

# BIPO TIMES



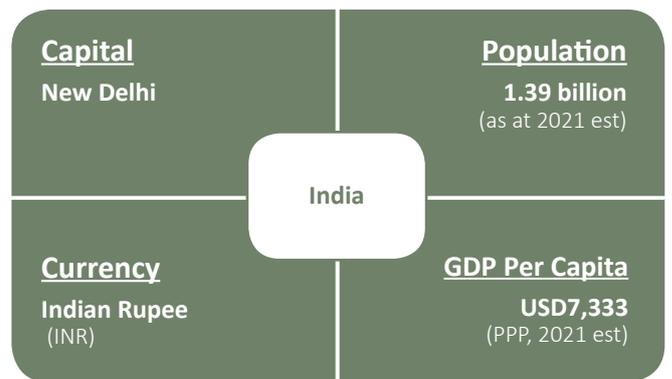
## Understanding India's Labour Law & Employment Regulations

### India

One of the fastest growing economies in the world, India is the sixth largest economy by market exchange rates with an annual GDP rate of 5.8% over the last two decades.

India's 522 million workforce is the second largest in the world, with the service sector making up 55.6% of GDP, the industrial sector 26.3% and the agricultural sector 18.1%.

Major industries include: textiles, telecommunications, chemicals, pharmaceuticals, biotechnology, food processing, steel, transport equipment, cement, mining, petroleum, machinery, and software.



### Overview

#### 1. Business Culture in India

Type	Features	Country
Indians are strongly guided by their respective religions and their shared values. Respect for elders and hierarchy are core values that permeate all aspects of Indian society. Indians also place huge importance on family. Building good business relationships & trust are important in India.	<p><b>Work:</b> Representation of different cultural and ethnic groups in society.</p> <p><b>Communication:</b> Accepting and respecting people's differences and understanding that everyone is unique.</p> <p><b>Responding to change:</b> Respecting tradition, small changes (focusing on the past)</p>	

## 2. How to Establish a Business Entity in India

India has introduced reforms that made it easier to do business in order to enhance the investment environment, eliminating red tape in setting up a business and minimising the costs and procedures.

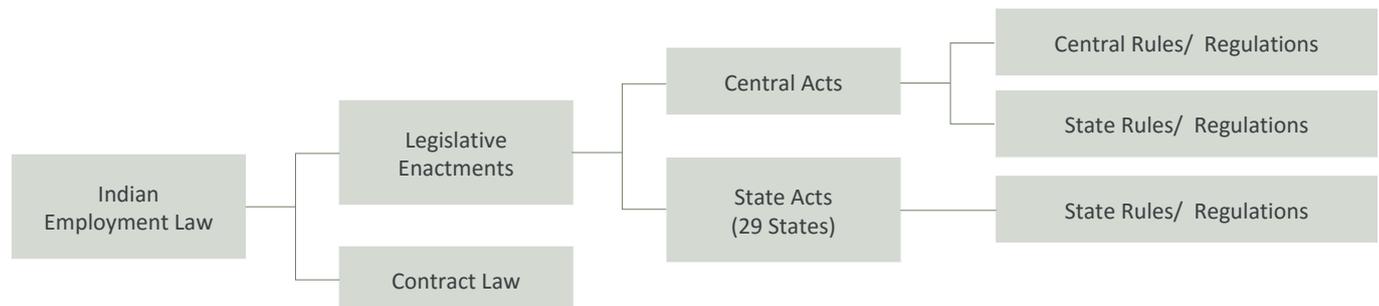
To this end, establishing a company is now only carried out at Ministry of Corporate Affairs Portal and designed to be a 'one-stop shop'. The entire process can be completed with 20 days.

- Checking of the company name availability.
- Acquiring a director identification Number (DIN) issued by MCA
- Acquiring a Digital Signature Certificate (DSC)
- Submit the memorandum and articles of association along with e-form 32, e-form 1 and e-form 18 online at mca.gov.in
- Execute and notarize or apostille company documents
- Obtain potential tax identity number (PAN) and TAN Number (Tax Assesses Number)
- Deposit a percentage of capital to the account of the Competition Authority
- Deposit at least 10000 INR of the startup capital in a bank and obtain proof thereof
- Apply for registration for GST(Goods and Service Tax)
- Apply for EPF and ESIC through MCA Portal
- Apply for Professional Tax Registration at concerned state

## 3. India Labour Law

India will start enforcing a range of new labour codes. The primary change will see the Federal Government consolidating 29 existing federal labour laws into four codes in order to facilitate doing business in India.

- Establishments have to comply with both Central and State Labour Laws
- At least 15-20 important laws apply to each establishment based on its activities
- Laws are highly procedural – several registrations, and monthly, quarterly and annual filings required.



## 4. Important Key Labour Laws

### Central Labour Laws

- The Employees' Provident Fund & Miscellaneous Provisions Act, 1952
- The Employees' State Insurance Act, 1948
- The Payment of Gratuity Act, 1972
- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Industrial Disputes Act, 1947
- The Factories Act, 1948
- The Maternity Benefit Act, 1961
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Employees Compensation Act, 1923
- The Equal Remuneration Act, 1976
- Sexual Harassment of Women at Workplace (Prohibition, Prevention & Redressal) Act, 2013

### State Specific Labour Laws

- The Shops and Commercial Establishments Acts

- The National and Festival Holidays Acts
- The Labour Welfare Fund Acts
- The Professional Tax Acts

**a. Industrial Disputes Act, 1947**

- Employee classification – workman / supervisory / managerial
- Workman termination
- Establishment closures
- Workman transfers in business acquisitions
- Changes in terms of service of workmen
- Strikes and lock-outs
- Unfair labour practices
- Dispute resolution framework (labour courts, tribunals, etc.)

*No registration requirements, but critical to understand and comply with.*

**b. The Factories Act, 1948**

- Registration and operations of manufacturing establishments
- Health and safety requirements
- Leave entitlements
- Overtime requirements and other compliances
- Strong fines and risk of imprisonment for non-compliance

*Factories with 10 or more workers (with use of power), and 20 or more workers (without use of power) must compulsorily register and comply.*

**c. Shops & Establishments Act**

- State specific laws applying to non-manufacturing/service establishments
- Working hours
- Leave entitlements
- Overtime eligibility
- Health and safety requirements
- Restrictions around nighttime work for women
- Termination provisions

*Compulsory registration needed in most states. Strict penalties in some states for non-compliance with women safety and nighttime working requirements.*

**d. Minimum Wages Act, 1948**

- Governs minimum wages across various sectors.
- Rates vary from state to state and depend on nature of the work (skilled, unskilled, etc.) as well as the industry.

*Proposed wage code trying to create a national level minimum wage rate.*

**e. Employees' Provident Fund and Miscellaneous Provisions Act, 1952**

- Social security law aimed at creating compulsory savings
- Applies to all establishments with 20 or more employees
- Covers employees earning wages up to INR 15,000 per month/RMB 1,500 by default. Few others may be covered in certain circumstances
- Rate of monthly contribution to government: 12% of wages, both by employer and employee, subjected to certain limits and exceptions
- Special rules apply for expatriate employees
- Strict liabilities for non-compliance, including criminal liabilities

*Compulsory to register. Single registration permissible for multiple branches/offices of same entity.*

*Delayed payments or non-payments attract 12% interest and up to 25% penalty, and potential criminal prosecution.*

**f. Employees State Insurance Act, 1947**

- Significant social security law that extends free medical treatment and other sickness benefits to covered employees
- Applies to all establishments with 10/12 employees (based on state)
- Covers employees with wages up to INR 21,000/RMB 2,100 per month

- Rate of monthly contribution: 3.25% of wages by employer and 0.75% by employee
- Strict liabilities for non-compliance, including criminal liabilities

*Compulsory to register. Organisations with multiple branches must obtain local sub-codes.*

#### g. Payment of Bonus Act, 1965

- Applies to all factories, and other establishment with 20 or more employees
- Covers employees earning less than INR 21,000/RMB 2,100 per month
- Minimum bonus = 8.33% of actual wages or the statutory minimum wages (whichever is higher)
- Maximum bonus = 20% of actual wages or the statutory minimum wages (whichever is higher)

*Bonus payment is mandatory irrespective of profits, except for new establishment for the first 5 years in case of losses*

## 5. Working Hours

Type	Definition
Working Hours Daily	Under the Factory Act 1948, working hours per day cannot exceed 9 hours.
Working Hours Weekly	Under the labour law, working hours in a week cannot exceed 48 hours.
Rest Breaks	Up to 5.5 hours: 30 minutes of break.
Days Off	Employees shall be allowed to take a rest for a minimum of 24 hours (weekly rest day) without interruption within a 7 day time period, provided they have worked on the days preceding the weekly rest day.

## 6. Overtime

### OT India Easy Chart

Accepted Weekly Working Hour	Working Hours	Weekdays	Weekend	Public Holiday
48 Hours	Below 48 Hours	No Overtime Payment	Double of Normal Wages	Double of Normal Wages
	Above 48 Hours	Double of Normal Wages	Double of Normal Wages	Double of Normal Wages
Payment Formula	Basic Salary * 2 / (30 or 31 Days) * OT Hours			
Example	5500 Monthly Basic Salary	Quarterly max Over Time cannot exceed 50 Hours		
	183.3 Daily Basic Salary	Daily overtime cannot exceed 10.5		
	(183.3*2) = 366.6 INR (3 hours of OT) = 137.475 INR			

## 7. Contract Types

### • Contracts for Definite/fixed-term employment:

This is for a fixed term with a set date for the end of employment. A fixed-term contract can be renewed once only (except in specific circumstances) and thereafter converts to an indefinite contract.

### • Contracts for Indefinite/open-ended employment:

This is used when the job has no specified duration or set end date.

## 8. Employee & Employers EFP and ESIC Contributions

Social Security	Employer's Contribution	Employee's contribution	Total
Employee Provident Fund	12%	12%	24%
Employee Provident Fund	Administrative charges 0.5%+EDLIF 0.5% bear by employer		1%
Employee State Insurance Cooperation	3.25%	0.75%	4%

- EPF calculation consider the basic Salary and Ceiling limit in the EPF is 15000 INR per month, On the other hand employer and Employee can contribute mutually on actual basic or above to ceiling limit.
- ESIC calculation consider Gross Salary and Ceiling limit is 21000 INR per month above the ceiling limit employer can go with commercial insurance.

## 9. Minimum Wage

Category	Rates as on 01/04/2020	D.A w.e.f 01/04/2020	Rates as on 01/10/2020	Rates Per day 01/10/2020	D.A w.e.f 01/04/2021	Rates from 01/04/2021	
	Rupus	Rupus	Per-Month	Per-Day	Rupus	Per-Month	Per-Day
Unskilled	14842	650	15492	596	416	15908	612
Semi-skilled	16341	728	17069	657	468	17537	675
Skilled	17991	806	18797	723	494	19291	742
Non Matriculates	16341	728	17069	657	468	17537	675
Matriculate but not Graduate	17991	806	18797	723	494	19291	742
Graduate and Above	19572	858	20430	786	546	20976	807

## 10.Types of Leave



- Numbers of leaves entitlement in a company depends upon state you are in. Every state has different leave entitlement and leave policies which should be seen before one defines leave policy of your company.
- Leave policy of a company cannot be less than that mentioned by the State's shop and establishment act.
- Generally, all State Legislations has common provision for major matters. They provide at least seven holidays for national and other festivals. Republic day, Independence Day and Mahatma Gandhi's birthday are compulsory holidays. Employer and Employees had given right to decide remaining national and festival holidays.

- Earned leaves/Privilege Leave:** These are the leave which are earned in the previous year and enjoyed in the preceding years. These are also known as privilege leave which can be carried forward for the quantum up to the total of three years and vary from state to state as per the shop & establishment act. These are encashable based on the basic salary to the employee. The condition for taking these leaves usually differ from company to company but normally in advance of at least 15 days. This can be clubbed with Sick Leave if Sick Leave is not balance with the employee.
- Casual Leave:** These are granted for certain unforeseen situation or when you are required to go for a 1 or 2 days leave. In case of Casual Leave, normally company's strict maximum is 3 days in a month. Under these cases, either the person has to seek permission in advance or has to be regulated on joining. This leave is normally never clubbed with Privilege Leave, but it can be clubbed with Sick Leave if there is no sick leave balance. Again, quantum varies from state to state as per Shops & Establishment Act, and normally this leave is not encashable or never carried forward.
- Sick Leave:** This leave gets sanctioned only when medical certificate is presented. Except for the workers covered under the Acts mentioned above, Casual Leave are available as per the company policy. Next, for establishments not covered under the ESI Act, then workers will get Sick Leave as per company policy or standing orders.
- Leave Without Pay:** If the employee does not have any remaining leave balance and the situation warrants him/her to take the leave, the leave is granted by the Company as loss of pay or which may be adjusted against the future leave or as a special case (special paid leave based on the person contribution to the Company at management discretion).

- e. **Maternity Leave:** Benefit Amendment Act has increased the duration of paid Maternity Leave available for women employees from the existing 12 weeks to 26 weeks. A women employee is entitlement to Maternity Leave after 80 days of work in a company and in the case of Miscarriage, 12 week leaves are allowed and 26 week allowed for first two child and for the third child, 12 week.
- f. Leaves can be broadly divided based on its applicability to establishments covered under the Factories Act and the Shops and Establishments Act. Leave is calculated for the calendar year January to December.

## 11. Termination

- There is no standard process to terminate an employee in India. An employee may be terminated according to the individual labour contract signed between the employee and the employer, if the contract defines a process for termination. Employers should be aware that labour laws supersede the provisions of labour contracts – any termination policy or clause outlined within a contract should be checked against the law by a professional.
- In the case that there is no labour contract, or the labour contract does not define a method of termination, then the employer has to follow the state law. In this scenario, an employer needs to abide by India’s distinct, state-specific labor legislation in order to terminate the employee.

## 12. Public Holidays

New Year's Day	Friday, 01.01.2021	1 Day
Republic Day	Tuesday, 26.01.2021	1 Day
Holi	Monday, 29.03.2021	1 Day
Labour Day	Saturday, 01.05.2021	1 Day
Idul Fitr	Thursday, 13.05.2021	1 Day
Independence Day	Sunday, 15.08.2021	1 Day
Janmashtami	Monday, 30.08.2021	1 Day
Mahatma Gandhi Birthday	Saturday, 02.10.2021	1 Day
Deepawali	Thursday, 04.11.2021	1 Day

*Article contributed by*

*Amit Kumar, Deputy General Manager (BIPO India)*

## Around the World with BIPO

### Singapore – 21 Sept 2021

In yet another milestone, our employees in Singapore have validated BIPO as a **Great Place to Work!** Valid for a year from Sept 2021 to September 2022, our certification is the first step in understanding how our employees experience BIPO’s culture. This is also a motivation for BIPO to continue enhancing our communication and engagement with our employees.

As the global authority on workplace culture, the mission of **Great Place to Work** is to build a better world by helping organisations become a great place to work for all. They are a firm believer in validating the employee experience, a key aspect that BIPO aims to strengthen.



*BIPO Singapore*

*Great Place to Work Certification | Sept 2021 – Sept 2022*

## India – 14 Sept 2021

Our webinar series continues with a session on India's Labour Law and Employment Regulations, attended by more than 100 participants from across South East Asia, Japan, Korea, India and China.

Presented by Amit Kumar (Deputy GM, India) and Bindu Borappa (Regional Sales Manager), the session provided perspectives on establishing an entity in India, along with an overview of India's business culture.



## Shanghai – 5 Sept 2021

BIPO's global expansion continues to make headline news with Michael Chen, CEO recently being featured in Nikkei Asia.

Michael shared his perspectives about the booming HR tech market, BIPO's growth and future plans that will see the company introduce its award-winning technology platform in new markets like Russia, Serbia and emerging economies like Africa.

Click here to read the full article: <https://lnkd.in/gXJUsZys>



*Michael Chen, CEO (BIPO)*

## About us

At BIPO, we help businesses transform and digitalise, enabling them to thrive and realise their growth ambitions. Around the world, we support over 2,800 client in more than 100 countries and regions with a new generation of HR solutions. Our comprehensive suite of service products from our award-winning cloud and mobile-based HR Management System (HRMS), multi-country payroll calculation, overseas landing services, Business Process Outsourcing (BPO) to attendance automation provide clients with a multi-regional, integrated and seamless user experience.

Our global R&D Centres are the foundation of BIPO's HRMS and Workio platforms, providing cutting-edge, agile, and innovative technology solutions to meet the needs of Industry 4.0. We are also ISO-27001 certified with multi-country compliance, providing clients with the trust and confidence to champion their international growth plans.

Founded in 2004, BIPO is a leading one-stop global HR and Payroll service provider with a vast network of offices in 23 cities across Asia Pacific, Americas, Europe, Middle East & Africa supported by four R&D Centres in Singapore, Mainland China, Indonesia and Malaysia. Our APAC Headquarters in Singapore serves as our hub for the region.

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