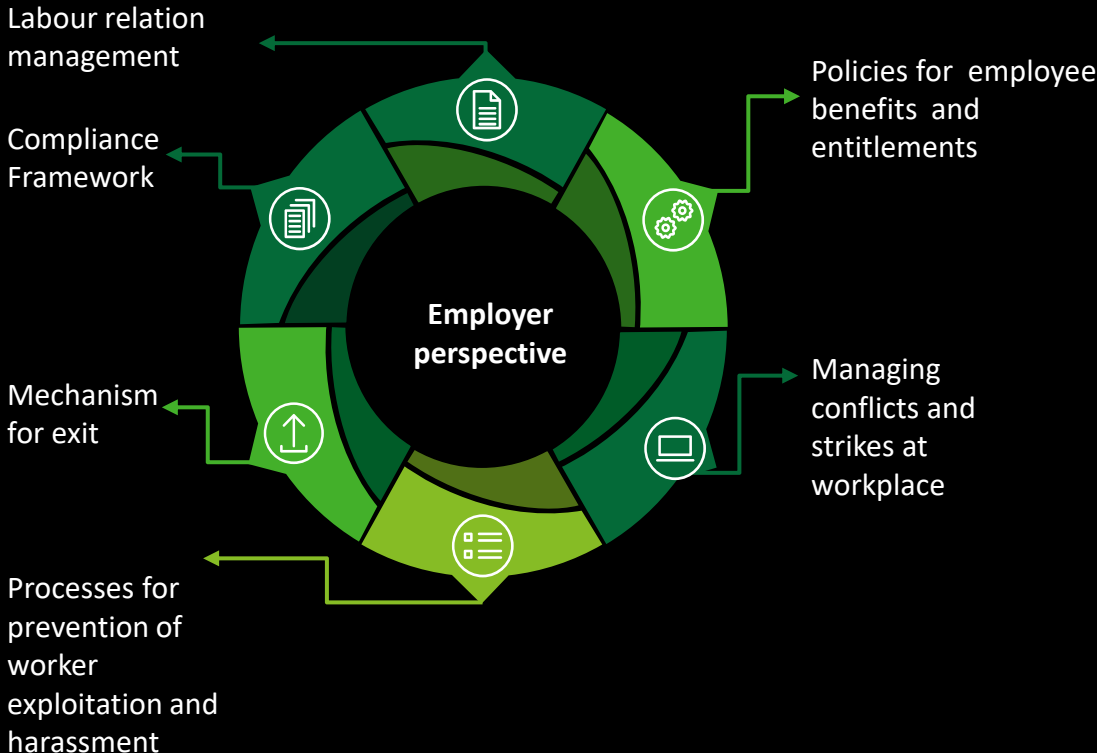


# Objectives of labour regulations

## Provides for



## Enables and facilitates



# Gamut of Labour laws and transition to labour codes



# Gamut of labour laws

## ₹ Legislations relating to wage rate, timelines and bonus

1. The Payment of Wages Act, 1936;
2. The Minimum Wages Act, 1948;
3. The Payment of Bonus Act, 1965; and
4. The Equal Remuneration Act, 1976

Subsumed into the Code on Wages

### State regulations

1. Shop and Establishment Act
2. Labour welfare fund legislations

## 🔒 Statutes in the social security space

1. The Employee's Compensation Act, 1923;
2. The Employees' State Insurance Act, 1948;
3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952;
4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959;
5. The Maternity Benefit Act, 1961;
6. The Payment of Gratuity Act, 1972;
7. The Cine-Workers Welfare Fund Act, 1981;
8. The Building and Other Construction Workers' Welfare Cess Act, 1996;
9. The Unorganised Workers' Social Security Act, 2008

Integrated as Code on Social Security

## 🏭 Three enactments on industrial relations

1. The Trade Unions Act, 1926,
2. The Industrial Employment (Standing Orders) Act, 1946 and
3. The Industrial Disputes Act, 1947

Consolidated under the Code on Industrial Relations

## 🏠 13 laws relating to safety and health standards at the workplace

1. The Factories Act, 1948;
2. The Mines Act, 1952;
3. The Dock Workers (Safety, Health and Welfare) Act, 1986;
4. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
5. The Plantations Labour Act, 1951;
6. The Contract Labour (Regulation and Abolition) Act, 1970;
7. The Inter-state migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979;
8. The Working Journalist and other News Paper Employees (Conditions of Service and Misc. Provision) Act, 1955;
9. The Working Journalist (Fixation of rates of Wages) Act, 1958;
10. The Motor Transport Workers Act, 1961;
11. Sales Promotion Employees (Condition of Service) Act, 1976;
12. The Beedi and Cigar Workers (Condition of Employment) Act, 1966;
13. The Cine Workers and Cinema Theatre Workers Act 1981

Amalgamated into Code on Occupational Safety, Health and Working Conditions

# Applicability, timelines and key compliances



# Applicability, timelines and key action / compliance

Act & objective	Applicability and timelines	Key action/ compliance
<p><b>The Employees' Provident Funds And Miscellaneous Provisions Act, 1952</b> - Secure employee's financial well-being during retirement</p>	<ul style="list-style-type: none"> <li>Establishment having 20 or more employees.</li> <li>Payment by 15<sup>th</sup> of the following month</li> <li>Annual return – 30<sup>th</sup> April of the following year</li> <li>Varies for Exempt establishments – PF, EDLI, Pension</li> </ul>	<ul style="list-style-type: none"> <li>Generate UAN for new employees, linking Aadhar</li> <li>Generate ECR on monthly basis</li> <li>Form 11 and nomination on joining / family change, IW1</li> <li>Form 13 to be collected for transfer of PF amount from previous employer to current employer</li> </ul>
<p><b>The Employees' State Insurance Act, 1948</b> - Provide benefits to employees in case of sickness, maternity and ' employment injury</p>	<ul style="list-style-type: none"> <li>Employees drawing wages up to INR 21,000 p.m. in factories; industrial establishments; any non-seasonal factory or company having more than 10 employees</li> <li>Payment by 15<sup>th</sup> of the following month</li> <li>Half yearly Return - 11th November &amp; 11th May</li> </ul>	<ul style="list-style-type: none"> <li>Monthly payment and filing of return</li> <li>Register of Employees, muster roll, wage record, Accident Book and inspection Book</li> <li>Year on year renewal of exemption</li> </ul>
<p><b>The Payment Of Gratuity Act, 1972</b> - Provide financial benefit for long term service upon retirement or resignation</p>	<ul style="list-style-type: none"> <li>Establishments with 10 or more employees and every factory, mine, oilfield, plantation, port and railway company.</li> <li>Payment with in 30 days from the date it becomes payable</li> <li>Applicability to Fixed Term Employees</li> </ul>	<ul style="list-style-type: none"> <li>Records of employees, duration of service, wages, and gratuity payments made.</li> <li>Funding of gratuity liability</li> <li>Revise estimates for labour code implications</li> </ul>
<p><b>Maternity Benefit Act, 1961</b> - Provide for maternity and other related benefits, regulate the employment of women for certain period before and after child-birth</p>	<ul style="list-style-type: none"> <li>Every shop or establishment, in which 10 or more persons are / were employed, on any day of the preceding 12 months and every factory, mine or plantation including any such establishment belonging to Government</li> <li>No timelines prescribed</li> </ul>	<ul style="list-style-type: none"> <li>Maintain registers, records and muster-rolls in Forms (varying from state to state).</li> <li>Abstracts of Act and rules to be exhibited</li> <li>Creche facilities for establishments with 50 or more employees</li> </ul>
<p><b>The Minimum Wages Act, 1948</b> - To provide for fixing minimum rates of wages in certain employments.</p>	<ul style="list-style-type: none"> <li>Applicable to employers in India for employees in scheduled employment</li> <li>No timelines prescribed</li> </ul>	<ul style="list-style-type: none"> <li>Maintenance of registers- Register of Fines, Overtime Registers, Muster Rolls, Register of Wages, etc. Inspection Books.</li> <li>Issuance of wage slips, display of notice</li> </ul>



# Objective, applicability, timelines and key action / compliance

Act & Objective	Applicability and timelines	Key action/ compliance
<p><b>The Payment Of Wages Act, 1936</b> - Payment of wages at specified intervals without unauthorized deductions.</p>	<ul style="list-style-type: none"> <li>• Applies to all factory and establishment in India</li> <li>• Ordinarily applies to employees earning INR 24,000 or less</li> <li>• Wages/Stipend to be paid on or before the 10th day of the following month.</li> </ul>	<ul style="list-style-type: none"> <li>• Obtain Nomination form from the employee,</li> <li>• File annual returns. Rules made by many State Governments provide for annual return in prescribed form.</li> <li>• Maintenance of registers of fines, deductions, advance, wages etc.</li> <li>• Displays as per the provisions of the Act.</li> </ul>
<p><b>The Apprentice Act, 1961</b> - Provides for training of apprentices, Supplements the availability of trained technical employees for the industry.</p>	<ul style="list-style-type: none"> <li>• Establishments having at least 30 workers are mandated to undertake Apprenticeship Programs.</li> <li>• Wages/Stipend to be paid on or before the 10th day of the following month.</li> </ul>	<ul style="list-style-type: none"> <li>• Contract of apprenticeship</li> <li>• Tracking of work completed by apprentice</li> <li>• Maintain register of attendance</li> <li>• Maintain a record of the work done and training undertaken by apprentices for each quarter and submit the report</li> </ul>
<p><b>The Payment Of Bonus Act, 1965</b> - Payment of bonus (linked with profit or productivity) to specified persons</p>	<ul style="list-style-type: none"> <li>• All factories and every other establishment in which 20 or more persons are employed as on any day during an accounting year.</li> <li>• Employees who earn less than INR 21,000 and have worked for a minimum period of 30 days.</li> <li>• Payment within 8 months from close of accounting year</li> </ul>	<ul style="list-style-type: none"> <li>• Computation of allocable surplus, determine bonus payable.</li> <li>• Maintain registers</li> <li>• File annual returns in respect of the preceding year</li> </ul>
<p><b>The Factories Act, 1948</b> – Covers the health, safety, welfare, service conditions and other aspects of workers in factories</p>	<ul style="list-style-type: none"> <li>• Applicable to whole of India where manufacturing process takes place.</li> <li>• It is all about working conditions and health and safety of employees</li> </ul>	<ul style="list-style-type: none"> <li>• Registration and obtain relevant license</li> <li>• Maintain registers</li> <li>• Display of notices in the factory</li> <li>• Provide and maintain adequate safety and welfare measure such as creche, canteen, washroom etc. for the workers</li> </ul>
<p><b>The Industrial Disputes Act, 1947</b> - The objective of the Act is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.</p>	<ul style="list-style-type: none"> <li>• Applicable to whole of India for workmen.</li> <li>• Payment needs to be made at retrenchment, if applicable</li> </ul>	<ul style="list-style-type: none"> <li>• Employer to follow the provisions related to layoff, retrenchment and closure</li> <li>• Prohibition of unfair labour practices</li> <li>• Recognition of industrial dispute</li> <li>• Payment of compensation to workers on account of closure or lay off or retrenchment.</li> </ul>

# Impact on establishments on account of non-compliance

Act	Offence	Penalties
The Employees' Provident Funds And Miscellaneous Provisions Act, 1952	Deducted but not remitted, Default in deduction and payment of contribution, splitting up of wages, false statement or false representation; contravention or default related to inspection and administrative charges.	Fine: Ranging from INR 5000 to INR 10,000 Imprisonment : Ranging from 6 months to 3 years Interest in delay of payment : 12% per annum Penalty in delay of payment : 5% to 25% per annum (Limited to 100% of default)
Employees' State Insurance Act, 1948	Punishment for false statements, failure to pay contributions, etc., contravention of or non-compliance with any of the requirements of this Act, fails or refuses to submit any return required, subsequent offences etc.	Fine: Ranging from INR 2000 to INR 25,000 Imprisonment : Ranging from 6 months to 5 years
The Payment Of Gratuity Act, 1972	False statement or representation to avoid paying under this Act or helping to do so; Non-compliance of the provision of the Act or rules made thereunder;	Fine: Ranging from INR 10000 to INR 20,000 or Imprisonment : Ranging from 3 months to 1 year or both
	Non-payment or delayed payment of gratuity	Imprisonment – Ranging from 6 months to 2 years
Maternity Benefit Act, 1961	Employer Contravention for violation of Act or rules made thereunder; Obstructing Inspector.	Fine: INR 500 or Imprisonment : Ranging from 3 months to 1 year or both
The Minimum Wages Act, 1948	Payment of less than the minimum wages or violation of any rule or order under this Act.	Fine: Ranging from INR 500 to INR 5000 or Imprisonment : Up to 6 months or both
	Contravenes any provision of this Act or of any rule or order	Fine up to INR 500
The Payment Of Wages Act, 1936	Violation and contraventions of specific sections including failure to nominate or designate a person, to maintain records or furnish information, Obstruction of an Inspector, repeat offences, late fine payments etc.	Fine: Ranging from INR 1500 to 22,500 and fine 750/day for late payment  In case of subsequent offence, Imprisonment ranging from 1 month to 6 months

# Impact on establishments on account of non-compliance

Act	Offence	Penalties
The Apprentice Act, 1961	Failure to engage the number of apprentices required under the provisions; Failure to provide accurate information or returns, or providing false information; to cooperate with authorized inquiries, entry, inspection, examination etc. Making apprentices work overtime without approval; Assigning tasks unrelated to training.; Paying piecework wages ; Involving apprentices in output bonus or incentive schemes. Engaging unqualified individuals as apprentices; Breaching the terms of apprenticeship contracts. Any other contraventions	Fine: Ranging from INR 500 to INR 3000 (per shortfall/per occurrence)
The Payment Of Bonus Act, 1965	Non-compliance with the provisions. disobeying any rule made under it, or fail to follow a direction or request given under this Act	Fine: Up to INR 1000 or Imprisonment : Up to 6 months or both
The Factories Act, 1948	Contravention of any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder; subsequent offences; obstructing Inspector; wrongfully disclosing results ; Contravention of specific provisions ; offences by workers; using false certificate of fitness; permitting double employment of child; contravention resulting in an accident-causing death , serious bodily injury etc.	Fine: Ranging from INR 1000 to INR 2,00,000 Imprisonment : Ranging from 6 months to 10 years
The Industrial Disputes Act, 1947	Illegal strikes and lock-outs; instigation,; giving financial aid to illegal strikes and lock-outs.; breach of settlement or award; disclosing confidential information; closure without notice ; other offences; contravention of any of the provisions of this Act or any rule made thereunder.	Fine: Ranging from INR 50 to INR 5,000 Imprisonment : Ranging from 1 month to 6 month  A further fine which may extend to 200 rupees per day for continuing offence if the breach continues after the conviction for the first

## Judicial recourse:

- In case, if any person is aggrieved by an order made under the Act, can make the appeal to the appellate authority designated under the particular Act within specified time.
- In some acts, to file the appeal, certain percentage of the amount needs to be deposited as per the order passed

# Polling question

What is the level of complexity of labour law compliances in your organisation?

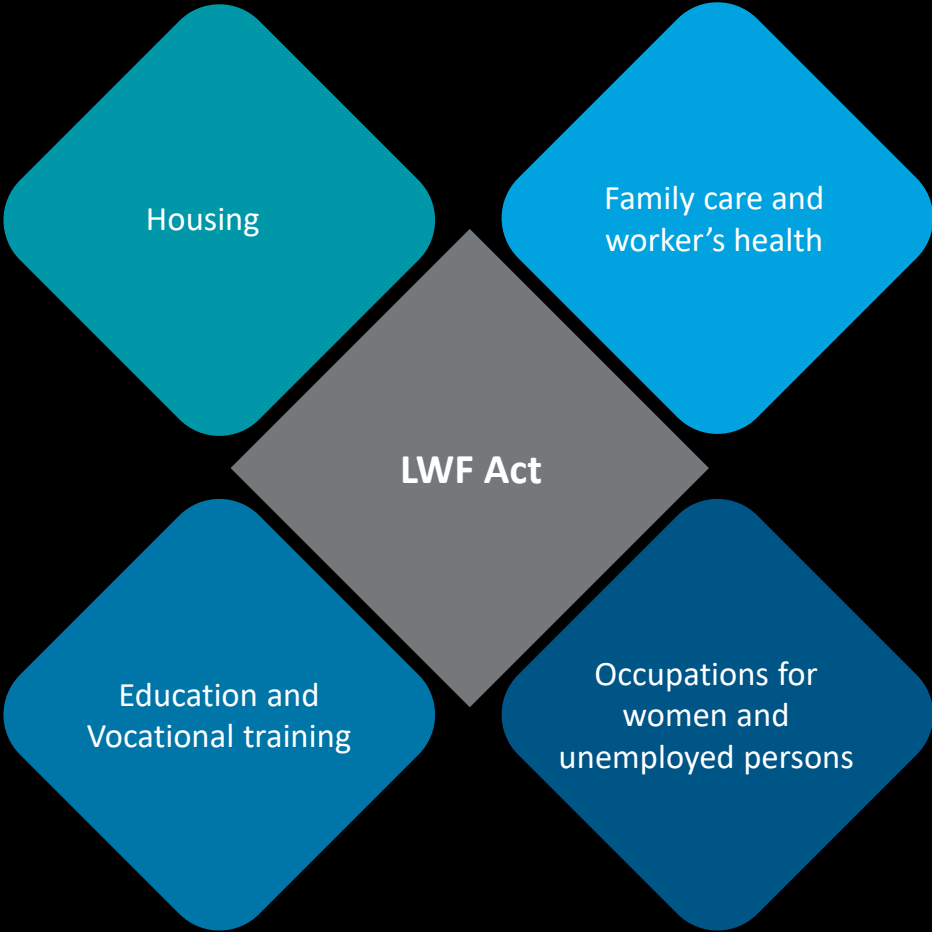
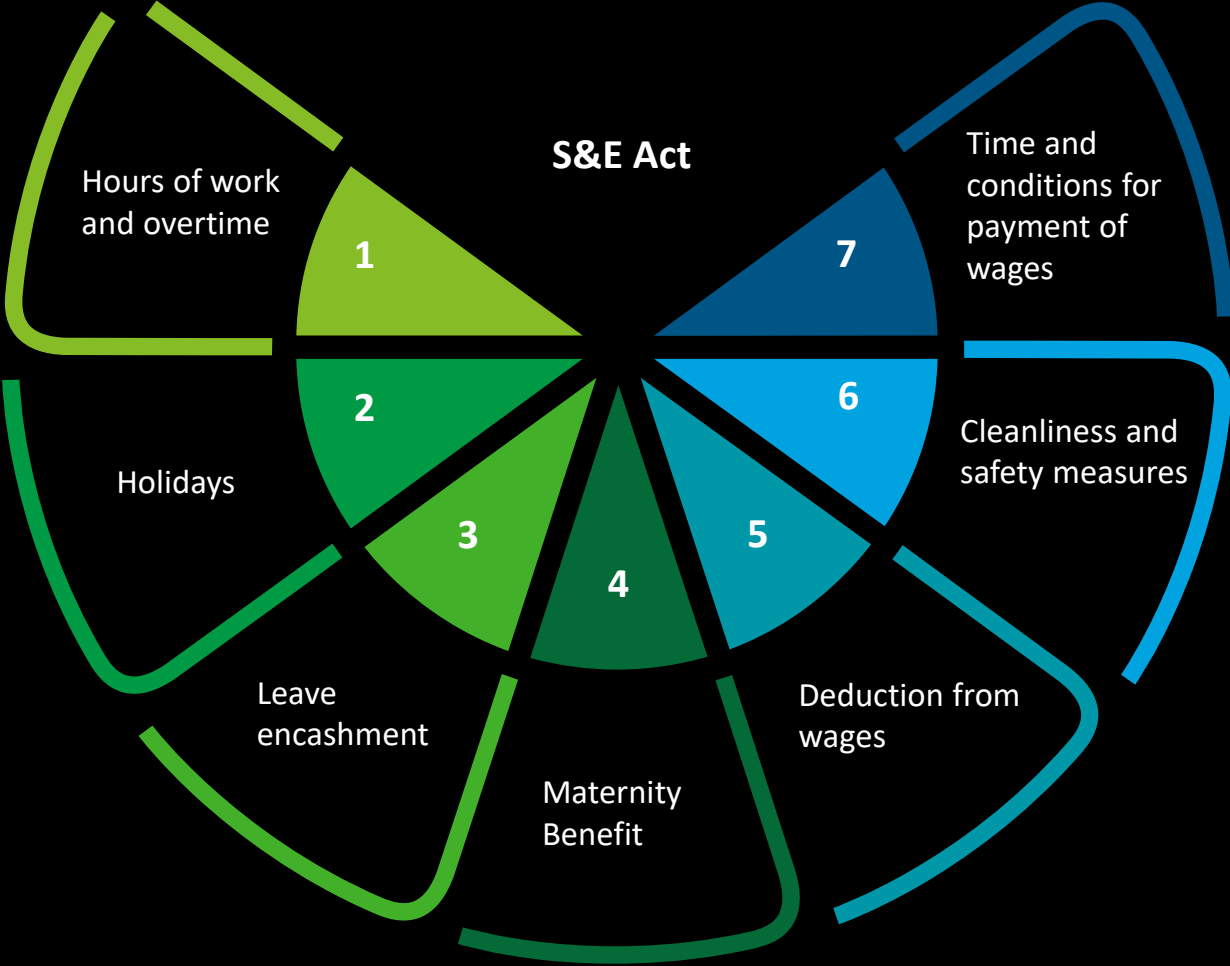
1. It is simple – located in one state and not many categories of workforce
2. It is moderate – we have presence in 3-5 states but not many workforce categories
3. It is complex due to the varied workforce and / or presence in multiple states
4. Not aware

# State specific requirements



# State specific requirements

Major areas covered under Shops and Establishments Act (S&E Act) and Labour Welfare Fund Act (LWF Act)



# Broad similarities and some variation across state Acts

## Similarities

Areas where the provisions are broadly similar across S&E Acts notified by states:

- Hours of work
- Overtime
- Weekly off
- Cleanliness
- Lighting and ventilation
- Deductions from wages
- Full and final settlement timeline

## Variations

Aspects where the provisions vary with / amongst each other:

- Earned leave
- Sick leave / casual leave
- Carry forward of leave balance
- Timeline for payment of wages

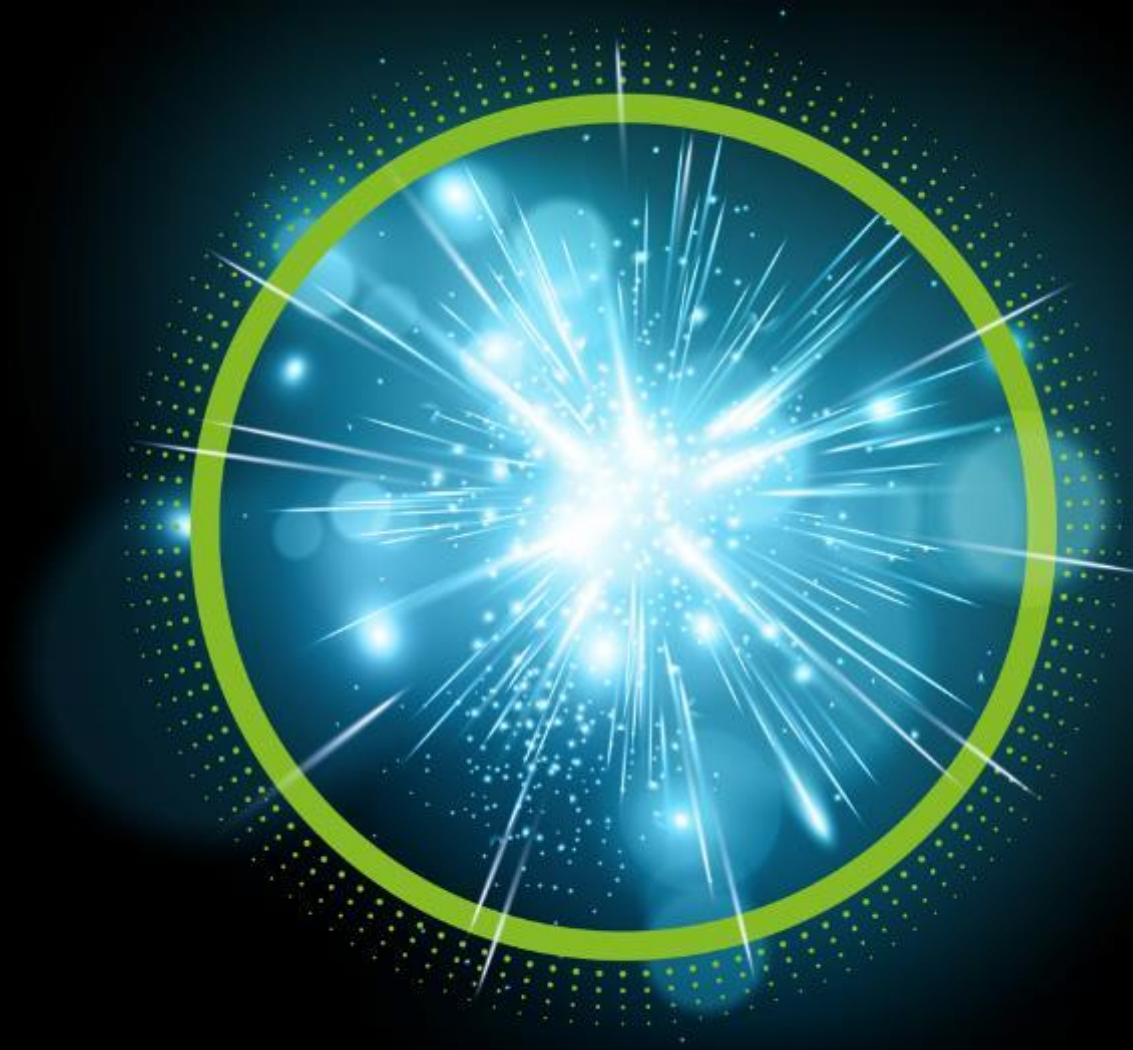
The S&E Act also differs from central legislations like Factories Act in its intent, applicability, coverage, authority, etc.

## Broad Similarities and some variation across State Acts

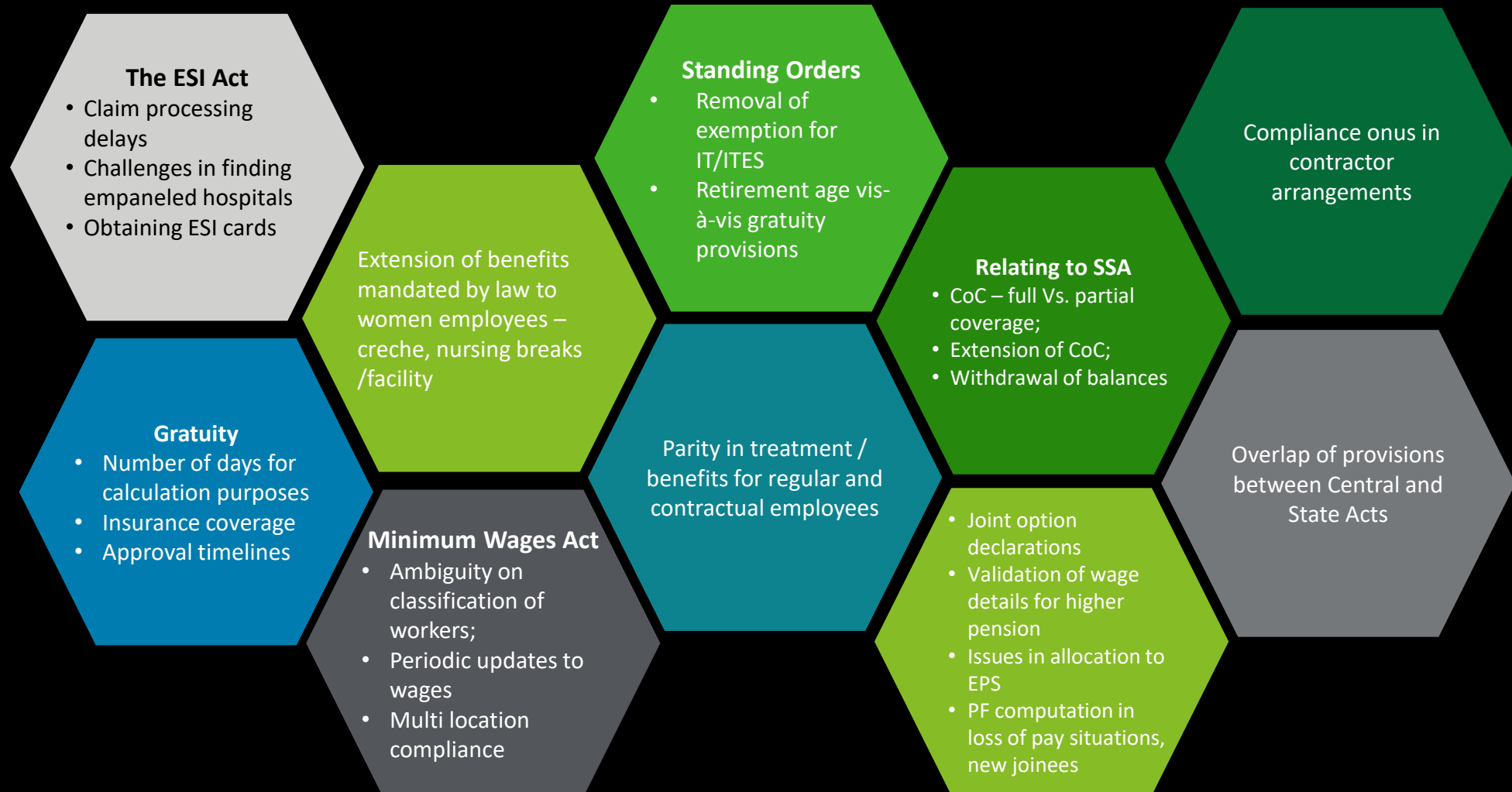
Aspects / State	Maharashtra	Delhi	Kerala	West Bengal	Karnataka
<b>Hours of work for employee</b>	48 hours per week and upto 9 hours a day	48 hours per week or upto 9 hours a day	48 hours per week and upto 8 hours a day	48 hours per week or upto 8.5 hours a day	48 hours per week and upto 9 hours a day
<b>Overtime</b>	Rate of twice the ordinary rate of wages	Rate of twice the ordinary rate of wages	Rate of twice the ordinary rate of wages	Rate of twice the ordinary rate of wages	Rate of twice the ordinary rate of wages
<b>Weekly off</b>	Any one day	Any one day	Any one day	Any one day following with half day	Any one day
<b>Annual Leave</b>	18 Days (after 240 days of continuous service)	15 days (after 12 months of continuous service)  5 days (after 4 months of continuous service)	12 days (after 12 months of continuous service)	14 days (after 12 months of continuous service)	1 day for 20 days of continuous service, i.e. around 18 days (adult)  1 day for 15 days of continuous service, i.e. around 24 days (young person)
<b>Sick Leave</b>	Nil	12 days (sick leave or casual leave combined)	12 days	14 days (half pay)	12 days
<b>Casual Leave</b>	8 days		12 days	10 days	Nil
<b>Carry forward of leave</b>	45 days limit	45 days limit	24 days limit	28 days limit (56 limit for sick leave)	30 days limit (adult) 40 days limit (young person)



# Practical challenges



# Practical challenges in compliances



# Key updates



## Karnataka Gratuity Insurance Rules

- Issued in January 2024
- Mandates insurance covering total gratuity liability.
- Timeline for obtaining insurance – 10 March 2024
- Option of having approved trust or obtaining insurance provided for certain employers.



## Welfare schemes for platform-based gig workers

- Rajasthan (Act), Tamil Nadu (Bill), Karnataka (Budget announcement)
- Welfare Fund to be constituted
  - Cess levied on eligible online transactions in the range of 1%-2%
  - Contributions made by individual platform-based gig workers
  - Grants, gifts, donations, etc.



## Update on POSH

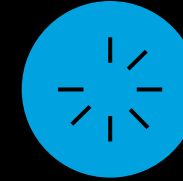
### Proposed changes

- Extended time limit for complaint of Sexual Harassment
- Omission of conciliation provision



## Digital Joint Request under EPF Act

- New employees (barring IWs) contributing to PF on wages in excess of INR 15,000 p.m. to furnish the joint request
- No immediate requirement for existing employees
- Deemed compliance for past employees



## Exemption to IT/ITES under the Industrial Employment (Standing Orders) Act, 1946 ('IESO Act')

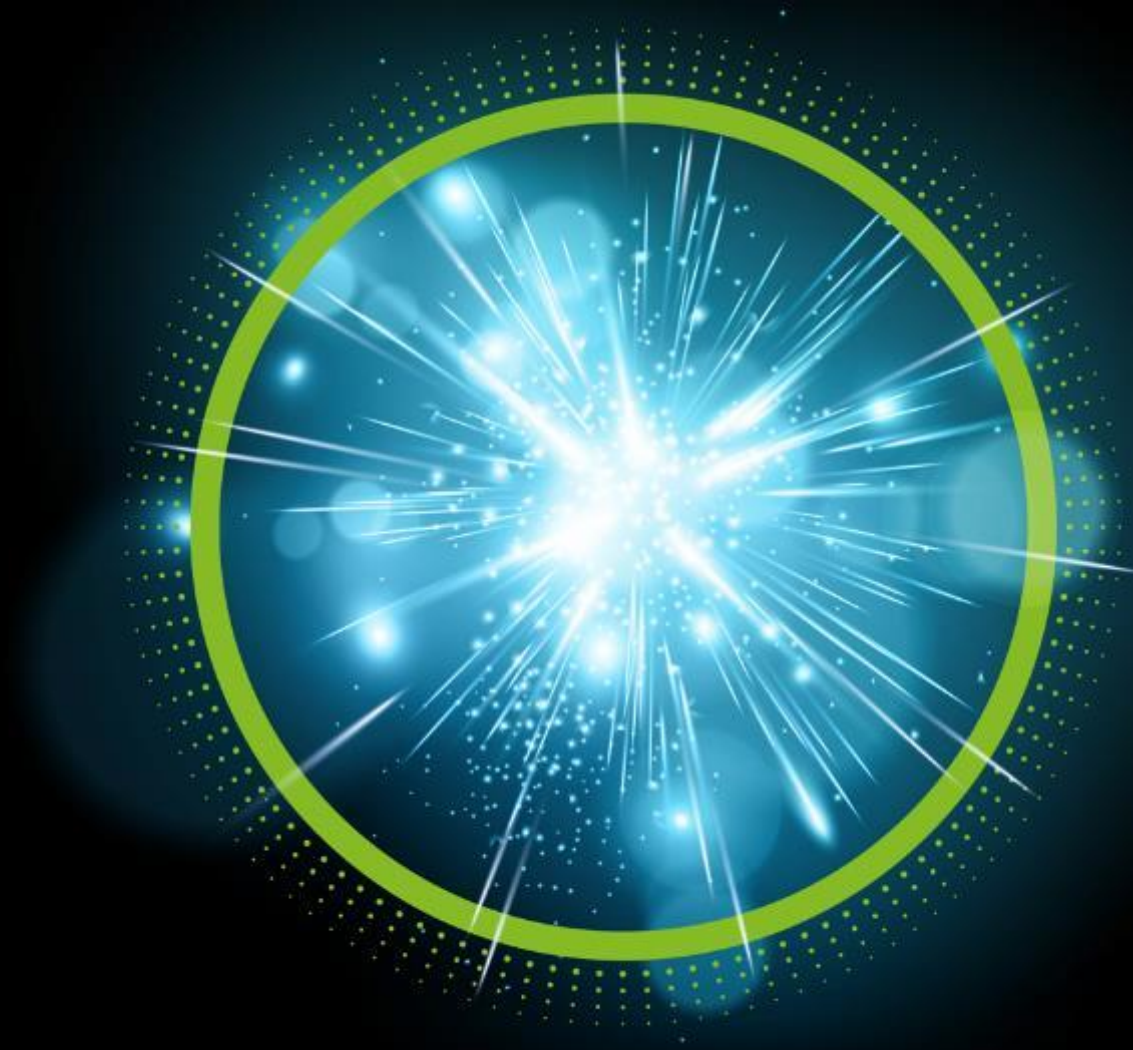
- IT/ITES companies in Karnataka exempted from compliance under the IESO Act.
- Exemption set to expire in May 2024, renewal unlikely
- IT/ITES company having 50 or more employees to draft and submit their standing orders for certification to the authorities.

# Polling question

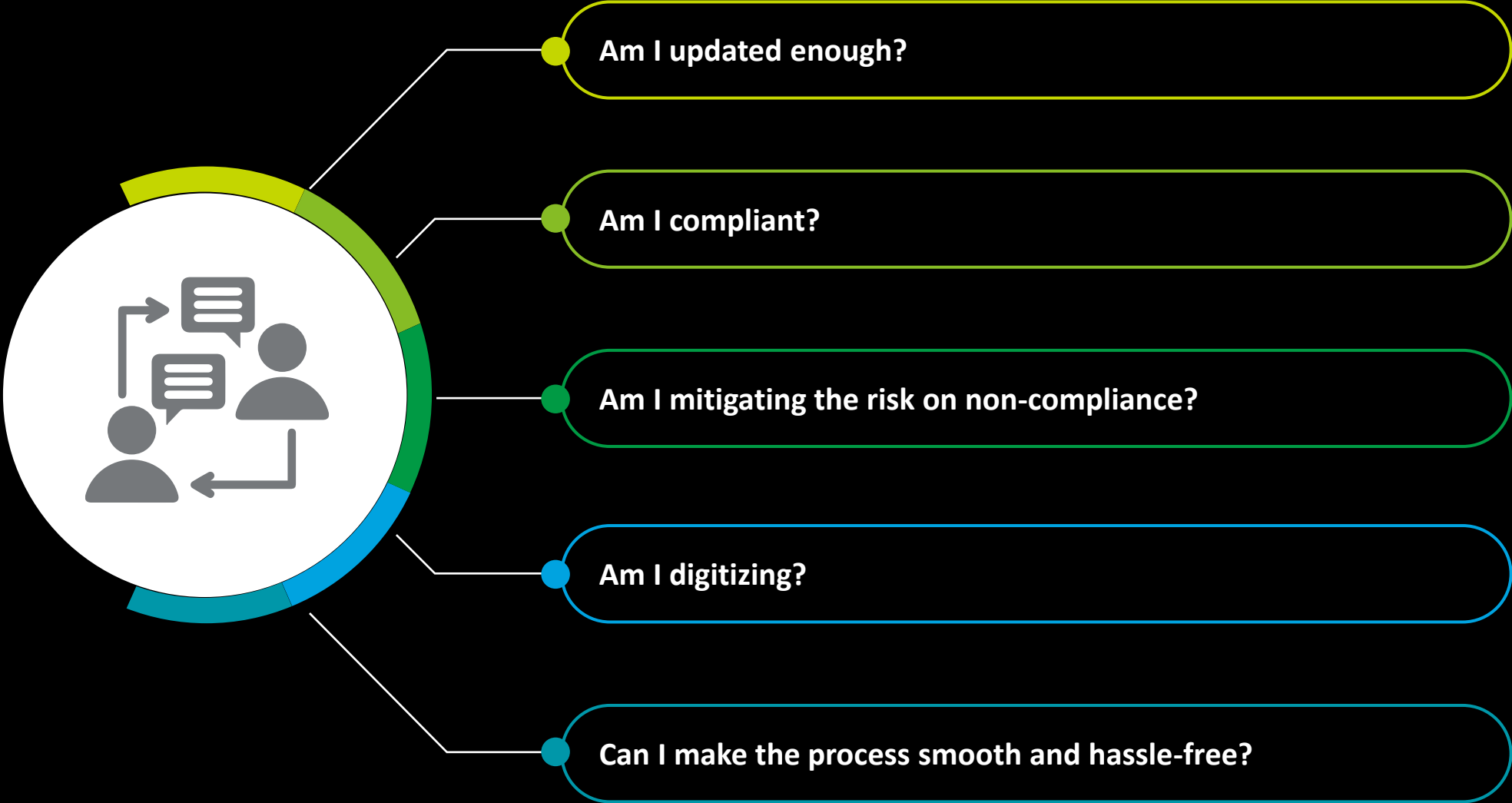
How do you manage your labour compliances?

- Multiple internal stakeholders
- External service provider
- Have a compliance dashboard managed internally
- Have a compliance dashboard managed by vendor
- Not aware

# Way forward



# Way forward



**Thank you!**

Kindly spare a minute to help us with your feedback for today's session...

For any queries, please feel free to write to us at [intax@deloitte.com](mailto:intax@deloitte.com)



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