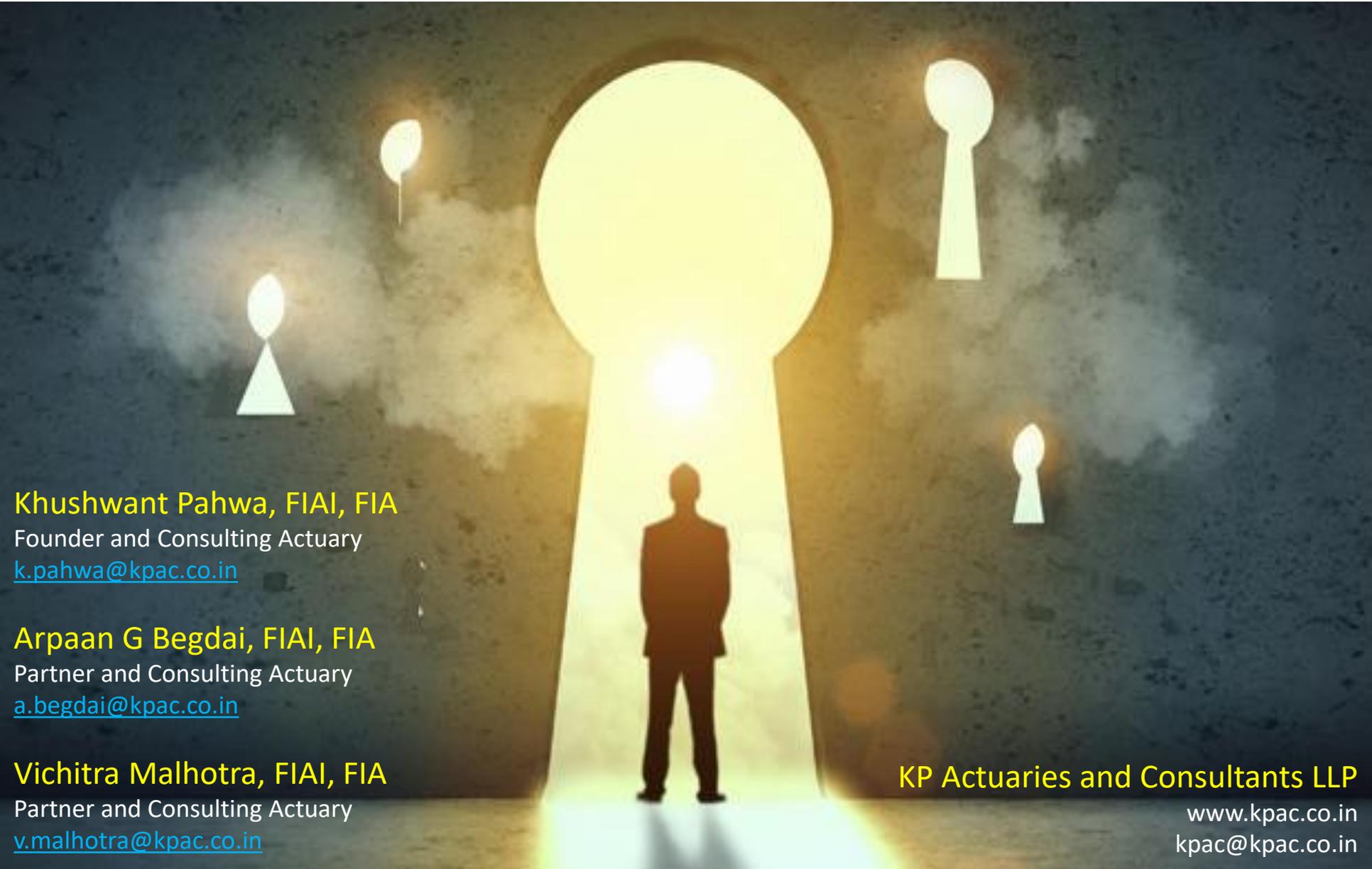


New Labour Codes

Implications on Compensation Structures and Actuarial Valuations

KPAC



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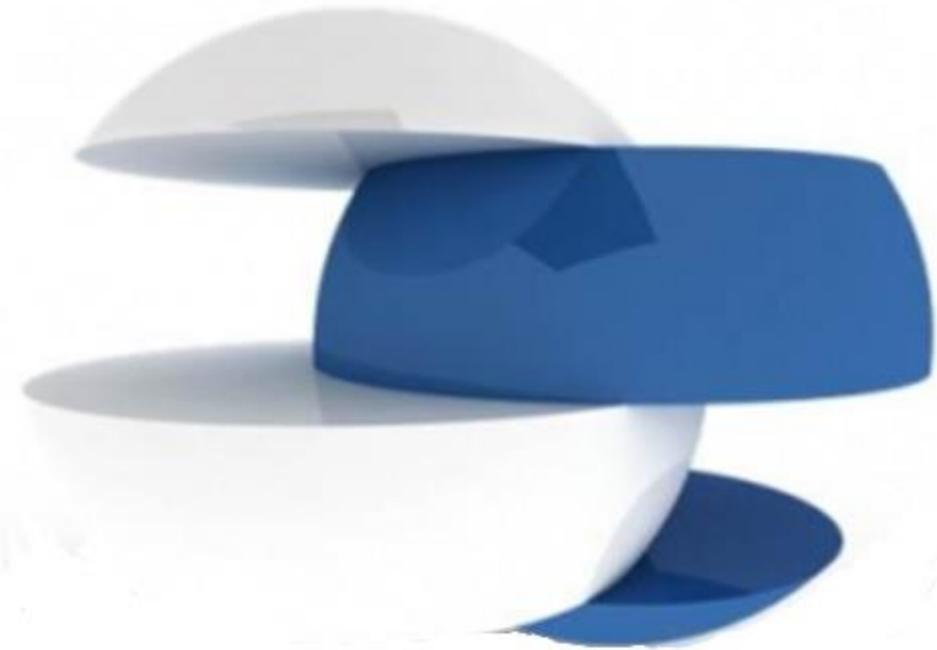
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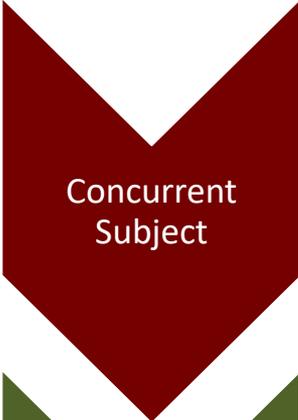


*Introduction to Labour
Laws*

*Key changes impacting
Compensation Structures
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*Potential impact of the
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The way forward

A large, dark red arrow pointing downwards, containing the text 'Concurrent Subject' in white.

Concurrent Subject

- Both Parliament and state legislatures can make laws regulating labour.
- **Over 100 state and 40 central laws** regulating various aspects of labour such as resolution of industrial disputes, working conditions, social security and wages.

A large, dark green arrow pointing downwards, containing the text 'Second National Commission on Labour' in white.

Second National Commission on Labour

- Constituted in 1999, gave its report in 2002. Found existing laws to be **complex, with archaic provisions and inconsistent definitions.**
- Recommended the **consolidation of central labour laws into broader groups**

A large, dark purple arrow pointing downwards, containing the text 'Consolidation of Central Laws' in white.

Consolidation of Central Laws

- In 2019, the Ministry of Labour and Employment introduced 4 Bills to consolidate 29 central laws. These Codes regulate:
- (i) **Wages**, (ii) **Industrial Relations**, (iii) **Social Security**, and (iv) **Occupational Safety, Health and Working Conditions.**

Already in force from
21 Nov 2025

The Code on Wages, 2019

The Code on Social Security, 2020

Industrial Relations Code, 2020

Occupational Safety, Health and
Working Conditions Code, 2020

28 Central Laws
repealed

EPF Act continues to be in force
for the time being

Central and State Rules
still awaited

However - **existing Rules**
continue to be apply

- **With effect from 21 Nov 2025 the Code of Social Security and the other labour codes stands implemented.** Further, rules under the Codes are expected to be notified within the next **45 days**.

Refer following article :

<https://labour.gov.in/sites/default/files/pib2192463.pdf>

<https://economictimes.indiatimes.com/news/economy/policy/four-labour-codes-come-into-force-who-benefits-what-changes-and-what-workers-must-know/articleshow/125484448.cms?from=mdr>



Acts subsumed under the New Labour Codes

The Code on Wages, 2019 and Industrial Relations Code, 2020

The Payment of Wages Act, 1936

The Minimum Wages Act, 1948

The Payment of Bonus Act, 1965

The Equal Remuneration Act, 1976

The Code on Wages, 2019

The Trade Unions Act, 1926

The Industrial Employment (Standing Orders) Act, 1946

The Industrial Disputes Act, 1947

**The Industrial Relations Code,
2020**

Acts subsumed under the New Labour Codes

The OSHWC Code, 2020

The Factories Act, 1948

The Plantations Labour Act, 1951

The Mines Act, 1952

The Working Journalists Act, 1955

The Working Journalists (Fixation of Rates of Wages) Act, 1958

The Motor Transport Workers Act, 1961

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

The Contract Labour (Regulation and Abolition) Act, 1970

The Sales Promotion Employees (Conditions of Service) Act, 1976

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

The Dock Workers (Safety, Health and Welfare) Act, 1986

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996

The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981

**The Occupational Safety,
Health and Working
Conditions Code, 2020**

Acts subsumed under the New Labour Codes

Acts merging into the Code on Social Security, 2020

The Payment of Gratuity Act, 1972

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952

The Employees' State Insurance Act, 1948

The Employees' Compensation Act, 1923

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959

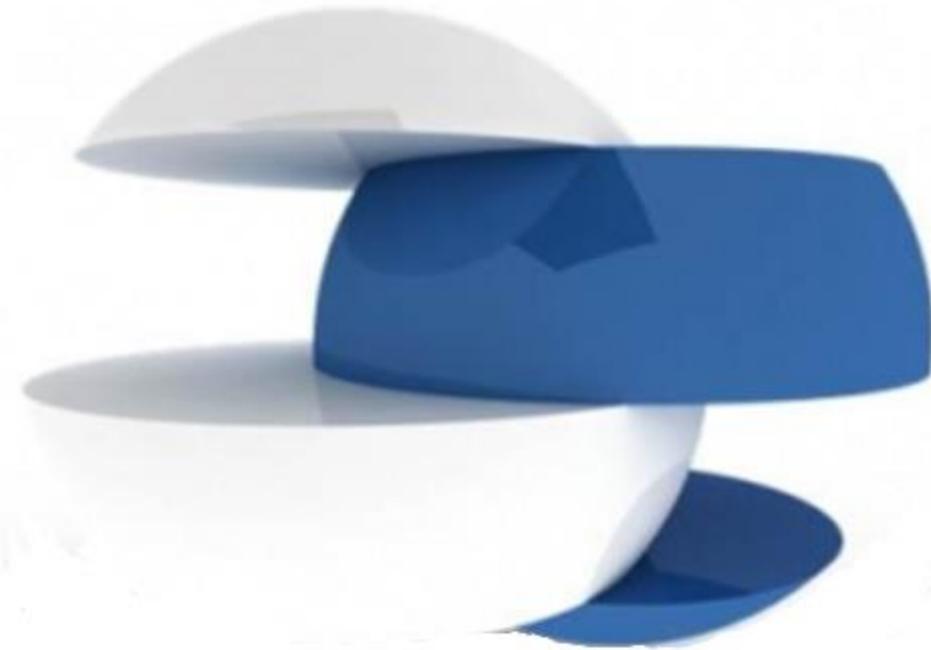
The Maternity Benefit Act, 1961

The Cine Workers Welfare Fund Act, 1981

The Building and Other Construction Workers' Welfare Cess Act, 1996

The Unorganised Workers Social Security Act, 2008

**The Code on Social Security,
2020**

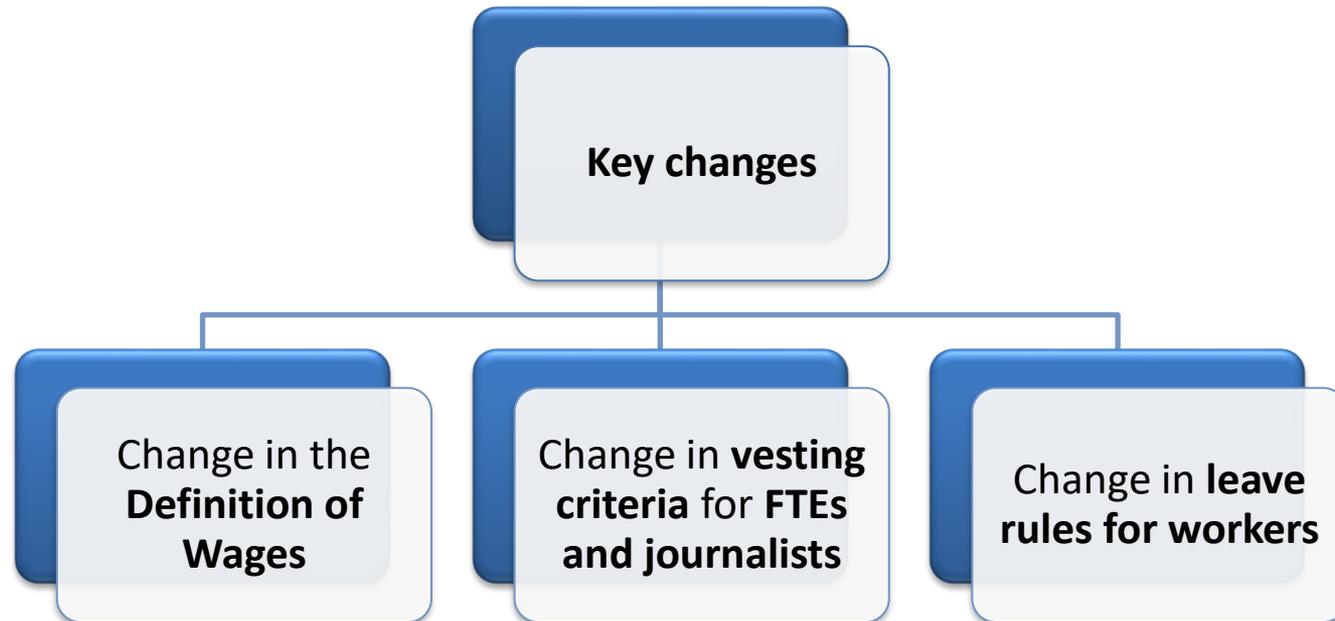


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The changes and the impact of the same on actuarial valuation of employee benefits (gratuity, leave encashment, etc.) are discussed in the following slides.

Note: Above are the key changes only and there may be other changes as well. We are not lawyers and it is best to consult a labour law consultant to get a complete overview of the changes you need to implement for your organization. Please refer to the disclaimer section at the end of this presentation for further details.



Definition of Wages

What does Section 2 Sub Section 88 require?

Old World

Qualifying wage for gratuity defined as:

- **Basic Pay**

- **Dearness Allowance**

(Allowance paid to employees to offset the impact of inflation)

And there was **NO MINIMUM LIMIT** on what proportion of total compensation should the qualifying wage constitute

New World post Implementation

Qualifying wages means **ALL REMUNERATION**, whether by way of **salaries, allowances or otherwise, and includes:**

- Basic Pay
- Dearness Allowance
- Retaining Allowance



BUT DOES NOT INCLUDE:

- **Bonus** payable under any law
- Value of any **house-accommodation**
- Contribution to any **pension or PF** plus interest accrued
- **Conveyance allowance**
- Sum paid to defray special expenses
- **House rent allowance**
- Any award / settlement under order of a court / Tribunal
- **Overtime allowance**
- **Commission** payable to the employee
- Gratuity payable
- Retrenchment compensation or other retirement benefit

These components cannot exceed 50% of total remuneration.

(88) "wages" means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

- (a) basic pay;
- (b) dearness allowance; and
- (c) retaining allowance, if any,

but does not include—

- (a) any **bonus payable under any law** for the time being in force, which does not form part of the remuneration payable under the terms of employment;
- (b) the value of any **house-accommodation**, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
- (c) any contribution paid by the employer to any **pension or provident fund**, and the interest which may have accrued thereon;
- (d) any **conveyance allowance** or the value of any travelling concession;
- (e) any sum paid to the employed person to **defray special expenses** entailed on him by the nature of his employment;
- (f) **house rent allowance**;
- (g) remuneration payable under **any award or settlement** between the parties or order of a court or Tribunal;
- (h) any **overtime allowance**;
- (i) any **commission** payable to the employee;
- (j) any **gratuity** payable on the termination of employment;
- (k) any **retrenchment compensation** or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment, under any law for the time being in force:

Provided that for calculating the wages under this clause, **if payments made by the employer to the employee under sub-clauses (a) to (i) exceeds one half**, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the **amount which exceeds** such one-half, or the per cent. so notified, shall be deemed as remuneration and **shall be accordingly added in wages under this clause.**

Key Question

Which components should be included in wage?

Given inclusive definition:
Should all components not excluded be included?

Supreme Court Judgment

The Regional Provident Fund Commissioner West Bengal
Vs.
Vivekananda Vidyamandir and Others

Principle of Universality

Emolument that is **universally, necessarily and ordinarily paid to all across the board** shall be included as qualifying wage.

Whatever **is not payable by all concerns or may not be earned by all employees** of a concern is excluded from the qualifying wage

Principle of Incentives

Exclude any incentive wage from basic wage if it has a **direct nexus and linkage with the amount of extra output**.

If there is no such direct linkage to extra output for a component in question, the component shall be included as qualifying wage.

Reimbursements

Reimbursements or payments made to defray special expenses arising due to nature of employment shall not be included as qualifying wage.

Bonus: Is there a linkage? Is it universally payable?

Special Allowance: Isn't it universally payable?

Same total remuneration → different structuring → different gratuity outcomes

Scenario 1	
Salary components	Per month
Basic	40,000
DA	10,000
HRA	20,000
Conveyance Allowance	10,000
Special Allowance (SA)	20,000
Total Remuneration	100,000

Scenario 2	
Salary components	Per month
Basic	30,000
DA	10,000
HRA	40,000
Conveyance Allowance	20,000
Special Allowance (SA)	0
Total Remuneration	100,000

Scenario 1	Old World	New World
Salary for gratuity	50,000	70,000
Basis	Basic + DA	Basic + DA + SA

Scenario 2	Old World	New World
Salary for gratuity	40,000	50,000
Basis	Basic + DA	Deemed Wages

SA gets absorbed into wages, higher gratuity base

Excess allowances get reclassified as wages

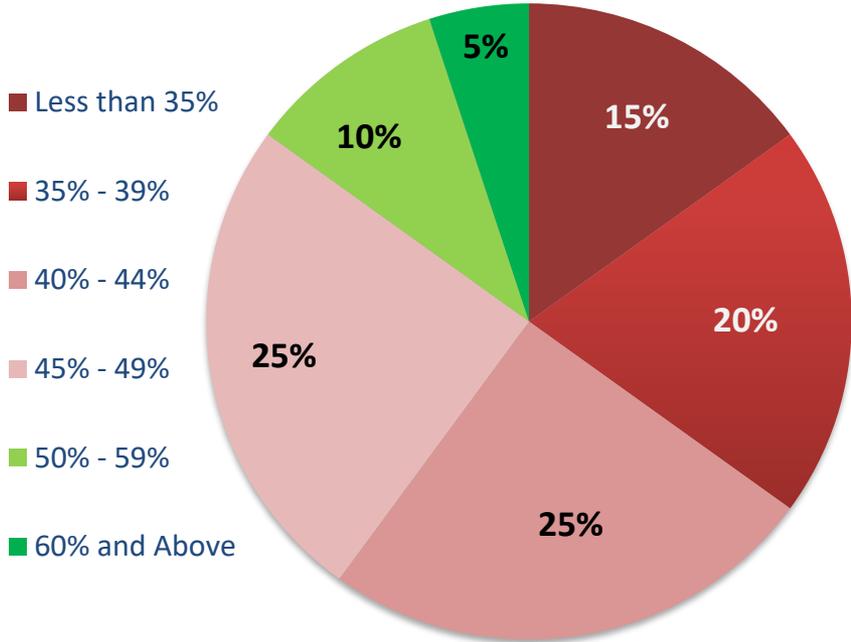
Definition of Wages

Implication of the change (1)

Definition of wages is the key change impacting actuarial valuation of employees.

To ascertain **impact of change**, we analyzed **Basic (and DA) to Gross Salary ratio** of the top listed Companies for whom we have performed the year end valuation in the recent years.

Pie chart below captures **split of Companies based the above ratio**:



Majority of Companies will have to re-design their compensation structures, with basic salary (and DA) seeing an increased proportion in the total CTC / Compensation.

About **a third** of Companies will experience **a material impact on qualifying wage**, which **will push up actuarial liabilities** and may impact take home salaries.

Common components of Salary

Components LISTED in the definition

Component	Included in wage?	Excluded from wage?	Considered in total remuneration?
Basic pay	Yes	No	Yes
Dearness Allowance	Yes	No	Yes
Retaining Allowance	Yes	No	Yes
Any bonus payable under any law, which does not form part of remuneration payable under terms of employment	No	Yes	Yes
Value of any house-accommodation , or of the supply of light, water, medical attendance or other amenity	No	Yes	Yes
Any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon	No	Yes	Yes
Any conveyance allowance or the value of any travelling concession	No	Yes	Yes
Any sum paid to defray special expenses entailed by nature of employment	No	Yes	Yes
House Rent Allowance	No	Yes	Yes
Remuneration payable under award / settlement / order of court or Tribunal	No	Yes	Yes
Any overtime allowance	No	Yes	Yes
Any commission payable to the employee	No	Yes	Yes
Any gratuity payable on the termination of employment	No	Yes	No
Any retrenchment compensation or other retirement benefit payable to employee or any ex gratia payment made on termination of employment, under any law for the time being in force.	No	Yes	No

Common components of Salary

Components **NOT LISTED** in the definition

Component	Included in wage?	Excluded from wage?	Considered in total remuneration?
Supplementary or Special Allowance (typically paid to all employees, is part of employment contract and is not linked to any increase in production output)	Yes	No	Yes
Variable Bonus (other than statutory bonus, linked to additional output) (only if NOT UNIVERSALLY AND REGULARLY PAYABLE and there is DIRECT NEXUS BETWEEN EXTRA OUTPUT AND PAYMENT)	No	Yes	No
Medical Reimbursement (as reimbursement)	No	Yes	No
Leave Travel Allowance (universally payable)	Yes	No	Yes
Reimbursements for books and magazines, Food Coupons, Travel, Entertainment, Broadband, mobile phone	No	Yes	No
One-time payments such as Joining bonus, Buy out of notice period (not universally payable)	No	Yes	No

Impact on Gratuity Liability (Post Employment Benefit)

- Applicable wage for gratuity set to increase, which shall result in a one-off increase in gratuity liability.
- Impact of increase to be charged to Income Statement and treatment will vary as per **applicable accounting standard**.
- Extent of one-off increase in liability will depend on the level of qualifying wage in existing compensation structure.

Impact on Leave + other non statutory benefits liability (Other Long Term Employee Benefit)

- Re-structuring of compensation structure may result in a one-off increase in the liability
- Impact of increase to be **charged to Income Statement** in most cases.
- Impact will differ from Company to Company, depending on Company's leave policy (i.e., based on salary on which the leaves are encashed) and the requirements of the Shops and Establishment Acts of the state(s) in which the Company operates.
- Company may be able to mitigate some impact by considering **revisions in leave policies**.

Fixed Term Employment

Vesting Criteria to not apply!

- In case of Fixed Term Employment, gratuity pay-outs will be made upon expiry of the fixed term, **irrespective of whether 5 years have been completed or not.**
- This is expected to result in **increase in gratuity liability** in case of Companies that offer fixed term employment.
- The increase in liability because of this change **shall be treated as Past Service Cost and charged to Income Statement**, either immediately or over a period (depending upon the applicable accounting standard).
- Refer next section for treatment of Past Service Cost under different accounting standards.

What is Fixed Term Employment?

*As per Section 2, sub section 34 of the Code on Social Security, 2020, Fixed Term Employment means the engagement of an employee on the basis of a written contract of **employment for a fixed period**, provided that:*

(a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent employee doing the same work or work of a similar nature and

(b) he shall be eligible for all benefits, under any law for the time being in force, available to a permanent employee proportionately according to the period of service rendered by him even if his period of employment does not extend to the required qualifying period of employment.

Vesting Criteria for Journalists

Reduced to three years from five!

- Gratuity is payable to an employee on the termination of his employment after he / she has rendered continuous service for not less than five years.
- However, for **working journalists**, the Code on Social Security, 2020 **reduces the vesting criteria from five years to three years.**
- This shall result in an **increase in liability for the Companies in the News and Media industry** i.e., the Companies that employ working journalists.
- Increase in liability **shall be treated as Past Service Cost and charged to Income Statement**, either immediately or over a period (depending upon applicable accounting standard).
- Please refer to the next section for treatment of Past Service cost under different accounting standards.



Change in Leave Rules of Workers

Encashment must be on wages for workers!

Who is considered a “Worker”?

Any person employed in any establishment to do any **manual, unskilled, skilled, technical, operational, clerical or supervisory work** for hire or reward **except**:

- Employees in managerial or administrative roles.
- Employees in supervisory roles with wages above 18000 per month.

Can a **white collared** employee be considered a worker?

YES

Does the designation or compensation level matters?

No - the test is what the person actually does!

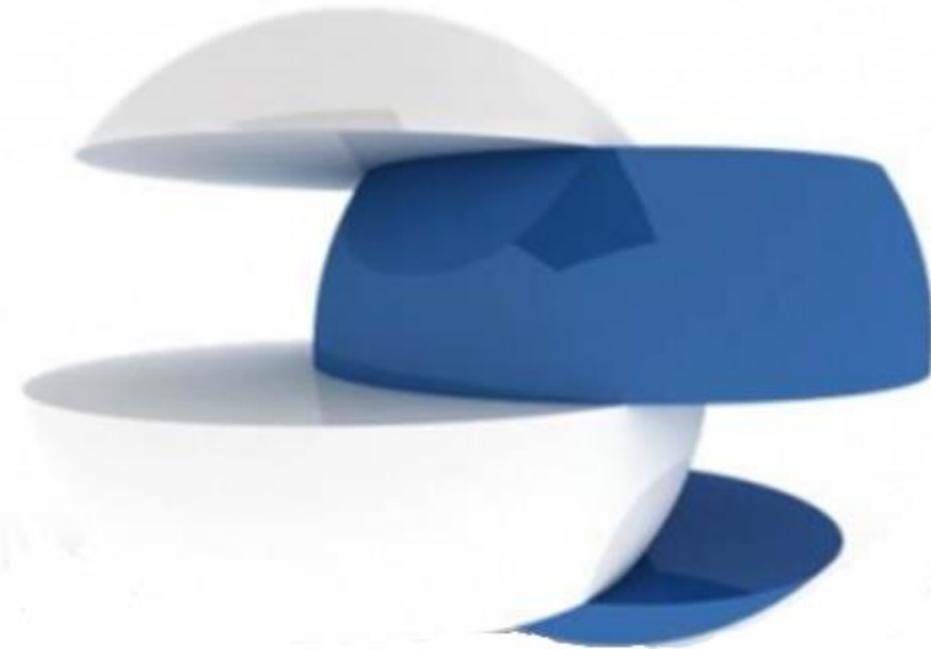
A white-collar employee is a “worker” if their primary role is **clerical, technical or operational** in nature and they **do not exercise managerial, administrative or high-paid supervisory authority**.

Leave Rules for Workers

- Leave rules prescribed in OSHWC Code. Will have to refer to both S&E Acts and OSHWC Code for leave rules for these employees.
- As per OSHWC Code, **Leave encashment must now be paid on “Wages”**. So in actuarial valuations – **different qualifying salaries** for workers and non workers.
- Workers **entitled to demand leave encashment** at the end of calendar year.
- Workers allowed to **carry forward a maximum of 30 days** from one calendar year to another.
- Leave balances above 30 days to be encashed at the end of the year on **“Wages”**.
- Any leaves applied but not approved can be carried forward without any limit.

Actuarial valuations to require segregation of employees between workers and non workers.

Not just gratuity provisions impacted – leave provisions for “workers” will also go up.



Introduction to Labour Codes

Key changes impacting Compensation Structures and Actuarial Valuations

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Impact on definition of Wages

Increase in **Gratuity and Leave Liability** of companies (extent of impact depends on the approach to restructuring)

Inclusive Definition - Increase in cost of retirement benefits

Increased cost relating to **PAST SERVICE for Gratuity** – will have to be **borne by employer**

- **No choice** but to **recognize immediately** additional liability arising due to change in qualifying salary.
- **Net worth may be affected** by increase in provisions.
- **No flexibility for this increased liability for past service** as employers can do nothing to recover increased costs.

Increased cost relating to **CURRENT AND FUTURE SERVICE** – employer has choice

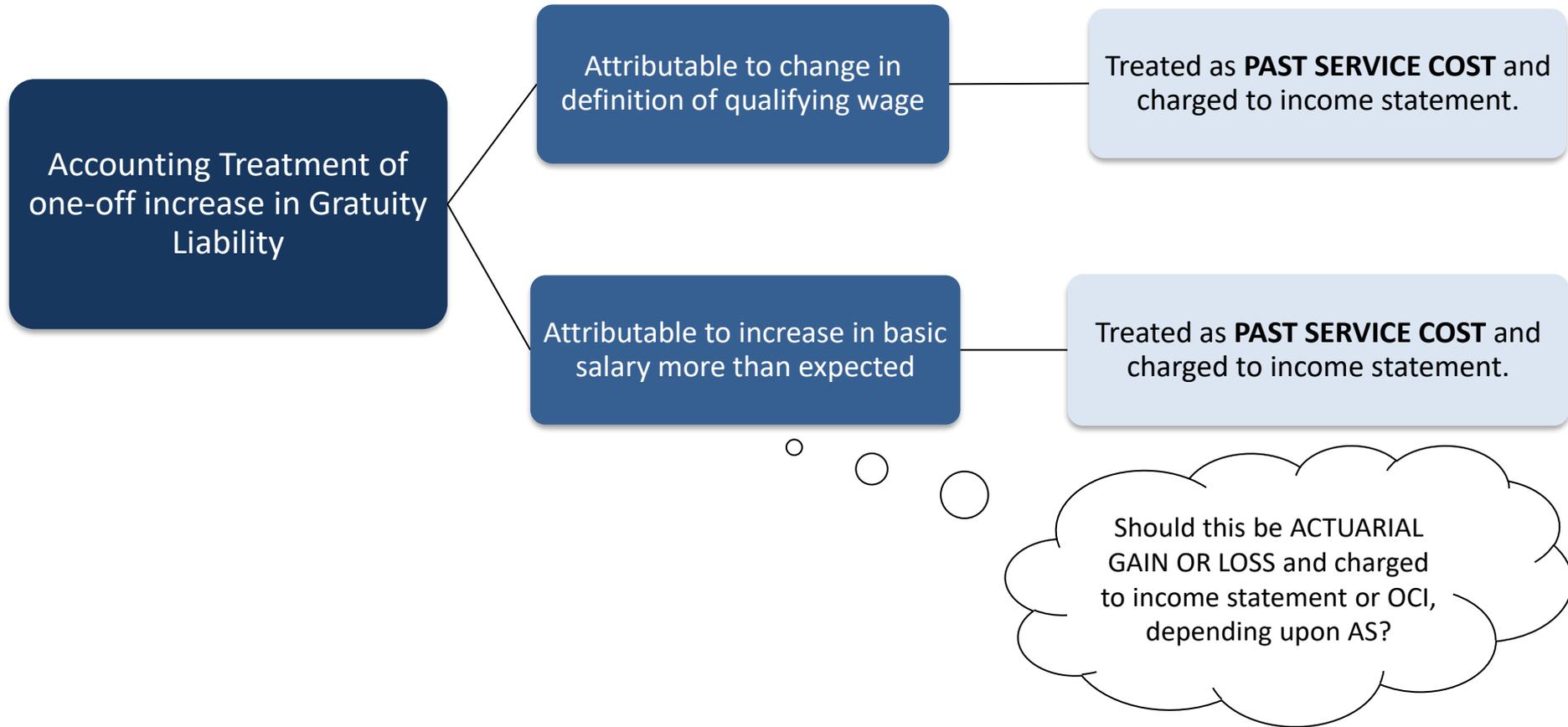
Employer **absorbs** the additional cost

- **Profitability may be negatively impacted.**

Employer **passes** additional cost to employee

- **Take home salaries may reduce** if employers charge additional costs back to employees.
- Reduction in take home salary may vary from company to company.

Companies should carefully analyse and re-structure components of salary structure to optimise the gratuity and leave liabilities. This may be iterative process!



On-going costs (i.e., year-on-year charge to Income Statement) **will also increase** as Current Service Cost and Interest Cost will be calculated on increased salary

*Accounting treatment of Past Service Cost and Actuarial Gain Loss is discussed in the following slides.

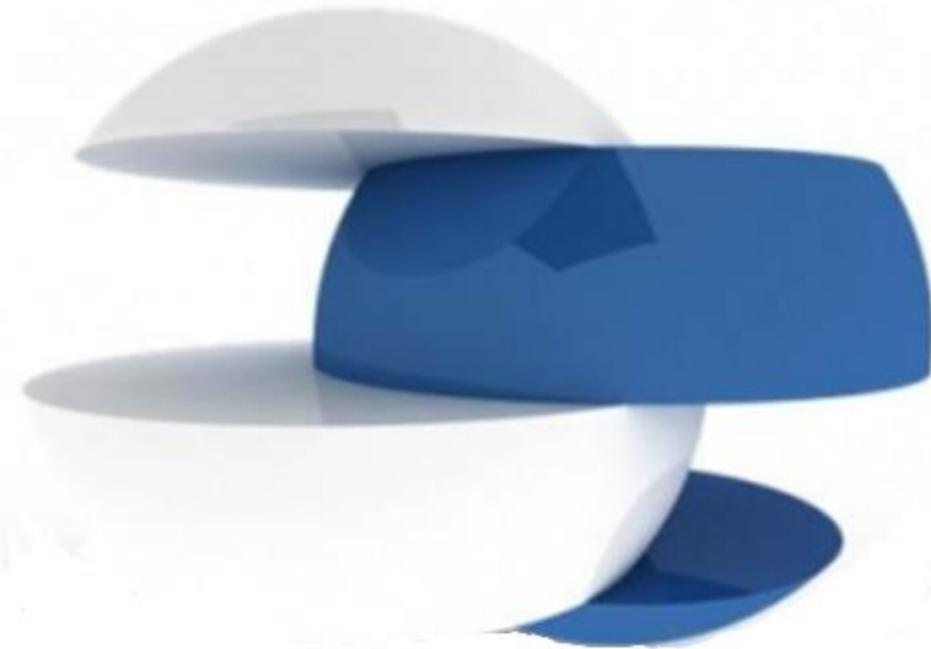
Treatment of impact due to re-structuring

Past Service Cost under various GAAPs

Recognition of **Past Service Cost** under various Accounting Standards:

Recognition of Past Service Cost	AS 15	IAS 19 / Ind AS 19	US GAAP
Immediate or Deferred?	Immediate for Vested Deferred for Un-vested	Immediate	Immediate
Recognised where – Income Statement or Other Comprehensive Income (OCI)?	Income Statement	Income Statement	In case of post employment plans, initially OCI with subsequent charge to Periodic Benefit Cost (Income Statement)
Reclassification to Income Statement in case of initial recognition through OCI	Not applicable	Not applicable	Yes, refer below *

* Minimum recognition prescribed as per ASC715. The Company can choose to recognize all immediately or any other systemic approach provided certain criteria is met.



*Introduction to The Code
on Social Security, 2020*

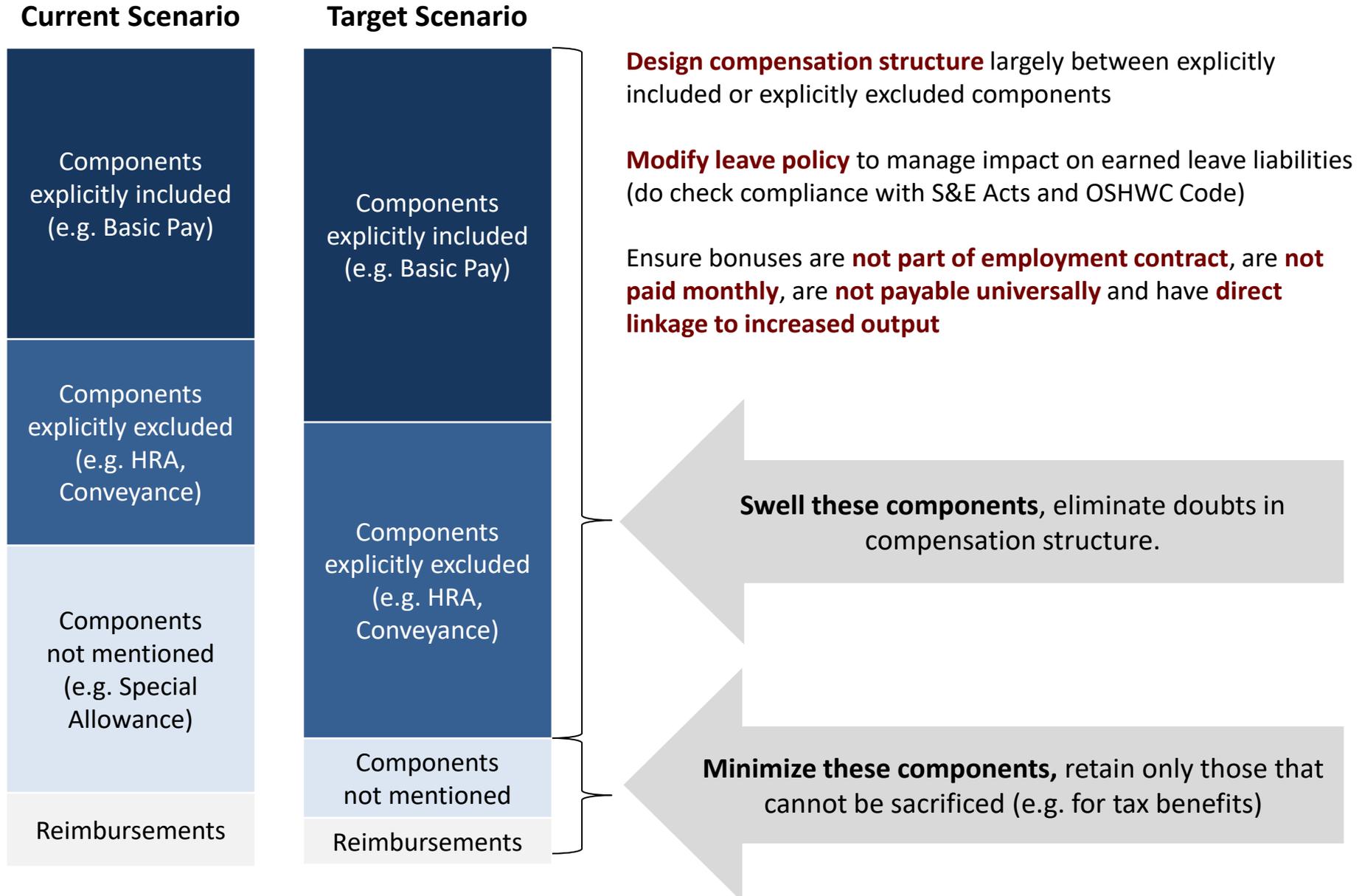
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The way forward

The way forward

Can the outcomes be optimized?



Do Not Guess the Impact. Measure It!

- The new wage definition and other changes have direct **Balance Sheet and P&L consequences**. Restructuring compensation under the Codes is not mechanical - it **requires scenario analysis**.
- Gratuity and leave liabilities will change - the quantum varies by structure, tenure and workforce mix.
- Impact management requires coordination between HR, Finance, legal advisors and actuaries.



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