# STATE-LEVEL DEVIATIONS FROM THE CENTRAL RULES UNDER INDIA'S LABOUR CODES AND THE COMPLIANCE RISK FOR MULTI-STATE EMPLOYERS

*by*

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## ABSTRACT

India's four Labour Codes seek to consolidate a fragmented body of central labour legislation, but their operation remains embedded in a federal constitutional structure. Labour-related subjects are distributed across the Concurrent List, and the Codes allocate rule-making responsibilities between the Central Government and State Governments through the concept of the 'appropriate government'. State Shops and Establishments (S&E) legislation continues to regulate working time, rest intervals, leave and related conditions in commercial establishments. The result is not simply a delay in implementation: it is a continuing question about how central legislation, State rules and independent State statutes are to operate together.

This paper examines that question through the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code), with particular attention to Maharashtra, Karnataka and Gujarat. It distinguishes commencement of the Codes from notification of Central Rules and State Rules, and distinguishes draft rules from final rules. The official Maharashtra Labour Department page presents a mixed and internally inconsistent status: it identifies a final Wage Rules document while also listing draft instruments, including draft Wage Rules. Karnataka's 2026 notifications for all four Codes are described in the available Gazette material as drafts. Gujarat has notified final OSH Rules, while its separate S&E statute was amended by Ordinance No. 3 of 2025 and subsequently by Gujarat Act No. 1 of 2026. The paper therefore avoids treating a State's position under one Code as proof of final rules under all four.

The constitutional analysis applies Articles 246 and 254 alongside the Supreme Court's decisions in *Zaverbhai Amaidas*, *Deep Chand* and *M. Karunanidhi*. It argues that overlap is not synonymous with repugnancy; the inquiry must identify the precise provisions, their fields of operation, and whether simultaneous obedience is impossible or Parliament intended



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exhaustive occupation. The Gujarat amendment raises a particularly difficult question because the Gazette establishes Governor's assent but the materials reviewed do not establish reservation for, or assent by, the President under Article 254(2). The paper concludes that a central policy supported by State-specific supplements, backed by a Gazette-based compliance register, is the most defensible operational model for multi-State employers.

**Keywords:** Labour Codes; Concurrent List; Article 254; repugnancy; Occupational Safety, Health and Working Conditions Code; Shops and Establishments Acts; multi-State compliance.

## 1. Introduction

The four Labour Codes were enacted to consolidate twenty-nine central labour statutes into a smaller legislative framework. Their stated objective was to simplify compliance, rationalise definitions and create a more coherent system for wages, industrial relations, social security, occupational safety and working conditions. The Codes are the Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the OSH Code, 2020. The Central Government appointed 21 November 2025 as the commencement date for the relevant provisions of the Codes through separate commencement notifications.[1]

The promise of simplification, however, cannot be understood as a promise of complete uniformity. Labour is not an exclusively central subject. Entries 22, 23 and 24 of List III of the Seventh Schedule place trade unions and industrial and labour disputes, social security and social insurance, and welfare of labour—including conditions of work—within the Concurrent List. Parliament and State Legislatures may therefore legislate in the field, subject to the constitutional rules governing inconsistency. In addition, the Codes distinguish between establishments for which the Central Government is the 'appropriate government' and those for which the relevant State Government is the appropriate government.

The OSH Code is especially important to this federal problem. It regulates hours of work, weekly holidays, annual leave, health and safety, contract labour, inter-State migrant workers and other conditions of employment. At the same time, State S&E Acts regulate shops and commercial establishments, often prescribing working hours, overtime, rest intervals, leave, registration and exemptions. A multi-State employer may therefore encounter three layers: the

[1] Ministry of Labour and Employment, Government of India, commencement notifications under the Code on Wages, 2019, Industrial Relations Code, 2020, Code on Social Security, 2020, and Occupational Safety, Health and Working Conditions Code, 2020, appointing November 21, 2025 as the relevant commencement date(s). The notifications must be read individually because the Codes permit provision-specific commencement.

Code itself, rules made by the appropriate government, and a State S&E statute that may continue to apply in whole or in part.

This paper asks three questions. First, what is the verified position in Maharashtra, Karnataka and Gujarat regarding State Rules under the four Labour Codes and amendments to S&E legislation? Secondly, how should differences between the OSH Code and State S&E legislation be analysed under Article 254? Thirdly, what compliance architecture should an employer operating in more than one State adopt while the legal position continues to develop?

The paper focuses on the OSH Code and State S&E laws because working time, overtime, leave and registration demonstrate the practical consequences of overlapping regulation. The other Codes are considered principally to explain the rule-making structure and the need for Code-by-Code tracking. The paper does not attempt a complete account of every State's labour legislation or every provision of the four Codes.

**2. Methodology and limitations**

The paper adopts a doctrinal and documentary method. It examines the Constitution, the OSH Code, relevant State S&E legislation, State Gazette notifications, official Labour Department material and Supreme Court decisions on repugnancy. Secondary commentary is used to identify issues and administrative developments, but it is not treated as a substitute for a Gazette notification or the enacted statutory text.

A critical methodological distinction is drawn between four events: (i) commencement of the parent Code; (ii) publication of draft State Rules for objections and suggestions; (iii) final notification of State Rules; and (iv) amendment of a separate State statute. These events are legally different. A draft rule does not become an operative rule merely because the objection period expires. Likewise, final rules under one Code do not establish that final rules have been notified under the other three Codes.

The State-level status in this paper is a snapshot as at 14 November 2026. The Maharashtra Labour Department's online Labour Code page lists a Maharashtra Wage Rules, 2026 document marked 'FINAL', but the same page also lists draft rules under the Code on Wages and describes the State's rules process as ongoing. The portal's introductory text and its document table are therefore not wholly consistent. The defensible approach is to record the

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page's labels while requiring the actual Gazette publication and final instrument to resolve the status. The same page lists draft OSH, Social Security and Industrial Relations instruments.[2]

For Karnataka, the available 2026 State notifications under the four Codes are published as drafts for objections and suggestions. The OSH draft is dated 23 January 2026 and the Social Security draft is dated 29 January 2026. The public materials reviewed do not establish a subsequent final notification under those Codes. Accordingly, the paper describes these instruments as drafts, while recognising that a fresh Gazette check is required immediately before publication.[3]

Gujarat presents a more differentiated position. The Gujarat Occupational Safety, Health and Working Conditions Rules, 2025 were notified under notification No. GHR/2025/76/FAC/142021/68396/M3 dated 6 June 2025 and published in the Gujarat Government Gazette on 12 June 2025. This establishes final OSH Rules; it does not, by itself, establish final rules under the other three Codes. Gujarat's S&E amendment is a separate legislative development and is analysed independently.[4]

The paper has four limitations. First, the official Maharashtra portal contains conflicting labels and should be checked against the individual Gazette PDFs. Secondly, although the available Karnataka instruments are drafts, the absence of a later final notification in the materials reviewed is not conclusive proof that none exists. Thirdly, the Gazette record reviewed for Gujarat does not establish whether the amendment Bill was reserved for the President or received Presidential assent under Article 254(2). Fourthly, some administrative circulars referred to in secondary commentary were not available in complete official form for independent verification. Those matters are identified as unresolved rather than stated as settled law.

## 3. Constitutional framework

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[2] Government of Maharashtra, Labour Department, Labour Code, https://labour.maharashtra.gov.in/en/publication/new-labour-code (official portal, last visited Nov. 14, 2026). The page lists draft rules and a Wage Rules document marked "FINAL"; its introductory text and table should be reconciled against the actual Gazette instruments before relying on the final status.

[3] Government of Karnataka, draft notifications under the four Labour Codes, including Notification No. LD 245 LET 2021 (Jan. 23, 2026), draft Occupational Safety, Health and Working Conditions (Karnataka) Rules, 2026, and Notification No. LD 285 LET 2021 (Jan. 29, 2026), draft Code on Social Security (Karnataka) Rules, 2026. Official portal: https://karmikaspandana.karnataka.gov.in/16/new-labour-rules-and-bills/en.

[4] Government of Gujarat, Labour, Skill Development and Employment Department, Notification No. GHR/2025/76/FAC/142021/68396/M3 (June 6, 2025), Gujarat Occupational Safety, Health and Working Conditions Rules, 2025, Gujarat Government Gazette, Extraordinary, Part IV-A (Extra No. 87), June 12, 2025.

### 3.1 Labour as a concurrent subject

Article 246 distributes legislative competence between Parliament and State Legislatures by reference to the Union, State and Concurrent Lists. Article 246(2) provides that Parliament and, subject to clause (1), a State Legislature have power to make laws with respect to matters enumerated in List III. List III, Entry 22 concerns trade unions and industrial and labour disputes; Entry 23 concerns social security and social insurance, employment and unemployment; and Entry 24 concerns welfare of labour, including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.[5]

The OSH Code and State S&E statutes may therefore operate in related fields of working conditions. Their constitutional relationship is not determined merely by their respective labels as 'central' and 'State' laws. The relevant questions are whether both legislatures were competent, whether the provisions concern the same matter, whether they can operate together, and whether Article 254 gives priority to one enactment.

### 3.2 Article 254 and repugnancy

Article 254(1) provides that where a provision of a State law is repugnant to a provision of a Parliamentary law which Parliament is competent to enact, or to an existing law with respect to a matter in the Concurrent List, the Parliamentary law prevails and the State law is void to the extent of the repugnancy. Article 254(2) qualifies that rule. A State law on a Concurrent List matter that has been reserved for the consideration of the President and has received the President's assent may prevail in that State, notwithstanding an earlier Parliamentary law or existing law. Parliament nevertheless retains power to add to, amend, vary or repeal the State law.

The Supreme Court has developed a structured approach to repugnancy. In *Zaverbhai Amaidas v. State of Bombay*, the Court considered whether later central legislation dealt with the same matter as an earlier State enactment and whether the later law covered the relevant field comprehensively. The judgment is important to Article 254(2) and the possibility that later Parliamentary legislation may displace a State law on the same matter, even without an express repeal.[6]

In *Deep Chand v. State of Uttar Pradesh*, the Court identified three useful tests: whether there is direct conflict; whether Parliament intended to enact an exhaustive code replacing the State

[5] India Const. art. 246, cl. 2; *id.* sched. VII, List III, entries 22–24.
[6] *Zaverbhai Amaidas v. State of Bombay*, A.I.R. 1954 S.C. 752, 807–10; 1955 S.C.R. 799, 807–10 (India).

law; and whether both laws occupy the same field. The tests are not mechanical substitutes for statutory interpretation. They require comparison of the actual provisions and their purposes.[7]

*M. Karunanidhi v. Union of India* restated the requirement of clear and direct inconsistency, absolute irreconcilability and direct collision, such that one enactment cannot be obeyed without disobeying the other. It also recognised that two statutes may operate in the same field without repugnancy where they are complementary or can coexist. Mere overlap is therefore insufficient.[8]

### 3.3 The 'appropriate government' device

The OSH Code defines 'appropriate government' by reference to the nature and control of the establishment. The Central Government is the appropriate government for specified central establishments and sectors, including railways, mines, oil fields, major ports, air transport, telecommunications, banking and insurance companies established by a Central Act, Central public sector undertakings and certain related entities. The State Government is the appropriate government for factories, motor transport undertakings, plantations, newspaper establishments and beedi and cigar establishments, subject to the Code's detailed definitions and exceptions.[9]

This allocation matters because State Rules apply where the State Government is the appropriate government, while Central Rules apply to establishments for which the Central Government is the appropriate government. A multi-State group may contain establishments falling under different appropriate governments. It is therefore unsafe to assume that one set of rules governs every entity or site in a corporate group.

## 4. Implementation timeline and legal distinction between commencement and rules

The Labour Codes were enacted in 2019 and 2020, but each Code contemplated commencement by notification under its own section 1. The commencement notifications appointing 21 November 2025 as the relevant date must be read Code by Code and provision by provision; the OSH Code expressly permits different commencement dates for different

[7] *Deep Chand v. State of Uttar Pradesh*, A.I.R. 1959 S.C. 648; [1959] Supp. 2 S.C.R. 8 (India) (repugnancy tests discussed in the judgment's treatment of Article 254).

[8] *M. Karunanidhi v. Union of India*, (1979) 3 S.C.C. 431, 456–57 (India) (clear and direct inconsistency, irreconcilability and direct collision).

[9] Occupational Safety, Health and Working Conditions Code, 2020, No. 37 of 2020, § 2(1)(d) (India) (defining "appropriate government") [hereinafter OSH Code].

provisions.[10] The Central Rules were then notified in May 2026. For example, the Code on Wages (Central) Rules, 2026 were notified by G.S.R. 343(E) dated 8 May 2026.[11]

The Central Rules do not eliminate the need for State Rules where the State Government is the appropriate government. Nor does the existence of Central Rules mean that every State has completed its own rule-making. The legal transition is therefore not a binary switch from 'old law' to 'new law'. It involves commencement of the parent Code, repeal and savings provisions, continuation of earlier rules to the extent saved and consistent, and the subsequent notification of rules by the appropriate government.

The practical consequence is that employers must identify which provisions of the Codes have commenced, which government is the appropriate government for each establishment, which rules apply, and which earlier rules or State enactments continue to operate. A simple statement that 'the Labour Codes are implemented' is too general to answer a compliance question.

## 5. State-level position: Maharashtra, Karnataka and Gujarat

The three States demonstrate different stages and instruments of implementation. The following table deliberately separates State Rules from S&E legislation. The status of State Rules is stated only to the extent supported by the materials reviewed.

| Issue | Maharashtra | Karnataka | Gujarat |
|---|---|---|---|
| Code on Wages | Official portal lists a Wage Rules document marked FINAL, but also lists a draft Wage Rules instrument and invites comments. Gazette status should be resolved from the actual instrument. | 2026 draft rules published for objections and suggestions; no later final notification established in the materials reviewed. | Separate final status must be verified from the Gujarat Gazette; do not infer it from the final OSH Rules. |
| Industrial Relations Code | Draft rules listed on official portal. | Draft rules published in January 2026; no later final notification established in the materials reviewed. | Separate final status must be verified Code by Code. |
| Code on Social Security | Draft rules listed on official portal. | Draft rules published on 29 January 2026; no later final notification established in the materials reviewed. | Separate final status must be verified Code by Code. |

[10] OSH Code § 1(2); commencement notifications issued under the corresponding commencement provisions of the four Codes.

[11] Code on Wages (Central) Rules, 2026, G.S.R. 343(E), Gazette of India, Extraordinary, pt. II, § 3, sub-§ (i), May 8, 2026. *See also* the Central Rules notified under the other three Codes; each should be cited to its own Gazette notification.

| Issue | Maharashtra | Karnataka | Gujarat |
|---|---|---|---|
| OSH Code | Draft Labour and Factories/Other Ports rules listed on official portal; draft notification dated 30 April 2026 identified. | Draft OSH Rules published on 23 January 2026. | Final Gujarat OSH Rules notified 6 June 2025; published 12 June 2025. |
| S&E legislation | Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 remains relevant, subject to current amendments, rules and official circulars. | Karnataka Shops and Commercial Establishments Act, 1961 remains relevant, subject to current amendments, rules and exemptions. | Gujarat S&E Act, 2019 amended by Ordinance No. 3 of 2025 and Gujarat Act No. 1 of 2026, deemed effective from 16 December 2025. |

### 5.1 Maharashtra

The Maharashtra Labour Department's official Labour Code page is the primary administrative starting point. It lists draft State rules under the OSH Code, the Code on Social Security and the Industrial Relations Code. It also lists a Maharashtra Wage Rules, 2026 document marked 'FINAL', while separately listing draft rules under the Code on Wages. Because the same page contains both labels, the paper does not treat the portal alone as conclusive proof of the final legal status of the Wage Rules. The Gazette publication and the text of the instrument must control.[12]

The Maharashtra draft OSH notification dated 30 April 2026, No. Misc-1026/C.R.14/Lab-10, expressly describes the rules as a draft and invites objections and suggestions for a period of forty-five days. It cannot be cited as final State Rules. The distinction matters for compliance planning: the draft may indicate the direction of future procedural requirements, but it is not a substitute for the operative statutory and saved-rule framework.[13]

Maharashtra's S&E legislation is a separate enactment. The Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 regulates working conditions and registration for covered establishments. A departmental circular concerning duplicate registration, if applicable, must be analysed according to its enabling power and exact wording. It should not be described as repealing or disapplying the substantive State Act unless the legal instrument actually does so.

[12] Government of Maharashtra, Labour Department, Labour Code, *supra* note 2. The portal's conflicting labelling is the reason the manuscript does not state an unqualified final-rule position for the Code on Wages.

[13] Government of Maharashtra, Industries, Energy, Labour and Mining Department, Notification No. Misc-1026/C.R.14/Lab-10 (Apr. 30, 2026), draft Maharashtra Occupational Safety, Health and Working Conditions (Labour) Rules, 2026, Maharashtra Government Gazette, Extraordinary, Part I-L, Apr. 30, 2026.

### 5.2 Karnataka

The available Karnataka materials show draft rules under each of the four Codes. The OSH draft notification, No. LD 245 LET 2021, is dated 23 January 2026. The Social Security draft is dated 29 January 2026. The draft status is material: the notifications invite objections and suggestions and are not final rules. No final State Gazette notification replacing those drafts has been established in the materials reviewed for this manuscript.[14]

Karnataka's Shops and Commercial Establishments Act, 1961 continues to be relevant to shops and commercial establishments within its scope. The State Act and the OSH Code should be compared provision by provision, especially where the same worker and establishment fall within both definitions. The fact that the OSH Rules remain at draft stage does not, by itself, mean that the OSH Code has not commenced or that all earlier rules remain unaffected. The Code's commencement, repeal and savings provisions must be considered separately.

### 5.3 Gujarat

Gujarat has notified final rules under the OSH Code. The Gujarat Occupational Safety, Health and Working Conditions Rules, 2025 were made by notification No. GHR/2025/76/FAC/142021/68396/M3 dated 6 June 2025 and published in the Gujarat Government Gazette, Extraordinary, Part IV-A, on 12 June 2025. This is a final State Rules instrument under the OSH Code.[15] It does not establish that Gujarat has final rules under the Code on Wages, the Industrial Relations Code and the Code on Social Security; each must be independently verified.

A separate development concerns the Gujarat S&E Act, 2019. Gujarat Ordinance No. 3 of 2025 was promulgated on 16 December 2025 under Article 213. It amended the principal Act, including by increasing the applicability threshold from ten to twenty employees, increasing the daily working-hours figure from nine to ten, increasing the continuous-work interval from five to six hours, and increasing the overtime ceiling from 125 to 144 hours. The ordinance also amended provisions relating to women's night work.[16]

[14] Government of Karnataka, Notification No. LD 245 LET 2021 (Jan. 23, 2026), draft Occupational Safety, Health and Working Conditions (Karnataka) Rules, 2026; Notification No. LD 285 LET 2021 (Jan. 29, 2026), draft Code on Social Security (Karnataka) Rules, 2026; and the corresponding January 2026 draft notifications under the Code on Wages and Industrial Relations Code.

[15] Government of Gujarat, Notification No. GHR/2025/76/FAC/142021/68396/M3, *supra* note 4.

[16] Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025, Gujarat Ordinance No. 3 of 2025, Gujarat Government Gazette, Extraordinary, Part IV, Dec. 16, 2025, cls. 3–7 (India) [hereinafter Gujarat Ordinance No. 3 of 2025].

The Gujarat Legislature subsequently enacted Gujarat Act No. 1 of 2026. The Act received the Governor's assent on 27 February 2026 and was published in the Gujarat Government Gazette on that date. It is deemed to have come into force on 16 December 2025 and replaces the Ordinance, while preserving the legal continuity of the amendment.[17]

The Gazette material reviewed establishes Governor's assent. It does not establish that the Bill was reserved for the President or received Presidential assent under Article 254(2). Governor's assent under the ordinary State legislative process and Presidential assent under Article 254(2) are constitutionally distinct. The correct conclusion is therefore that Article 254(2) protection has not been demonstrated by the Gazette material reviewed. It would be inaccurate to state either that Presidential assent was obtained or that it was definitively never sought without examining the legislative file and any communication with the President.

### 5.4 What the State comparison establishes

The comparison establishes that implementation is uneven and must be assessed Code by Code. Maharashtra's official portal has inconsistent labels and lists several draft instruments; Karnataka's 2026 instruments are drafts; Gujarat has final OSH Rules and a separately amended S&E statute. The comparison does not support a single national count of States with 'final Labour Code Rules'. Nor does it support treating the existence of a final OSH rule set as proof that the other three Codes have been fully operationalised through State Rules.

## 6. Substantive areas of divergence

### 6.1 Working hours

Section 25(1) of the OSH Code states that no worker shall be required or allowed to work in an establishment or class of establishment for more than eight hours in a day. The provision itself does not create a separate employee-number threshold. The threshold question arises from the definition of 'establishment' in section 2(1)(v), which generally covers a place where industry, trade, business, manufacturing or occupation is carried on and ten or more workers are employed, as well as specified categories and exceptions. The Code also contains separate definitions and thresholds for factories and particular activities. It is therefore more accurate

[17] Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Act, 2026, Gujarat Act No. 1 of 2026, Gujarat Government Gazette, Extraordinary, Part IV, Feb. 27, 2026, § 1(2) (India) [hereinafter Gujarat Act No. 1 of 2026]. The Act records Governor's assent; the Gazette material reviewed does not establish Presidential reservation or assent under India Const. art. 254, cl. 2.

to say that the eight-hour rule applies to workers in establishments covered by the OSH Code, rather than to say that section 25 itself applies only above a threshold.[18]

Section 25 also leaves the appropriate government a role in prescribing intervals and spread-over, subject to the statutory daily limit. Section 26 separately regulates weekly and compensatory holidays. Section 27 provides for overtime wages at twice the rate where a worker works beyond the hours prescribed by the appropriate government, and requires the worker's consent for overtime. These provisions should not be collapsed into one statement that the Code creates a universal 48-hour week and a universal quarterly overtime cap. The precise daily and weekly triggers and the rules applicable to the establishment must be identified.[19]

The Gujarat S&E amendment raises the daily figure in section 12 from nine to ten hours and the continuous-work interval from five to six hours. It also changes the section 15 overtime trigger from nine to ten hours and the quarterly overtime figure from 125 to 144 hours. The weekly ceiling is reported to remain at 48 hours. The consequence is that a ten-hour day cannot be read as an automatic authorisation to work fifty ordinary hours over five days: daily hours, weekly hours, rest intervals and overtime are separate constraints and must be applied cumulatively.[20]

The Gujarat amendment raises a constitutional question because its relaxation is less protective than the OSH Code's eight-hour daily provision. The answer cannot be supplied simply by saying that the State statute is later or more specific. It depends on the Code's scope, the State Act's scope, the relationship between the provisions, any statutory savings or more-favourable-benefit clause, and Article 254. The amendment's validity against the OSH Code remains a question for reasoned legal analysis and, ultimately, authoritative adjudication.

The comparison also demonstrates why the Maharashtra and Karnataka positions should not be described through broad summaries such as 'higher daily ceilings' without checking the operative statutory text, amendments, exemptions and the category of establishment. A provision applicable to a shop with a given number of employees may not govern a factory or a central-government establishment.

[18] OSH Code §§ 2(1)(v), 25(1). Section 2(1)(v) generally defines an establishment by reference to ten or more workers, subject to specified categories and exceptions; section 25(1) itself states the eight-hour daily maximum.
[19] *Id.* §§ 25–27.
[20] Gujarat Ordinance No. 3 of 2025, cls. 5, 7; Gujarat Act No. 1 of 2026. The amended S&E Act retains the 48-hour weekly ceiling; daily hours and overtime must be read with that weekly limit.

### 6.2 Overtime

Overtime requires comparison of at least four elements: the daily trigger, the weekly trigger, the maximum aggregate hours in a reference period, and the requirement of worker consent. Section 27 of the OSH Code provides for double wages and consent, while the actual thresholds are prescribed by the appropriate government. Gujarat's S&E amendment changes the State Act's daily overtime trigger and quarterly cap. It is therefore misleading to compare only the headline number of overtime hours without checking the period over which the cap is calculated and the relationship with weekly hours.

Where the State law imposes a lower cap or an additional protection, it may be possible for both regimes to operate, or for the more favourable State benefit to continue, depending on the precise statutory language. Where the State law permits a higher working time or overtime ceiling than the Code, the employer must examine whether the two provisions can be obeyed together and whether the State provision is constitutionally saved.

### 6.3 Annual leave and other leave categories

Section 32 of the OSH Code provides annual leave with wages for specified categories of workers and establishments, subject to its eligibility and accrual requirements. Among other things, the provision permits carry-forward of up to thirty days, allows a worker to demand encashment at the end of the calendar year, and provides for encashment of leave exceeding the ordinary carry-forward limit. Leave refused by the employer in accordance with the statutory conditions may be carried forward without the ordinary limit.[21]

The scope of section 32 must not be overstated. It applies to the establishments and workers described in the provision and may be extended by the appropriate government in accordance with the Code. State S&E statutes may separately provide annual leave, casual leave, sickness leave or other entitlements for categories of employees outside or alongside the Code's scope. A claim that every employee in every commercial establishment is governed by the same OSH leave provision would therefore be too broad.

A potential conflict arises where a State S&E statute permits a higher carry-forward balance than the Code. But the comparison is not necessarily straightforward. A thirty-day carry-forward entitlement coupled with a right to annual encashment is not identical to a forty-five-day carry-forward entitlement with payment on separation. The more favourable option may depend on the employee's preference, the likelihood of taking leave, the timing of encashment

[21] OSH Code § 32(1)(vii)–(ix). The provision includes a 30-day ordinary carry-forward limit, unlimited carry-forward of leave refused in the specified circumstances, and a right to demand encashment at year-end.

and the protection against refused leave. Unless the statute or authoritative guidance specifies whether the comparison is provision-by-provision or by an overall package, employers should not assume that the larger numerical entitlement automatically prevails.

Where the OSH Code is silent on a separate category such as casual or sickness leave, the mere existence of a State entitlement does not create repugnancy. If the State benefit can operate without contradicting the Code, it may continue. The correct approach is to identify whether the Code has legislated on the same entitlement and whether simultaneous operation is possible.

### 6.4 Coverage and worker definitions

Coverage is a separate source of complexity. The OSH Code defines 'worker' and 'employee' for its purposes and applies different provisions to different classes of establishment. State S&E statutes may use different definitions of 'employee', 'worker', 'shop' and 'establishment', and may prescribe their own numerical thresholds. Gujarat's 2026 amendment, for example, increases the general application threshold of its S&E Act from ten to twenty employees, while retaining a distinct intimation obligation for smaller establishments under the amended scheme.[22]

The practical result is that two employees working in the same business may not necessarily fall within identical statutory definitions. A multi-State employer should map the legal status of each establishment and worker category rather than assuming that the headcount threshold or coverage rule under one enactment controls the other.

### 6.5 Registration

Registration is often more readily harmonised administratively than substantive employment conditions. A State may recognise registration under the OSH Code for the purpose of avoiding duplicate registration under its S&E statute. However, the legal effect depends on the wording and authority for the circular or notification. A circular may communicate departmental practice, but it does not ordinarily amend the parent statute. A statutory exemption notification issued under an express enabling provision may have a different legal effect.

The original draft referred to a Maharashtra circular dated 30 April 2026 and a Haryana notification dated 4 May 2026. The underlying official instruments should be annexed or independently verified before the claims are retained as definitive. In particular, a statement

[22] Gujarat Ordinance No. 3 of 2025, cl. 3; Gujarat Act No. 1 of 2026.

that separate registration is not required should not be converted into a statement that all substantive S&E obligations have ceased to apply. The employer should check whether only duplicate registration is removed, whether an intimation requirement survives for smaller establishments, and whether the circular applies to the relevant establishment and category of employer.

**7. Does Article 254 resolve the conflict?**

It is tempting to treat every difference between the OSH Code and a State S&E statute as a straightforward case of repugnancy: the Code is Parliamentary legislation on a Concurrent List subject, the State law differs, and the State provision must fall. That approach is too broad. Article 254 is a rule for resolving constitutional inconsistency, not a general power to erase every State provision that concerns working conditions.

**7.1 Identify the exact legal provisions and the field**

The first step is to identify the exact central and State provisions, their commencement dates, the establishments to which they apply and the categories of workers covered. A State S&E Act may apply to shops and commercial establishments, while the OSH Code may apply to a different class of establishment or a defined category of workers. If the provisions do not govern the same legal situation, there may be no repugnancy at all.

**7.2 Direct inconsistency and simultaneous obedience**

The second step is to ask whether both provisions can be obeyed. If one enactment requires an employer to do what the other prohibits, there may be direct conflict. If one provision creates a minimum protection and the other permits a higher standard, the provisions may be capable of simultaneous operation. The Supreme Court's reasoning in *Karunanidhi* requires a clear and direct inconsistency that is irreconcilable and brings the two laws into direct collision. The presumption remains in favour of constitutionality.[23]

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**7.3 Exhaustive occupation of the field**

The third step is to consider whether Parliament intended the OSH Code to be an exhaustive code in the relevant field. *Deep Chand* and *Zaverbhai* recognise that repugnancy may arise where the Parliamentary law is intended to cover the field comprehensively, even where the

[23] *Karunanidhi*, (1979) 3 S.C.C. at 456–57; *Deep Chand*, A.I.R. 1959 S.C. 648; *Zaverbhai Amaidas*, A.I.R. 1954 S.C. 752.

provisions do not produce an obvious textual contradiction. But the conclusion must be based on the statute's text, scheme and purpose. The mere fact that the OSH Code is a consolidating enactment does not automatically prove that every subject regulated by State S&E legislation has been exhaustively occupied.

### 7.4 The effect of beneficial State provisions

The OSH Code contains savings and preservation provisions that must be read carefully, including the protection of certain more favourable rights and benefits under other laws, awards, agreements or contracts in the circumstances specified by the Code. Where the Code expressly preserves a more favourable State entitlement, coexistence may be authorised by the Parliamentary enactment itself. In that situation, it is not accurate to describe the State provision as prevailing because Article 254(2) has been invoked; it may continue because the Code itself preserves it.

The comparison is difficult where the entitlements are not directly comparable. For example, a greater carry-forward balance and a right to annual encashment are different forms of benefit. An employer should record the competing provisions, identify the unit of comparison, and avoid reducing a complex entitlement to a single numerical value. Ministry guidance on the method of comparison would materially reduce uncertainty.

### 7.5 Gujarat and Article 254(2)

Gujarat's 2026 amendment is the most difficult example in this paper because it relaxes working-time protections in the S&E Act while section 25(1) of the OSH Code states an eight-hour daily maximum for covered workers. The first issue is whether the same establishment and worker are covered by both enactments. The second is whether the provisions can operate together, taking account of the weekly ceiling and overtime provisions. The third is whether the Code expressly permits or preserves the State variation. The fourth is whether Article 254(2) applies.

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The Gazette records that Gujarat Act No. 1 of 2026 received the Governor's assent on 27 February 2026 and is deemed effective from 16 December 2025. The material reviewed does not establish reservation for the President or Presidential assent. Governor's assent under the State legislative process is not a substitute for the reservation and assent contemplated by Article 254(2). Equally, the absence of a recital in the Gazette excerpt is not conclusive proof that no reservation request was made. A definitive conclusion requires the Assembly bill file and any communication from the Governor, the State Government or the President.

If Article 254(2) assent was not obtained, the State amendment does not automatically become void in its entirety. A court would still have to identify the precise repugnancy and determine the extent to which the State provision cannot operate consistently with the Parliamentary law. Article 254(1) speaks of invalidity 'to the extent of the repugnancy'. The analysis may therefore differ across establishments, worker categories and particular provisions.

### 7.6 Administrative circulars and statutory instruments

A circular that simplifies registration does not ordinarily amend a statute. It may be relevant evidence of the department's administrative interpretation, but it cannot override a statutory requirement unless supported by an enabling provision. A statutory rule or exemption notification made under delegated legislative power may carry a different legal status. Employers should therefore classify each instrument by legal form before relying on it.

### 7.7 Silence is not repugnancy

Where the OSH Code does not regulate a particular category of leave or a particular procedural matter, a State provision may continue if the two enactments can operate together. Treating every statutory overlap as a conflict exaggerates the reach of Article 254 and may lead employers to withdraw protections that remain legally enforceable.

The overall conclusion is that Article 254 supplies a framework, but rarely supplies the answer without close statutory comparison. The inquiry must be provision-specific and must account for scope, coverage, commencement, savings, legislative intent and the precise nature of the inconsistency.

## 8. Compliance risk for multi-State employers

The risk is two-sided. Over-compliance may increase cost, create inconsistent employee expectations or produce contractual commitments that are difficult to reverse. Under-compliance may expose an employer to inspection, claims for wages or leave, penalties and disputes. The same uncertainty can therefore generate both unnecessary expenditure and legal exposure.

Three compliance models are commonly available. The first is a highest-common-standard model, under which an employer applies the most employee-protective rule across all locations. This can be useful where the competing standards are directly comparable, such as a higher overtime rate or a longer notice period. It is less useful where the entitlements are

structurally different, such as carry-forward of leave versus annual encashment. A single national rule may not be the most protective for every employee.

The second is a strict State-by-State model. The employer maintains a separate legal matrix for each State, establishment and worker category. This model most closely tracks the law, but it requires regular updates and careful version control. It can also produce operational complexity when employees transfer between locations or work remotely across State boundaries.

The third is a hybrid model: a central policy with State-specific supplements. The central policy sets common governance, documentation, approval and payroll processes; the supplements identify local statutory requirements, exceptions and procedures. This model is the most workable, provided the central policy does not purport to override local law and the State supplements are maintained as controlled legal documents.

| **Compliance model** | **Advantages** | **Limitations** | **Recommended use** |
|---|---|---|---|
| Highest-common-standard | Simple and employee-friendly where the rules are genuinely comparable. | Can be expensive and may fail where entitlements are structurally different; can create contractual or policy rights. | Use selectively for directional differences after legal review. |
| State-by-State model | Most precise reflection of local law and establishment-specific coverage. | High maintenance burden; risk of outdated matrices and inconsistent administration. | Maintain as the underlying legal register for all sites. |
| Central policy plus State supplements | Combines common governance with local legal precision. | Requires clear ownership, update triggers, version control and escalation process. | Preferred operating model for multi-State employers. |

A practical compliance register should record: (i) the legal entity and establishment; (ii) the appropriate government; (iii) the number and category of workers; (iv) the commencement status of the relevant Code provisions; (v) the status of State Rules under each Code; (vi) saved rules under repealed legislation; (vii) applicable S&E provisions; (viii) exemptions and circulars; (ix) the Gazette number and effective date of every instrument; and (x) the internal policy decision taken in response.

The register should be reviewed whenever a new rule, amendment, exemption or circular is published. It should also be checked before a merger, acquisition, restructuring, outsourcing arrangement or transfer of employees. Labour due diligence should identify not merely whether a target is ‘compliant’, but which legal regime applies at each site and the date on which the compliance assessment was performed.

For leave, overtime and working-time policies, employers should preserve the legal reasoning behind the selected treatment. If two entitlements are not directly comparable, the employer should not assume that a single numerical 'higher' standard resolves the question. A reasoned legal assessment and, where legally permissible, a carefully designed employee election mechanism may be necessary.

## 9. Recommendations

### 9.1 For the Ministry of Labour and Employment

The Ministry should maintain a central, searchable register of State notifications under each of the four Codes. The register should distinguish draft publication, final notification, commencement, amendment, supersession and judicial stay. Each entry should identify the Gazette number, date, effective date, appropriate-government category, territorial scope and official PDF. A private tracker may assist practitioners, but it should not be the authoritative source for legal status.

The Ministry should also clarify the method for comparing more favourable State benefits under the OSH Code. Guidance should explain whether comparison is to be made provision by provision or by an overall package, how different forms of leave entitlement should be compared, and how employers should document the basis of their decisions. The guidance should preserve the statutory text and avoid creating a rule that is not authorised by the Code.

### 9.2 For State Governments

State Governments should publish consolidated and updated versions of their S&E statutes, Labour Code Rules, exemptions and circulars. Draft and final instruments should be clearly labelled, and the official portal should remove or archive superseded drafts so that employers do not mistake them for current law.

Where a State intends to enact a provision that conflicts with Parliamentary legislation on a Concurrent List matter, the State should expressly consider Article 254(2) and the need for reservation for Presidential consideration and Presidential assent. Ordinary Governor's assent should not be presented as satisfying Article 254(2). State amendments that relax employee protections should clearly explain their interaction with the central statute and avoid retrospective changes that may unsettle accrued rights.

### 9.3 For employers

Employers should adopt the hybrid central-policy-plus-State-supplement model. They should identify the appropriate government for each establishment, map the relevant worker categories, maintain a Gazette-based register and document each legal interpretation. Registration obligations should be separated from substantive employment conditions; relief from duplicate registration should not be assumed to remove working-time, leave, safety or wage obligations.

Employers should also create a change-management process that assigns responsibility for monitoring Gazette notifications, updating HR systems and communicating revised rules to managers and employees. Where a provision is uncertain, the compliance register should record the uncertainty, the conservative interim approach and the date for legal reassessment.

### 9.4 Further research

Four questions require further research. First, what is the correct method of comparing more favourable benefits where the entitlements are structurally different? Secondly, was Gujarat's 2026 S&E amendment reserved for the President and did it receive Presidential assent under Article 254(2)? Thirdly, what is the effect of the amendment's retrospective commencement on overtime or other entitlements that accrued between 16 December 2025 and 27 February 2026? Fourthly, what is the legal weight of State circulars that purport to remove duplicate registration without amending the parent statute? These questions should be addressed through the relevant Gazette record, legislative files and, where available, judicial decisions.

## 10. Conclusion

The Labour Codes seek to establish a coherent national framework, but their operation remains shaped by India's federal structure. State rule-making, independent S&E statutes and the definition of the appropriate government create a layered system rather than a single uniform code. The position in Maharashtra, Karnataka and Gujarat illustrates why the State-level picture must be described Code by Code and instrument by instrument. Maharashtra's official portal contains inconsistent labels and lists draft rules; Karnataka's 2026 instruments are drafts in the materials reviewed; Gujarat has final OSH Rules and has separately amended its S&E Act through a retrospective 2026 enactment.

Article 254 is central to resolving genuine conflicts, but it does not make every difference between a Central Code and a State statute repugnant. The inquiry requires identification of the exact provisions, their scope and field, the possibility of simultaneous obedience,

Parliament's legislative intention and the effect of any statutory savings. Gujarat's amendment also demonstrates why Governor's assent must not be confused with Presidential assent under Article 254(2).

For multi-State employers, the most defensible approach is a central compliance framework supported by State-specific supplements and a regularly updated Gazette-based register. That model recognises the value of common governance without sacrificing legal accuracy at the State level. Until official guidance and State rule-making become more consistent, disciplined source verification and provision-specific analysis remain essential.

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