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Advisory and Policy Note: Impact of New Labour Codes on Renewable Energy Businesses in India

1. Executive Summary

India has officially implemented four new Labour Codes (Code on Wages, Industrial Relations, Social Security, and OSH Code), amalgamating 29 central laws. For businesses in the Renewable Energy (RE) sector—characterized by remote project sites, seasonal labor, and high-tech R&D—these changes present significant operational and financial risks. The new regime enforces a unified definition of "Wages," universalizes minimum wage, and provides statutory recognition to flexible work arrangements.

2. Key Implementation Changes & Business Risks

A. The "50% Wage Rule" & Financial Liability: The new definition of "Wages" mandates that "Basic Pay + DA + Retaining Allowance" must comprise at least 50% of the total CTC. If allowances exceed 50%, the excess is automatically treated as wages for calculating PF, ESI, Gratuity, and Bonus. Risk- Many RE firms have high-paid technical staff with complex allowance structures to minimize statutory costs. Under the new codes, these firms will face an immediate increase in the employer's share of PF and Gratuity contributions, impacting project IRR (Internal Rate of Return).

B. Fixed-Term Employment (FTE) Recognition: FTE now has statutory recognition. Companies can hire workers for specific durations (e.g., 12 months for solar plant installation) without the "contract labor" stigma. Changes- Crucially, FTEs are now entitled to pro-rata gratuity after just one year of service, rather than the previous 5-year threshold. This increases the cost of short-term project-based labor common in wind and solar farm construction.

C. Gig & Platform Worker Social Security: If RE firms use digital platforms for maintenance or gig workers for localized tasks (e.g., panel cleaning via apps), they are classified as "Aggregators". **Compliance-** Such Aggregators must contribute 1–2% of their annual turnover to a Social Security Fund.

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D. Operational Flexibility (The "300 Employee" Rule): The threshold for seeking government permission for layoffs, retrenchments, or closures has increased from 100 to 300 employees. This offers significant relief to mid-sized RE firms, allowing them to scale or downsize operations more fluidly in response to policy shifts or seasonal demand.

3. Regulatory Risks & Penalties:-

- A. **Inspector-cum-Facilitator:** The role of labor inspectors has shifted toward facilitation, but repeated offenses carry higher "compounding" fines (up to 50% of max penalty for first-time offenses).
- B. **Limitation Period:** While there is a new 5-year limitation period for inquiries (providing relief from decades-old audits and older paperwork storage), the portal-based compliance tracking makes immediate detection of delays more likely.

Failure to align with the new wage definition by the effective date (Nov 21, 2025) will result in significant retrospective liabilities.

4. Project Implementation Risks

Renewable energy project execution depends on both skilled labour (engineers, technicians) and semi-skilled workforce (installation, site work). New compliance requirements for safety, social security, and wage coverage necessitate upgraded HR systems and worker protections.

Documenting contracts, ensuring appointment letters, and formalising worker classifications will increase project administration costs but will also improve workforce stability and traceability, critical for long-term asset reliability.

5. Operational Safety and Workforce Skills

Expanded provisions under the Occupational Safety, Health and Working Conditions Code increase employer responsibilities for risk assessments, safety protocols, mandatory training, and health checks. While these advances are positive for worker welfare, they lead to short-term cost and management time investments for businesses that must develop new safety systems and compliance processes.

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Separately, the renewable sector’s rapid growth is outpacing the availability of skilled technical labour, technicians in battery storage, grid integration, and maintenance, requiring proactive reskilling and upskilling strategies. Without deliberate workforce investment, skill gaps could constrain project delivery and increase operational risk.

6. Compliance Uncertainty and Administrative Burden

Renewable energy firms managing multi-state operations may face uneven implementation and variable state interpretations of the labour codes, increasing administrative complexity and legal risk.

7. Workforce Flexibility and Industrial Relations Risks

The Industrial Relations Code introduces greater workforce flexibility, including broader acceptance of fixed-term and contractual employment and higher thresholds for mandatory government approval for layoffs. While this enhances operational flexibility, it could also spur labour unrest and disputes if workers perceive a weakening of collective bargaining power or job security, as evidenced by nationwide trade union protests against the new codes.

For renewable energy companies, which often operate on distributed sites with seasonal and project-based workforces, this dual pressure of operational flexibility and potential for industrial action may disrupt project timelines and drive up risk premiums.

8. Monthly Compliance Filings

Statutory Requirement	Due Date	Description
Salary/Wage Payment	7th of every month	Mandatory for all employees (universalized), regardless of salary bracket.
PF (Provident Fund)	15th of every month	Electronic Challan-cum-Return (ECR) filing and payment.

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Statutory Requirement	Due Date	Description
ESIC Contribution	15th of every month	Payment for health insurance coverage for eligible employees.
Professional Tax (PT)	End of the month	Varies by state (e.g., 20th in some states, end of month in others).

9. New Labour Code Specific Timelines

The new codes have introduced strict "event-based" filing requirements that differ from previous laws:

- **Full and Final (F&F) Settlement:** Must be filed/paid within 48 hours (2 working days) of an employee leaving the organization (resignation, termination, or layoff). If an employee resigns or a project contract ends in 2026, all dues must be cleared within 2 working days.
- **Gratuity Payment:** Must be paid within 30 days of it becoming "payable" (now includes pro-rata gratuity for Fixed-Term Employees after 1 year). This is especially relevant for Fixed-Term Employees (FTEs) in the RE sector whose 1-year contracts may end in 2026.
- **Social Security Fund (Aggregators):** If you utilize gig/platform workers, the 1-2% turnover contribution is expected to be an annual filing, though specific quarterly reporting dates may be notified by the state.
- **Overtime Reporting:** Quota for overtime has increased to 125 hours per quarter. Records must be updated and available for the "Inspector-cum-Facilitator" at all times.

10. Annual and Periodic Filings

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Filing Type	Due Date	Remarks
Unified Annual Return	February 1st	Under the new codes, a single web-based return replaces multiple older returns (Maternity, Bonus, etc.).
Form 16 (TDS)	June 15th	Certificate of tax deducted at source provided to employees.
Audit/Inquiry Defense	5-Year Window	You must maintain records for at least 5 years. Inquiries cannot be initiated for periods older than this.

11. The "48-Hour" Golden Rule: No worker shall be allowed to work more than 48 hours per week. The Result is that any work done on the 5th, 6th, or 7th day must be treated as Overtime (OT) and paid at double the normal wage rate.

12. Spread-over and Rest Intervals: A "12-hour shift" is the maximum allowable (the total time from when a worker starts to when they finish, including breaks). Mandatory Breaks: No worker can work for more than 5 hours continuously without a rest interval of at least 30 minutes. Management Action: You must schedule at least two 30-minute breaks or one 60-minute break within the 12-hour window. The actual "productive" work time will likely be 11 hours, with 1 hour of total rest.

13. Overtime (OT) Protocols: Daily Cap: Total working hours, including OT, generally cannot exceed 12 hours in a day. Quarterly Cap: Ensure workers do not exceed 125 hours of OT per quarter (check specific State Rules for variations). Consent: Unlike normal shifts, any overtime work requires the written consent of the employee. You cannot "force" a 13th hour.

14. Health & Safety Mandates: 12-hour shifts increase the risk of "worker fatigue," which is a liability under the new OSH Code. Annual Health Check-ups: Every worker aged 40+ must receive a free annual medical examination. For 12-hour shift workers, track fatigue-related metrics (e.g., increased error rates in the last 2 hours). Welfare Facilities: Ensure canteens

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and rest rooms are operational for the full duration of the 12-hour stretch. A canteen that closes at 6 PM is non-compliant if the shift ends at 8 PM.

15. Night Shift & Gender Compliance: If the 12-hour shift falls between 7 PM and 6 AM. For Women Workers: Businesses must obtain explicit written consent. Mandatory Provision: You must provide GPS-enabled transport, well-lit workplaces, and ensured security. The "11-Hour" Rule: Ensure at least 11 hours of gap between the end of a night shift and the start of the next shift.

16. The Unified Annual Return (Due Feb 1, 2026): The four codes have collapsed multiple returns (under the Factories Act, Contract Labour Act, etc.) into one digital form. Key Content: This return now requires a breakdown of "Wage Components" to verify the 50% Wage Rule. Discrepancies between their EPFO filings and this Unified Return could be flagged.

17. The Reskilling Fund Transfer (45-Day Cycle): The Rule: If a client retrenches workers in 226, they have 10 days to transfer 15 days' wages to the government fund. The government then has 45 days to transfer this to the worker. Risk: Delayed transfers by the employer carry a heavy compound interest penalty under the *Industrial Relations Code*. Employers must now contribute 15 days' wages for every retrenched worker into a government-managed fund.

18. The "40+ Health Check" (Annual Requirement): The Mandate: For certain industries (Factories, Mines, etc.), employers must now provide a free annual health check-up for all employees aged 40 and above. Filing Requirement: This data must be logged in the Unified Annual Return.

19. Possible Steps:-

19.1. Audits: Ensure your PF/ESI portal is mapping "Gross Wages" correctly to the 50% threshold. Ensure "Variable Pay" and "Bonuses" are excluded from the 50% calculation, as including them would unnecessarily inflate your gratuity liability

19.2. Designate your "Facilitator Liaison": Since the role has shifted from "Inspector" to "Facilitator," companies should appoint a single point of contact for digital audits.

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19.3. All statutory contributions (PF, ESI, Gratuity) for the look-back period of [24 months] have been recalculated and any "add-back" shortfalls have been paid to the respective authorities.

19.4. Fixed-Term Employment (FTE) Liability Provisioning: The Seller shall demonstrate that: (a) A comprehensive register of all Fixed-Term Employees has been created. (b) Pro-rata gratuity liabilities for all FTEs with over 1 year of service have been quantified and either (i) paid out where contracts have expired, or (ii) specifically reserved as a "current liability" on the Closing Balance Sheet.

19.5. Appointment Letters: Businesses shall provide evidence of: (a) Issuance of revised Appointment Letters to 100% of the workforce (including workers, FTEs, and contractors) containing the mandatory particulars required under the *OSHWC Code, 2020*. (b) Successful migration of all establishment registrations to the Shram Suvidha Portal (or the relevant 2026 unified portal) with updated "facilitator-ready" digital registers.

19.6. Reconsideration of "Core Activity" Contracting: Where businesses engages contract labor, the business shall provide a Legal Opinion or a Compliance Certificate confirming that no contract labor is engaged in "Core Activities" (as defined under the *OSHWC Code*), unless falling under statutory exceptions. If violations were found during diligence, the business must provide evidence of the "regularization" or "termination" of such arrangements.

19.7. Gender Equality & Safety Compliance: The business shall submit: (a) Evidence of a Pay-Equity Audit ensuring no gender-based wage disparity exists for "similar work." (b) Copies of written consent forms and transportation/CCTV contracts for all female employees working night shifts (7 PM – 6 AM), as required by the 2026 safety mandates. The new codes explicitly prohibit discrimination in recruitment and employment conditions not just based on gender, but specifically including transgender persons. Every establishment must now publish an "Equal Opportunity Policy" and, in many states, designate a "Grievance Redressal Officer" specifically for transgender employees. Foreign entities with global Diversity & Inclusion (DEI) standards should "localise" their policies.

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19.8. The "Work from Home" (WFH) Codification: For the first time, WFH and hybrid models are being formalized under the *Model Standing Orders*. The **Occupational Safety (OSH) Code** could hold employers liable for worker well-being, even in remote settings.

19.9. Compounding: For the first time, minor web-based violations can be corrected through a "Compounding of Offences" mechanism. Instead of immediate prosecution, employers are often given a chance to comply within a specified window. Industrial harmony is a major theme of the new codes.

19.10. Strikes: Flash strikes are effectively banned. All industrial establishments (not just public utilities) now require a 14-day notice period before a strike. The "Mass Casual Leave" Trap: The definition of a "strike" now includes when 50% or more of the workforce takes casual leave on the same day. Foreign manufacturing firms could update their Standing Orders to reflect these strict notice requirements, providing a stronger legal footing to seek injunctions against sudden work stoppages.

19.11. The 50% Statutory Wage Floor: Under the previous regime, we calculated gratuity based on "Basic + DA," which typically constituted only 30-35% of the total CTC. The Change: The new Code mandates that "Wages" for statutory benefits must be at least 50% of the total remuneration. Financial Impact: Any allowances exceeding 50% are now "added back" to the base salary. This automatically inflates our per-employee liability by 15-20% without any change in headcount or base pay.

19.12. Reduced Eligibility for Fixed-Term Employees (FTEs): The vesting period for gratuity has been slashed from 5 years to 1 year for all employees on fixed-term contracts. Financial Impact: Previously, the attrition of contract staff before year 5 resulted in significant "actuarial gains" (unpaid liabilities). We now have an absolute obligation to pay gratuity to nearly 100% of our FTE workforce upon contract expiry.

19.13. Accounting Treatment (Ind AS 19 / AS 15): Per the latest ICAI guidance issued in December 2025: Immediate P&L Impact: These changes are classified as "Plan Amendments." Under Ind AS 19, the resulting "Past Service Cost" (the catch-up amount for previous service years of existing employees) must be recognized immediately in the

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Statement of Profit and Loss. No Amortization: Unlike actuarial losses, these statutory increases cannot be spread over future years.

If your company previously calculated gratuity on a Basic Pay that was 30% of CTC, the jump to 50% constitutes a Plan Amendment. Accounting Treatment: Under Ind AS 19, this entire increase (the "catch-up" amount for all previous years of service for existing employees) must be recognized immediately in the P&L. It cannot be amortized.

19.14. FTE Liquidity Planning: Previously, many companies did not provide for contract workers because they rarely stayed for 5 years. Now, for your 20 FTEs, you must recognize that gratuity is no longer a "potential" future cost but a certain cash outflow at the end of their 12-month or 24-month contracts. Finance teams must ensure liquidity buffers are available to pay these amounts within 48 hours of contract expiry (as per the new 2-day Full & Final settlement rule).

19.15. The 240-Day Rule: Ensure your HR systems track if the employee has worked for at least 240 days within the one-year period, as this is the standard threshold for a "completed year of service" in Factories Act and Industrial Disputes Act.

19.16. Forfeiture of gratuity: Section 53(6) of the Code allows for the forfeiture of gratuity if the employee is terminated for "riotous or disorderly conduct" or "acts of moral turpitude." Ensure your Termination Clause is cross-referenced correctly.

19.17. Global Mobility & Secondment Risks: Indian tax authorities and labor courts are increasingly scrutinizing secondment agreements. If the foreign entity retains too much control, it may be deemed a Permanent Establishment (PE) for tax purposes, or the host entity may be liable for the foreign entity's payroll defaults. Policy Note: Ensure secondment agreements clearly define supervisory control staying with the Indian host entity. Reimbursements to the foreign parent should be at cost to avoid "Fees for Technical Services" (FTS) tax traps.

19.18. Data Privacy in the Workplace: Impact of the Digital Personal Data Protection Act: Any data transfer outside India or use of data for purposes beyond essential payroll/benefits

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(like AI-driven performance tracking) requires explicit, itemized consent. Policy Note: Businesses must update "Privacy Notices".



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