

A-52011/163/2020-ESTT-IV
Government of India
Ministry of Jal Shakti
Department of Water Resources, River Development & Ganga Rejuvenation
Central Water Commission

03rd Floor(S), Sewa Bhawan
R. K. Puram, New Delhi-110066
Dated 11th September, 2020

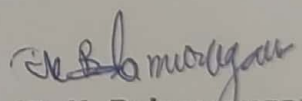
Subject: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

The undersigned is hereby directed to foreword herewith an E-mail dated 04th September, 2020 received from Coordination Section DoWR, RD & GR and a copy of an OM dated 10th August 2020 along with Note for Cabinet and draft Bill on Social Security, 2020 from the Ministry of Labour & Employment on the subject cited above.

2. You are therefore, requested to forward your comments/views, if any, on the withdrawal of Code on Social Security, 2019 and the introduction of the Code on Social Security, 2020 in the Parliament through email **estt4@nic.in** to the Establishment Section-IV **by Monday (14.9.20) evening positively.**

3. In case no comments are received, it will be presumed that there are no suggestions from your department/section/office and the same will be transmitted to the ministry accordingly.

Enclosures: As above


(R. K. Balamurugan)
Under Secretary E-IV
Tele No. 011 29583332

Copy to

1. PPS to the Chairman, CWC
2. PPS to all the Chief Engineers(HQ)
3. P.S to the Joint Secretary
4. P.S to Secretary, CWC
5. P.S to all Directors, CWC
6. All Under Secretaries/ Establishment Section/Account Sections/Directorates of CWC

All the Chief Engineers of Field Offices of CWC

7.

From: "SO Coord MoWR" <coord-mowr@nic.in>
To: mowr-wingheads@lsmgr.nic.in, "G. Asok Kumar" <md.nwm@nic.in>, "Neeraj Kumar" <secy-cwma@nic.in>, "MS,GRMB" <membersecy-grmb@gov.in>, "director neriwalm" <director.neriwalm@gmail.com>, "Rajiv Ranjan Mishra" <dg@nmcg.nic.in>, "NWA" <nwa.mah@nic.in>, "dinesh 169" <dinesh_169@rediffmail.com>, "RD, RGNGWTRI" <rgi-cgwb@nic.in>, "Brahmaputra" <bbrd-ghy@nic.in>, bcb242433@gmail.com, "Chairman cwc" <chairman-cwc@nic.in>, "CHAIRMAN, CGWB" <chmn-cgwb@nic.in>, "CMD" <cmd.npcc@nic.in>, cmd@wapcos.co.in, "Shri R. Vasudevan" <dda.nca@nic.in>, "Director General NWDA" <dg-nwda@nic.in>, "dir-adm-gfcc" <dir-adm-gfcc@nic.in>, dir@nih.ernet.in, "S L Gupta" <director-csmrs@nic.in>, "Farakka Barrage Project Office of the GeneralManager" <gmoffice-fbp@gov.in>, "krmb hyd" <krmb.hyd@gmail.com>, sebrb2008@rediffmail.com, secretarytbb@yahoo.com, "SSCAC" <sscac-mowr@nic.in>, "Devendra Pratap Mathuria" <uyrb-mowr@nic.in>, "Rajiv Ranjan Mishra" <dg@nmcg.nic.in>, smdmnmcg2016@gmail.com
Cc: "Sh. Sanjay Awasthi" <jsrd-dowr@gov.in>, "Director" <dircoord-mowr@nic.in>, "US(Coord.)" <uscoord-mowr@nic.in>
Sent: Friday, September 4, 2020 1:00:50 PM
Subject: Fwd: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

Sir,
In continuation to the trailing mail, it is requested that comments/views on Proposal to withdraw the Code on Social Security, 2019 may be furnished at coord-mowr@nic.in latest by 07.09.2020.

Coord. Section
DoWR,RD&GR

From: "Biswajit Ghosh" <biswajit.ghosh60@nic.in>
To: "SO Coord MoWR" <coord-mowr@nic.in>
Cc: "Sanjeev Nanda" <sanjeev.dom@nic.in>
Sent: Friday, September 4, 2020 12:45:07 PM
Subject: Fwd: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

From: "Suraj Kumar Tiwari" <suraj.tiwari@nic.in>
To: "S.Balachandra Iyer" <ddgca-dot@nic.in>, "Soumitra Bandyopadhyay" <b.soumitra@nic.in>, "Ram Bali" <ram.mishra960@gov.in>
Cc: "Sanjeev Nanda" <sanjeev.dom@nic.in>, "Biswajit Ghosh" <biswajit.ghosh60@nic.in>, "AnkitGupta Assistant" <ankit.gupta87@nic.in>
Sent: Friday, August 28, 2020 3:06:39 PM
Subject: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

Dear Sir,

Please find attached herewith draft Cabinet Note on the proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament for comments, please.

Labour Reforms Cell
Ministry of Labour and Employment

From: "Suraj Kumar Tiwari" <suraj.tiwari@nic.in>
To: "Ram Bali" <ram.mishra960@gov.in>
Sent: Friday, August 28, 2020 3:04:22 PM
Subject: Fwd: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

From: "Suraj Kumar Tiwari" <suraj.tiwari@nic.in>
To: "Sumit Khatri" <sumit.khatri@gov.in>, "Sharad Dwivedi" <sharad.dwivedi@nic.in>, "bomboy soumitra" <bomboy.soumitra@nic.in>, "Praveen Kumar" <secy-msde@nic.in>
Cc: "Sanjeev Nanda" <sanjeev.dom@nic.in>, "Biswajit Ghosh" <biswajit.ghosh60@nic.in>, "AnkitGupta Assistant" <ankit.gupta87@nic.in>
Sent: Wednesday, August 26, 2020 4:01:10 PM
Subject: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

Dear Sir,

Please find attached herewith draft Cabinet Note on the proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament for comments, please.

Labour Reforms Cell
Ministry of Labour and Employment

From: "Biswajit Ghosh" <biswajit.ghosh60@nic.in>
To: "Secy labour Employment" <secy-labour@nic.in>
Cc: "Sanjeev Nanda" <sanjeev.dom@nic.in>, "AnkitGupta Assistant" <ankit.gupta87@nic.in>, "Suraj Kumar Tiwari" <suraj.tiwari@nic.in>
Sent: Monday, August 24, 2020 12:55:27 PM
Subject: Fwd: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

From: "Biswajit Ghosh" <biswajit.ghosh60@nic.in>
To: "Sanjay Agarwal" <Secy-agri@nic.in>, "Mr Mr Atul Chaturvedi" <secyahd@nic.in>, "RAJESH KOTTECHA" <secy-ayush@nic.in>, "O/o Secretary (C&PC)" <sec.cpc@nic.in>, "Pradeep Singh Kharola" <secy.moca@nic.in>, "Anil Kumar Jain" <secy.moc@nic.in>, "csoffice" <csoffice@nic.in>, "secy-ipp" <secy-ipp@nic.in>, "Sushant Sudan" <sushant.sudan@nic.in>, "Ajay Sawhney" <secretary@meity.gov.in>, "psfs" <psfs@mea.gov.in>, secretary-posts@indiapost.gov.in, "Anshu Prakash" <secy-dot@nic.in>, "Leena Nandan" <secy-ca@nic.in>, "Shri Sudhanshu Pandey" <secy-food@nic.in>, "Secretary MCA" <secy.mca@nic.in>, "Shri Anand Kumar" <secy-culture@nic.in>, "Raj Kumar" <sdpns@nic.in>, "secydoner" <secydoner@nic.in>, "Shri R P Gupta" <secy-moef@nic.in>, "Mr Tarun Bajaj" <secy-dea@nic.in>, "T.V. Somanathan" <secyexp@nic.in>, "Secretary FS" <secy-fs@nic.in>, "Secretary MoFPI" <secy.mofpi@nic.in>, secyhfw@gmail.com, "OFFICE OF SECRETARY (HI)" <shioff@nic.in>, "Shri Sailesh" <secy-dpe@nic.in>, jsp-mha@nic.in, "Secretary DoF" <fertsec@nic.in>, "DEFENCE SECRETARY" <defsecy@nic.in>, "Parameswaran Iyer" <param.iyer@gov.in>, "Parameswaran Iyer" <secydws@nic.in>, "U P Singh" <secy-mowr@nic.in>, "secy. wcd" <secy.wcd@nic.in>, "Secretary Tourism" <sectour@nic.in>, "Secretary Textiles" <secy-textiles@nic.in>, "P.K. Tripathi" <secy-steel@nic.in>, "R Subrahmanyam" <secywel@nic.in>, "Praveen Kumar" <secy-msde@nic.in>, "Dr Sanjeev Ranjan" <secyship@nic.in>, "Prof Ashutosh Sharma" <dstsec@nic.in>, "Secretary DBT" <secy.dbt@nic.in>, "Shri Nagendra Nath Sinha" <secyrd@nic.in>, "sinhaa5" <sinhaa5@nic.in>, "SECRETARY MORT&H" <secy-road@nic.in>, "Secretary Power" <secy-power@nic.in>, "Tarun Kapoor" <sec.png@sb.nic.in>, "C Chandramouli" <secy_mop@nic.in>, "Mr Sunil Kumar" <secy-mopr@nic.in>, "Shri Anil Kumar Jain" <secy-mines@nic.in>, "A. K. Sharma" <secretary-msme@nic.in>, "Amit Khare" <secy.inb@nic.in>, "ChairmanRailwayBoard RailwayBoard" <crb@rb.railnet.gov.in>, "Anita Karwal" <secy.sel@nic.in>, "Shri Amit Khare" <secy.dhe@nic.in>, "DURGA SHANKER MISHRA" <secyurban@nic.in>, "AISHVARYA SINGH" <aishvarya.singh@nic.in>, "AISHVARYA SINGH" <aishvarya.singh@gov.in.local>, "Amitabh Kant CEO" <ceo-niti@gov.in>, "SGP Verghese" <verghese.sgp@nic.in>
Cc: "Secy labour Employment" <secy-labour@nic.in>, "R.K Gupta" <ramk.gupta@nic.in>, "Rahul Bhagat" <rahul.bhagat@ips.gov.in>, "Sanjeev Nanda" <sanjeev.dom@nic.in>
Sent: Monday, August 10, 2020 3:44:36 PM
Subject: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament

Sir/Madam,

Please find attached an OM dated 10th August, 2020 on the above subject alongwith Note for Cabinet and draft Bill on Social Security Code, 2020.

Labour Reform Cell
Ministry of Labour & Employment
New Delhi.

From: "Rahul Bhagat" <rahul.bhagat@ips.gov.in>
To: "R.K Gupta" <ramk.gupta@nic.in>, "Sanjeev Nanda" <sanjeev.dom@nic.in>, "Biswajit Ghosh" <biswajit.ghosh60@nic.in>
Sent: Friday, August 7, 2020 5:06:44 PM

With regards,

RAHUL BHAGAT, IPS,

DIRECTOR,
MINISTRY OF LABOUR & EMPLOYMENT,
ROOM NO. 302, SHRAM SHAKTI BHAWAN, RAFI MARG,
NEW DELHI
TEL. :- 011-23718923

NOTE FOR THE CABINET

Subject: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament.

1. INTRODUCTION

- 1.1 The proposal is to seek the approval of the Cabinet to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament.

2. BACKGROUND

- 2.1. The Second National Commission on Labour, which submitted its Report in June 2002, had recommended that the existing set of labour laws should be broadly grouped into four or five groups of laws pertaining to (i) industrial relations, (ii) wages (iii) social security (iv) safety and (v) welfare and working conditions and so on. In line with the recommendations of the Commission, this Ministry initiated the exercise of drafting four Labour Codes relating to (i) Wages, (ii) Occupational Safety, Health and Working Conditions (iii) Industrial Relations; and (iv) Social Security and Welfare.
- 2.2. The Code on Social Security, 2019 was introduced in the Lok Sabha on 11.12.2019. The code was prepared after amalgamating, simplifying and rationalizing the relevant provisions of following nine Central Labour Acts:
- I. The Employees' Compensation Act, 1923
 - II. The Employees' State Insurance Act, 1948
 - The Employees Provident Fund and Miscellaneous Provisions Act, 1952
 - The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
 - The Maternity Benefit Act, 1961

- The Payment of Gratuity Act, 1972
- The Cine Workers Welfare Fund Act, 1981
- The Building and Other Construction Workers Welfare Cess Act, 1996
- The Unorganised Workers' Social Security Act, 2008.

2.3 The Code on Social Security (CoSS) was introduced in Lok Sabha on 11.12.2019 and subsequently referred to the Parliamentary Standing Committee on Labour on 24.12.2019. The Committee has submitted its report on 31.07.2020. In the report, inter alia, it has been stated that the Standing Committee issued a press advertisement in the prominent national dailies, inviting views/ suggestions from various stakeholders. In response thereof, the Committee received around 50 memoranda containing views of trade unions/associations/organizations/ individuals/as well as some state Governments.

3. **PROPOSAL**

3.1 The Report of the Parliamentary Standing Committee on Labour has been examined in the Ministry in consultation with various stakeholders including concerned ministries/ departments. The committee has given 103 recommendation/ observation and out of which 57 fully and 19 partly have been accepted. 27 Recommendations have not been accepted. The recommendations of the Parliamentary Standing Committee and response of the ministry thereon are at **Annexure II (Pages ---)**.

3.2 The salient feature of the Code on Social Security (CoSS), 2020 are summarized in the **Annexure III (Pages ---)** and have been divided into following four headings:-

- a. features as contained in the Code introduced in Lok Sabha (which have not changed);
- b. Changes made in pursuance to the recommendations of the Standing Committee;

- c. Changes made by the Ministry on its own; and
- d. Changes made in the wake of Covid-19 pandemic.

3.2.1 Some of the major and important features of the revised Social Security Code are as follows:-

- (i) Various provisions have been incorporated in the Code to universalize social security to different classes of workers. Schemes have been provided for the purposes of providing social security benefits under EPFO to self-employed workers' or any other class of persons in the Code. The benefits under EPFO entail Employees' Provident Fund, Employees' Pension and Employees Deposit Link Insurance.
- (ii) The other provisions to extend social security coverage includes-
 - a) Coverage under ESIC to entire country which is at present implemented in 566 districts.
 - b) Contribution from aggregators for gig and platform workers
 - c) Creation of Social security fund and welfare fund for workers of unorganized sector.
- (iii) With all these provisions, the Code seeks to achieve universalization of social security protection including benefits relating to medical, sickness, maternity, insurance, accident/ injury compensation, pension, employees' provident fund, disablement benefits, dependent benefits, funeral expenses, etc. This vision has also been reflected in the long title of the Code. **(Section 15, Section 44, Section 45, Section 114, Section 142A and long title)**
- (iv) The definition of employee for the purpose of coverage under Employees' State Insurance Corporation (ESIC) and Employees' Provident Fund Organisation (EPFO) has been modified to include the following:-
 - a. Employees who are employed directly or indirectly (through contractor) have been included.

- b. For the purposes of applicability, clarity has been brought that for determining the applicability threshold for an establishment to be covered under EPFO and ESIC; all employees will be counted rather than those who are below wage ceiling.
- c. Under Employees' Pension Scheme, a member will continue to remain part of EPS; however, the contribution which can be made by that member will be restricted to wage ceiling.

At present, the Central Government contributes 1.16% of the wages towards Employees' Pension Scheme for the employees whose wages are less than wage ceiling (Rs.15,000 per month), at the time of joining EPFO and these employees continue to get benefit of 1.16% even if they cross/ exceed the wage ceiling. However, if a person joins EPFO whose wage at the time of joining, is in excess of wage ceiling, then contribution of 1.16% is not given by Central Government. It is proposed to discontinue payment of 1.16% of wages to the employees who had joined below the wage ceiling but later crossed the wage ceiling. This will result in annual saving of around Rs---- crore and will also bring parity with the employees who do not get 1.16% contribution from Government, if they join EPFO when their wage exceeds wage ceiling.

- (v) An enabling provision was made in the code introduced to specify differential rates of employees' contribution for class of employees as the Central Government may notify for a specified period. This is also for implementation of budget announcements. **(Section.16).**
- (vi) In the code introduced, it was provided that an appellant will pre-deposit 25% of the amount before going to appeal in CGIT. This has been increased to 40 %(which is still lower than the limit of 75% under the EPF and MP Act). Further, it has been provided that the Tribunal shall endeavor to decide the appeal within a period of one year from the date on which the appeal has been preferred. **(Section 23)**

- (vii) In case of ESIC, it has been provided that the investment of funds can be made as per the guidelines approved by the Central Government and the requirement of consultation with ESIC has been removed. The guidelines issued by Ministry of Finance are followed. **(Section 25).**
- (viii) In cases of dispute between the corporation and the State Government with regard to sharing of cost between them and nature and extent of the medical treatment to be provided by State Government, it was been provided that a judge of the High Court will be appointed by CJI. (The ESI Act, 1948). It is proposed to change to “that of an arbitrator to be appointed by Central Government in consultation with State Government”. **{Section 40(4)}.**
- (ix) For emerging new forms of employment/workers viz., gig and platform workers (like food delivery boy), an enabling provision was made for formulation of schemes by ESIC to extend benefits to these workers and also to unorganized workers and their family members. **(Section 45)**
- (x) An enabling provision has been made for payment of gratuity in case of Fixed Term Employment on pro-rata basis even if the period of fixed term contract is less than 5 years. However, in case of working journalist the minimum requirement of service has been incorporated as 3 years in lines with the existing working journalist act.**(Section 53)**
- (xi) The system of self-assessment of cess to be paid by the employer under The Building and Other Construction Workers Welfare Cess Act, 1996 was made part of the code introduced in the Parliament to address discretion with authorized officer to assess cess on case to case basis. **(Section 100 & 103).**

- (xii) For Unorganised Workers, provision of electronic registration of worker on the basis of self-certification was introduced in the Code. A unique number will be assigned based on Aadhar to each unorganized worker. **(Section 113).**
- (xiii) In the Code introduced, the first ever, definition of gig and platform workers was attempted and it was provided to extend benefits under ESIC to these new types of workers. Now, a detailed framework is sought to be provided regarding formulation of schemes by Central Government for (a) life and disability cover; (b) accident insurance; (c) health and maternity benefits; (d) old age protection; (e) crèche; and (f) any other benefit as may be determined by the Central Government.
 - (a) Constitution of a Gig and Platform Workers' Social Security Fund.
 - (b) Setting up of a Gig and Platform Workers' Social Security Fund to be funded partly by aggregators. The date of commencement of contribution from aggregator shall be notified by the Central Government.
 - (c) Constitution of a Board for welfare of gig workers and platform workers.
- (xiv) The concept of Inspector-cum-Facilitator was introduced in the Code who would in addition to enforcement functions, would also impart advice to employers and workers concerning the most effective means of complying with the provisions of this Code. To bring transparency, a web-based jurisdiction free inspection scheme was provided in the Code introduced. It also envisaged assigning of unique number to inspector cum facilitator, to each Establishment, each Inspection and uploading of report in time bound manner. **(Section.122).**
- (xv) Under EPF and MP Act, at present, no limitation period exists in commencing inquiry to decide on applicability of the Act and to recover amount due towards EPF, EPS and EDLI and limitation period of 5 years was provided in the Code introduced. **(Section 125)**

- (xvi) For ESIC and EPFO, a time limit of 2 years was provided in the Code introduced for completion of the inquiry which may be extendable for further period of one year with the approval of Central Provident Fund Commissioner or Director General, as the case may be. The inquiries have to be completed in EPFO/ESIC cases within a period of 2 years extendable by 1 year. It is proposed that extension should be “up to 1 year” “instead by 1 year”. **(Section 125).**
- (xvii) The existing EPF and MP Act and in the Code introduced, there was a provision for review of orders passed by the assessing officer of EPFO, on discovery of new matter or evidence. This has been deleted to do away with subjectivity and discretion in reviewing of the decision. **(Section 126).**
- (xviii) The existing EPF and MP Act and in the Code introduced provided about “determination of escaped amount”. It enables the authorized officer to reopen the case and pass orders re-determining the assessed amount within a period of 5 years, if inter-alia, he has reason to believe that by reason of the omission or failure on providing certain information by the employer or the officer has some information in his possession to reopen the case. It was inserted from 1st July 1997. Vesting of such powers in the officers is against predictable policy regime of the Government as the order remains unsettled for five years. This Section has been deleted altogether. **(Section 128).**
- (xix) In the code introduced, for rate of interest chargeable on delayed payment, it was provided to be notified by the Central Government. This is desirable keeping in view changing rates in the economy and to charge reasonable and prevalent rate of interest. **(Section 129).**
- (xx) Section 135 – As per Government policy and in order to decriminalizing the violations in various acts, the provisions relating to imprisonment and penalties were reviewed and following changes have been made:-
- (a) Imprisonment has been reduced from 3 years to 2 years, if an employer fails to pay any contribution for EPFO/ESIC.

- (b) Two additional offences have been added under section 135 which include – (a) fails or makes default in complying with any condition subject to which exemption from EPFO was granted and (b) fails to pay any administrative or inspection charges payable under the schemes framed under Chapter III (EPFO)
 - (c) Imprisonment has been removed in respect of (a) Deduction of wages of an employee or any part of from employee's contribution; (b) reduces the wages/ benefit admissible to an employee (c) Exempted establishment makes default in complying with conditions of grant of exemption. Now, only penalty of 50,000 remains for violation.
 - (d) Generally, the imprisonment has been reduced.
 - (e) Maximum imprisonment for subsequent and repeat offences for various cases including for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation has been reduced from five years to three years.
- (Section 136)**

(xxi) Monetary fines have been rationalised and increased by nearly ten times. Earlier, under EPF and MP Act, the fines were last revised in the year 1998. A provision for compounding of offences by the authorised officer, by appropriate Government, has been introduced. Also, provision for notice to employer as a prior opportunity for improvement and for complying with the provision of this Code has been introduced. **(Section 135, 139 and 140)**

(xxii) As regards to compounding of offences, changes have been made vis-à-vis Code introduced in parliament (a) in the case of an offence punishable with fine only, the half of the maximum fine provided for that offence; (b) in the case of an offence punishable with imprisonment for a term which is not more than one year and also with fine, the three-fourth of the maximum fine provided for that offence. Further, period for

compounding five years has now been reduced to 3 years for a repeat offence. **(Section 140).**

- (xxiii) Aadhaar was made mandatory for seeding at the time of registration of member or beneficiary or any other person to register or for receiving benefit in the code introduced in the Parliament. **(Section 143).**
- (xxiv) Protection has been provided to governing bodies of EPFO, ESIC, BOCW Boards, and Medical Benefit Council to avoid sudden disruption in the work till their tenure comes to an end. **(Section 152A)**
- (xxv) Protection has been provided to the existing schemes of EPFO and regulations of ESIC for a period of 1 year to the extent they are not inconsistent with the Code. **{Section-163(2)(b)}**
- (xxvi) It has been proposed in section 149 of the Code that the Central Government may give directions to (i) any State Government or to a State Board to carry out execution in that State or Board any of the provision of this Code; and to (ii) any of the Social Security Organization in respect of the matters relating to the implementation of the provisions of this Code.

4. FINANCIAL IMPLICATION

- 4.1 The Central Government has been contributing since 1995, 1.16% of wages towards Employees' Pension Scheme in respect of employees whose wages are less than the wage ceiling. The present wage ceiling 2014 is Rs. 15000 per month. Further, the Central Government also provides subsidy to EPFO towards shortfall of differential amount between minimum assured pension of Rs. 1000 pm to each pensioner and the actual pension drawn, since 2014. The details of budgetary out go/ provision from the Consolidated Fund of India during the years 2018-19, 2019-20 and 2020-21 (BE), for contribution towards 1.16% of wages was Rs. 3900 crore, Rs. 3696.67 crore and Rs. 5966 crore respectively. The budgetary provision for these three years for assuring minimum pension was Rs. 1000 crore, 1400 crore and Rs. 1491 crore respectively. Besides EPFO has claimed arrears of several years of around Rs. 18000 crore (the figures are un-reconciled). It is proposed to discontinue the policy of contributing 1.16% of the wage to the persons who exceeds the wage ceiling. It will result in savings in the budgetary outgo.

5. EMPLOYMENT GENERATION POTENTIAL

- 5.0 While the employment generation potential of this Code may not be quantified in measurable terms, this Code has the potential to catalyze employment generation, formalization of employment, creation of data base, by reduction of compliance requirements due to rationalization etc.

6. JUSTIFICATION

- 6.1. The Code subsumes 9 Acts. The entire codification exercise aims at uniform definitions, single return, reduction in forms, transparent and accountable enforcement machinery, reduction of litigation, reduction of compliance cost, catalyzing generation of employment, etc. This will promote ease of doing business and also facilitate ease of living, like in case of ESIC; medical benefits may be extended to the workers in unorganized sector, gig worker/platform worker. Provisions relating to single return, registration would generate data to facilitate policy making.

7. INTER-MINISTERIAL CONSULTATIONS

- 7.1 The draft Note for the Cabinet along with draft Labour Code on Social Security, 2020 was circulated to concerned Ministries/Departments viz. Department of Agriculture, Cooperation and Farmers Welfare, Department of Animal Husbandry and Dairying, Department of Fisheries, Ministry of AYUSH, Department of Chemicals & Petrochemicals, Department of Fertilizers, Department of Pharmaceuticals, Ministry of Civil Aviation, Ministry of Coal, Department of Commerce, Department for Promotion of Industry and Internal Trade, Department of Telecommunications, Department of Posts, Department of Personnel and Training, Department of Consumer Affairs, Department of Food & Public Distribution, Ministry of Corporate Affairs, Ministry of Culture, Department of Defence, Department of Defence Production, Ministry of Development of North Eastern Region, Department of Drinking Water & Sanitation, Ministry of Electronics & Information Technology, Ministry of

External Affairs, Ministry of Environment, Forests & Climate Change, Department of Economic Affairs, Department of Expenditure, Department of Financial Services, Ministry of Food Processing Industries, Department of Health & Family Welfare, Department of Heavy Industry, Department of Public Enterprises, Ministry of Home Affairs (Department of Home), Ministry of Housing and Urban Affairs, Department of School Education & Literacy, Department of Higher Education, Ministry of Information & Broadcasting, Ministry of Micro, Small & Medium Enterprises, Ministry of Mines, Ministry of Panchayati Raj, Department of Personnel & Training, Ministry of Petroleum & Natural Gas, Ministry of Power, Ministry of Railways, Ministry of Road Transport & Highways, Department of Rural Development, Department of Biotechnology, Department of Science & Technology, Ministry of Shipping, Ministry of Skill Development & Entrepreneurship, Department of Social Justice & Empowerment, Ministry of Steel, Ministry of Textiles, Ministry of Tourism, Ministry of Jal Shakti (Department of Water Resources, River Development & Ganga Rejuvenation), Ministry of Women & Child Development and NITI Aayog.

- 7.2 The view / comments received from the Ministries / Departments so far, on the Social Security Code and views of Ministry of Labour and Employment thereon are given in statement at **Annexure III (Page ----)**

8. CONSULTATION WITH THE MINISTRY OF LAW AND JUSTICE

- 8.0 Ministry of Law and Justice (Department of Legal Affairs and the Legislative Department) has examined the draft Note for the Cabinet. To give effect to the proposals contained in Para 3 of the Note for the Cabinet, the Social Security Code Bill, 2020 has been prepared in consultation with the Legislative Department. The modified Social Security Code Bill, 2020 has been vetted by the Legislative Department, Ministry of Law and Justice with the approval of Minister of Law and Justice.

9. APPROVAL SOUGHT

- 9.0 Approval of the Cabinet is solicited for **proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 Annexure-I (Page -) in the Parliament**, subject to modifications of drafting and consequential nature, if any, which may be made by the Legislative Department at the time of introduction of Bill.

10. STATEMENT OF IMPLEMENTATION SCHEDULE

- 10.0 The Statement of Implementation Schedule in respect of the above proposal has been given in the **Appendix-I (Page -)**.

11. STATEMENT ON EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

- 11.0 The Statement on Equity, Public Accountability and Innovation is at **Appendix-II (Page --)** to this Note.

12. APPROVAL OF THE MINISTER-IN-CHARGE

- 12.0 This Note has the approval of the Minister of State (Independent Charge) for Labour and Employment.

(R. K. Gupta)
Joint Secretary to the Government of India
Tel. No. 2371 8119

To
Director
The cabinet Secretariat,
Rashtrapati Bhawan
New Delhi

APPENDIX-I

(Refer para 10.0 of the main Note)

STATEMENT OF IMPLEMENTATION SCHEDULE

Subject: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament-regarding

Subject matter of the decision of the Cabinet	Proposed benefits / results	Time frame and manner of implementation of the decision and its reporting to the Cabinet Secretariat
Approval of the Cabinet is solicited for the proposals contained in Para-9 of the Note for the Cabinet to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament.	<ul style="list-style-type: none">• The Labour Code on Social Security Bill consolidates the various provisions relating to social security and welfare of 9 central labour acts leading to ease of compliance and effective enforcement.• Provides for dynamism by prescribing rules and regulations through enabling provisions in the Code.• Uniform definition of critical concepts like employer, employee, establishments and wages introduced.• Definitions of aggregators, platform work, gig worker has been included in the Code	After the approval of the Cabinet, the Code on Social Security Bill, 2020 will be introduced in Parliament. A copy of the Bill, as introduced, shall be forwarded to the Cabinet Secretariat.

	<p>Extension of Coverage to Social Security</p> <ul style="list-style-type: none"> • Applicability of Employees Provident Fund and Miscellaneous Provisions Act has been extended to all Establishments employing 20 or more workers. • Coverage of ESIC has been extended to all establishments employing 10 or more employees in entire India. • Enabling provisions made to extend coverage of ESIC to cater to workers below threshold of 10. (a) On voluntary basis. (b) Hazardous or life threatening diseases. (c) option to plantation owner to avail ESIC 	
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(R. K. Gupta)
Joint Secretary to the Government of India
Tel. No. 2371 8119

APPENDIX-II

(refer para 11.0 of the main Note)

STATEMENT ON EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

Subject: Proposal to withdraw the Code on Social Security, 2019 and introduce the Code on Social Security, 2020 in the Parliament-regarding

Sl. No.	The goal required	How does the proposal advance this goal?
1.	Equity or inclusiveness	The following provisions in the Bill would enhance equity and inclusiveness:- (i) Applicability of Employees' Provident Fund/Employees' Pension Scheme and EDLI has been extended to all Industries/ Establishments employing 20 or more workers. (ii) Coverage of ESIC has been extended to all establishments employing 10 or more employees in entire India. (iii) Enabling provisions made to extend coverage of ESIC to cater to workers below threshold of 10 (a) on voluntary basis. (b) For Hazardous or life threatening diseases. (c) option to plantation owner to avail ESIC
2.	Public Accountability.	(i). "Inspector" being replaced by 'Inspector-cum- facilitator'. (ii). Provision for jurisdiction free a transparent and accountable randomized web-based inspection scheme. (iii). Records can be maintained electronically.
3.	Innovation	(i) Consolidation of fragmented legislations, definitions make the provisions simple, dynamic, and easy to understand. (ii) The inspection scheme which is envisaged is centralized web-based, randomized allocation of inspection which is jurisdiction free.

(R. K. Gupta)
Joint Secretary to the Government of India
Tel. No. 2371 8119

Annexure-I
(Refer para---- the main note)

THE CODE ON SOCIAL SECURITY, 2020 (07.08.2020)

Arrangement of Clauses:

Chapter I: Preliminary

1. Short title, extent, commencement and application
2. Definitions
3. Registration of establishment

Chapter II: Social Security Organisations

4. Constitution of Central Board of Trustees
5. Constitution of Employees' State Insurance Corporation
6. National Social Security Boards.
7. Constitution of State Building Workers Welfare Boards
8. Disqualification and removal of a member of any Social Security Organisation
9. Procedure of transaction of business of Social Security Organisation, etc.
10. Executive Heads of Central Board and Corporation
11. Supersession of Corporation, Central Board of Trustees, Unorganised Workers National Social Security Board or State Unorganised Workers Social Security Board
12. State Board, Regional Boards, Local Committees, etc.
13. Entrustment of additional Functions to Social Security Organisations

Chapter III: Employees Provident Fund

14. Appointment of officers of Central Board.
15. Schemes
16. Funds
17. Contribution in respect of employees and contractors
18. Fund to be recognised under Act 43 of 1961
19. Priority of payment of contributions over other debts
20. Chapter not to apply to certain establishment
21. Authorising certain employers to maintain provident fund accounts
22. Transfer of Accounts
23. Appeals to Tribunal

Chapter IV: Employees State Insurance Corporation

24. Principal Officers and other staff
25. Employees' State Insurance Fund
26. Purposes for which Employees' State Insurance Fund may be expended
27. Holding of property, etc.
28. All employees to be insured
29. Contributions
30. Administrative Expenses
31. Provisions as to payment of contributions by Employer, etc.
32. Benefits
33. Corporation's power to promote measures for health, etc., of insured persons.
34. Presumption as to accident arising in course of employment
35. Accidents happening while acting in breach of law, etc.
36. Occupational Disease

- 37. References to Medical Board
- 38. Dependents' benefit
- 39. Medical Benefit
- 40. Provision of medical treatment by State Government or by Corporation
- 41. General Provisions as to benefits
- 42. Corporation's rights when an employer fails to register, etc.
- 43. Liability of owner or occupier of factories, etc., for excessive sickness benefit
- 44. Scheme for other beneficiaries
- 45. Schemes for Unorganised workers, gig workers and platform workers
- 46. Exemption of factories or other establishments belonging to Government or any local authority
- 47. Contributions, etc., due to Corporation to have priority over other debts
- 48. Constitution of Employees' Insurance Court
- 49. Matters to be decided by Employees' Insurance Court
- 50. Powers of Employees' Insurance Court
- 51. Proceedings of Employees' Insurance Courts.
- 52. Appeal to High Court

Chapter V: Gratuity

- 53. Payment of Gratuity
- 54. Continuous Service
- 55. Nomination
- 56. Determination of amount of gratuity
- 57. Compulsory insurance
- 58. Competent Authority

Chapter VI: Maternity Benefit

- 59. Employment of, or work by, women prohibited during certain period
- 60. Right to payment of maternity benefit
- 61. Continuance of payment of maternity benefit in certain cases
- 62. Notice of claim for maternity benefit and payment thereof
- 63. Payment of maternity benefit in case of death of a woman
- 64. Payment of medical bonus
- 65. Leave for miscarriage, etc.
- 66. Nursing breaks
- 67. Crèche facility
- 68. Dismissal for absence during pregnancy
- 69. No deduction of wages in certain cases
- 70. Forfeiture of maternity benefit
- 71. Duties of Employer
- 72. Power of Inspector-cum-Facilitator to direct payments to be made

Chapter VII: Employee's Compensation

- 73. Reports of fatal accidents and serious bodily injuries
- 74. Employer's liability for compensation
- 75. Compensation in case of death of or injury in plantation
- 76. Compensation in case of death of or injury in plantation
- 77. Compensation to be paid when due and damages for default
- 78. Method of calculating monthly wages for purposes of compensation
- 79. Review
- 80. Commutation of half-monthly payments
- 81. Distribution of compensation

- 82. Notice and claim
- 83. Special provisions relating to accidents occurring outside Indian territory
- 84. Medical examination
- 85. Contracting
- 86. Remedies of employer against stranger
- 87. Insolvency of employer
- 88. Power to require from employers statements regarding fatal accidents
- 89. Registration of agreements
- 90. Reference to competent Authority
- 91. Appointment of competent authority
- 92. Venue of proceedings and transfer
- 93. Form of application
- 94. Power of competent authority to require further deposit in cases of fatal accident
- 95. Powers and procedure of competent authority
- 96. Appearance of parties
- 97. Method of recording evidence
- 98. Power to submit cases
- 99. Appeal against order of competent authority

Chapter VIII: Social Security and Cess in respect of Building and Other Construction Workers

- 100. Levy and collection of cess
- 101. Interest payable on delay in payment of cess
- 102. Power to exempt from cess
- 103. Self-assessment of cess
- 104. Penalty for non-payment of cess within the specified time
- 105. Appeal to appellate authority
- 106. Registration of building workers as beneficiaries
- 107. Cessation as a beneficiary
- 108. Building and Other Construction Workers' Welfare Fund and its application.

Chapter IX: Social Security for Unorganised Workers

- 109. Framing of scheme for unorganized workers and constitution of social security fund for gig workers, platform workers etc.
- 110. Funding of State Government Schemes
- 111. Record keeping
- 112. Workers facilitation centers
- 113. Registration of unorganised worker
- 114. Schemes for gig workers and platform workers

Chapter X: Finance and Accounts

- 115. Accounts
- 116. Audit
- 117. Budget Estimates
- 118. Annual Report
- 119. Valuation of assets and liabilities
- 120. Holding of property etc.
- 121. Writing off of losses.

Chapter XI: Authorities, Assessment, Compliance and Recovery

- 122. Appointment of Inspector-cum-Facilitators and their powers
- 123. Maintenance of records, registers, returns etc.

- 124. Employer not to reduce wages, etc.
- 125. Assessment and determination of dues from employer
- ~~126. Review of orders passed under Section 125~~
- 127. Appeal against order of Authorised Officer relating to chapter IV
- 128. Determination of escaped amount
- 129. Interest on amount due
- 130. Power to recover damages
- 131. Recovery of amount due
- 132. Validity of certificate, and amendment thereof
- 133. Other modes of recovery
- 134. Application of certain provisions of Income- tax Act

Chapter XII: Offences and Penalties

- 135. Penalty for failure to pay contributions, etc
- 136. Enhanced punishment in certain cases after previous conviction
- 137. Offences by companies
- 138. Cognizance of offences
- 139. Prior opportunity before prosecution
- 140. Compounding of offences

Chapter XIII: Employment Information and Monitoring

- 141. Reporting of vacancies to career centres
- 142. Exclusions from application of this Chapter
- 142A. Welfare Fund

Chapter XIV: Miscellaneous

- 143. Application of Aadhaar
- 144. Power to exempt establishment
- 145. Liability in case of transfer of establishment
- 146. Members, officers and staff to be public servants
- 147. Protection of action taken in good faith.
- 148. Misuse of benefits
- 149. Power of Central Government to give directions.
- 150. Power to frame schemes
- 151. Protection against attachment etc.
- 152. Powers to amend Schedule
- 153. Power of appropriate Government to make rules
- 154. Power of Central Government to make rules
- 155. Power of State Government to make rules
- 156. Power of Corporation to make regulations
- 157. Prior publication of rules, regulations etc.
- 158. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation
- 159. Laying of rules, regulations and schemes, etc.
- 160. Effect of laws and agreements inconsistent with this Code.
- 161. Delegation of Powers
- 162. Power to remove difficulties
- 163. Repeal and savings.

THE FIRST SCHEDULE

THE SECOND SCHEDULE

THE THIRD SCHEDULE

THE FOURTH SCHEDULE

THE FIFTH SCHEDULE

THE SIXTH SCHEDULE

THE SEVENTH SCHEDULE

	THE CODE ON SOCIAL SECURITY, 2019-2020	
	<i>A BILL</i>	
	to amend and consolidate the laws relating to social security with ultimate goal to extend social security to all of the employees, self-employed and other persons and the matters connected therewith or incidental thereto.	
	BE it enacted by Parliament in the Seventieth Seventy First year of the Republic of India as follows:-	
	CHAPTER I PRELIMINARY	
	1. <ol style="list-style-type: none"> (1) This Act may be called the Code on Social Security, 2019 2020 (2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision. (4) The applicability of the Chapters specified in columns (1) and (2) of the First Schedule shall, without prejudice to the applicability of the other provisions of this Code, be such as is specified in corresponding entry in column (3) of that Schedule. (5) Notwithstanding anything contained in sub-section (4), where it appears to the Central Provident Fund Commissioner whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter III should be made applicable to that establishment, the Central Provident Fund Commissioner, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement. (6) Notwithstanding anything contained in sub-section (4), where it appears to the Director General of the Corporation, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter IV should be made applicable to that establishment, the Director General of the Corporation, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement. (7) Notwithstanding anything contained in sub-section (4), an establishment to which any Chapter applies at the first instance shall continue to be applied thereafter even if the number of employees therein at any subsequent time falls below the threshold specified in the First Schedule in respect of that Chapter. 	Short title, extent, commencement and application
	2. In this Code, unless the context otherwise requires,— <ol style="list-style-type: none"> (1) "agent" when used in relation to an establishment, means every person, whether appointed as such or not, who acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such establishment or part thereof; (2) "aggregator" means a digital intermediary or a market place for a buyer 	Definitions

	<p>or user of a service to connect with the seller or the service provider;</p> <p>(3) "appropriate Government" means—</p> <p>(a) in relation to, an establishment carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil field, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking, or subsidiary companies set up by central public sector undertakings, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, or any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, as the case may be, subsidiary companies or autonomous bodies or in relation to an establishment having departments or branches in more than one State, as the case may be, the Central Government; and</p> <p>(b) in relation to any other establishment, the State Government;</p> <p>(4) "audio-visual production" means audio-visual produced wholly or partly in India including animation, cartoon depiction and audio-visual advertisement including digital production or any of the activities in respect of making thereof;</p> <p>(5) "Authorised Officer" means such officer of the Central Board, or as the case may be, of the Corporation notified by the Central Government;</p> <p>(6) "building or other construction work" means the construction, alteration, repair, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include any building or other construction work of any factory or mine or any building or other construction work employing less than ten workers in the preceding twelve months or any building or other construction work related to own residential property not employing the workers more than such number as may be notified by the Central Government from time to time;</p> <p>(7) "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;</p> <p>(8) "career centre" means any office (including employment exchange, place or portal) established and maintained in the manner prescribed by the Central Government for providing such career services</p>	
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18 of 2013	<p>(including registration, collection and furnishing of information, either by the keeping of registers or otherwise, manually, digitally, virtually or through any other mode) as may be prescribed by the Central Government, which may, inter alia, relate generally or specifically to—</p> <ul style="list-style-type: none"> (i) persons who seek to employ employees; (ii) persons who seek employment; (iii) occurrence of vacancies; and (iv) persons who seek vocational guidance and career counseling or guidance to start self-employment; <p>(9) "Central Board" means the Board of Trustees of the Employees' Provident Fund constituted under section 4;</p> <p>(10) "Central Provident Fund Commissioner" means the Central Provident Fund Commissioner of the Central Board appointed under sub-section (1) of 14;</p> <p>(11) "child", for the purposes of Chapter VI, includes a stillborn child;</p> <p>(12) "Commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;</p> <p>(13) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;</p> <p>(14) "compensation" means compensation as provided under Chapter VII;</p> <p>(15) "competent authority" means any authority notified by the appropriate Government as competent authority for the purposes of Chapters V, VI and VII and the provisions of this Code relating to those Chapters;</p> <p>"competent authority" means any authority notified by the appropriate Government under section 58, as competent authority, as the case may be, for the purpose of chapter V, VI and VII and the provisions of this Code relating to those Chapters;</p> <p>(16) "completed year of service" means continuous service for twelve months;</p> <p>(17) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;</p> <p>(18) "contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the employer and includes inter-State migrant worker but does not include an employee (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;</p> <p>(19) "contractor", in relation to an establishment means a person, who—</p> <ul style="list-style-type: none"> (i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment through contract labour; or (ii) supplies contract labour for any work of the establishment as mere human resource; <p style="padding-left: 40px;">and includes a sub-contractor</p> <p>(20) "contribution" means the sum of money payable by the employer,</p>	
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52 of 1961	<p>under this Code, to the Central Board and to the Corporation, as the case may be, and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Code;</p> <p>(21) "contribution period" in relation to an employee, means the period not exceeding one calendar month in respect of which wages are ordinarily payable to him whether in terms of the contract of employment, express or implied or otherwise;</p> <p>Explanation: For the purposes of Chapter IV, the expression "contribution period", means a period not exceeding six consecutive calendar months as may be specified in the regulations.</p> <p>(22) "Corporation" means the Employees' State Insurance Corporation constituted under section 5;</p> <p>(23) "delivery" means the birth of a child;</p> <p>(24) "dependent" means any of the following relatives of deceased employee, namely:—</p> <ul style="list-style-type: none"> (a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother; provided that for the purpose of chapter IV of the Code, a legitimate adopted son, who has not attained the age of twenty-five twenty-one years shall be dependent of the deceased employee. (b) if wholly dependant on the earnings of the employee at the time of his death, a legitimate or adopted son or a daughter who has attained the age of eighteen years and who is infirm; except for the purposes of Chapter IV wherein the word "eighteen" occurring in this sub-clause shall be deemed to have been substituted by the word "twenty-one"; (c) if wholly or in part dependant on the earnings of the employee at the time of his death,— <ul style="list-style-type: none"> (i) a widower; (ii) a parent other than a widowed mother; (iii) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor; (iv) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor; (iv) a minor brother or an unmarried sister or a widowed sister if a minor; (v) a widowed daughter-in-law; (vi) a minor child of a pre-deceased son; (vii) a minor child of a pre-deceased daughter where no parent of the child is alive, or; (viii) a grandparent if no parent of the employee is alive. <p>Explanation.—For the purposes of sub-clause (b) and items (vi) and (vii) of sub-clause (c), references to a son, daughter or child include an adopted son, daughter or child respectively;</p> <p>(25) "dock work" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—</p> <ul style="list-style-type: none"> (i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port; 	
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	<p>(ii) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; and</p> <p>(iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area in board the ship or in the docks;</p> <p>(26) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, or clerical or any other work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:</p> <p>Provided that for the purposes of Chapter IV, the term "employee" shall mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government and includes such other persons or class of persons as the Central Government may, by notification, specify to be employee for the purposes of that Chapter;</p> <p>Provided further that for the purposes of counting of employees for the coverage of an establishment under Chapter IV, the employees whose wages are more than the wage ceiling so notified by the Central Government shall also be taken into account;</p> <p>Provided also that for the purposes of Chapter III, the term "employee" shall include such persons or class of persons as notified by the Central Government. and such other persons or class of persons as the Central Government may, by notification, specify to be employee for the purposes of that Chapter;</p> <p>Provided also that for the purposes of the Employees' Pension Scheme referred to in Section 15, the membership of the member whose wages exceed such wage ceiling shall continue on the basis of the wage ceiling and other terms and conditions in the Employees' Pension Scheme as may be notified by Central Government.</p> <p>Provided also further that for the purposes of Chapter VII, the term "employee" shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government, or as the case may be, the State Government may add to the said Schedule, by notification, for the purposes of that Government;</p> <p>(27) "employer" means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified, by the head of such department, in this behalf or where no authority is so specified, the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,—</p>	
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	<p>(a) in relation to an establishment which is a factory, the occupier of the factory;</p> <p>(b) in relation to mine, the owner of the mine or agent or manager having requisite qualification under the law for the time being in force and appointed by the owner or agent of the mine as such;</p> <p>(c) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;</p> <p>(d) contractor; and</p> <p>(e) legal representative of a deceased employer;</p> <p>(28) "employment injury" means a personal injury to an employee, caused by accident or an occupational disease, as the case may be, arising out of, and in the course of his employment, being an insurable employment only for the purposes of Chapter IV and in respect of Chapter VII and the schedule attached thereto, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;</p> <p>(29) "establishment" means—</p> <p>(a) a place where any industry, trade, business, manufacture or occupation is carried on; or</p> <p>(b) a factory, motor transport undertaking, newspaper establishment, audio-visual production, building and other construction work or plantation;</p> <p>(c) a mine or dock-work port or vicinity of port where dock work is carried out;</p> <p>Explanation: For the purposes of Chapters III and IV, the expression 'establishment' shall include 'shop'.</p> <p>(30) "executive officer" means such officer of the appropriate Government as may be notified by that Government for the purposes of Chapter XIII or an officer authorised in writing by such executive officer to discharge his duties under that Chapter;</p> <p>(31) "exempted employee" for the purpose of Chapter III, means an employee to whom any of the schemes, referred to in section 15, but for the exemption granted under this Code, would have applied;</p> <p>Provided that for the purpose of chapter IV of this code "exempted employee" means an employee, who is not liable to pay employee's contribution.</p> <p>(32) "factory" means any premises including the precincts thereof—</p> <p>(a) whereon ten or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or</p> <p>(b) whereon twenty or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on, but does not include a mine, or a mobile unit belonging to the Armed Forces of the Union, railways running shed or a hotel, restaurant or eating place.</p> <p>Explanation I.—For computing the number of employees for the purposes of this</p>	
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15 of 1908	<p>clause, all the employees in (different groups and relays) a day shall be taken into account;</p> <p>Explanation II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;</p> <p>(33) "family " means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:—</p> <ul style="list-style-type: none"> (a)—a spouse ; (b)—a minor legitimate or adopted child dependent upon the employee or an unorganised worker, as the case may be; (c)—a child who is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, and who is— <ul style="list-style-type: none"> (i) receiving education, till he attains the age of twenty-one years; and (ii) an unmarried daughter; (d)—a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, so long as the infirmity continues; (e)—dependant parents (including father-in-law and mother-in-law of a woman employee), whose income from all sources does not exceed such income as may be prescribed by the Central Government; (f)—in case the employee or an unorganised worker, as the case may be, is unmarried and his parents are not alive, a minor brother or sister wholly dependent upon the earnings of the insured person;- 	
34 of 1971	<p>(34) deleted – shifted to (f) above.</p> <p>(35) "fixed term employment" means the engagement of an employee on the basis of a written contract of employment for a fixed period: Provided that—</p> <ul style="list-style-type: none"> (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 law 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; 	
35 of 1952		
45 of 1860	<p>(36) "gig worker" means a person who performs income-earning activities work or participates in a work arrangement and earns from such activities—outside of traditional employer-employee relationship, including, but not limited to, a person engaged in or undertaking platform work;</p> <p>(37) "home-based worker" means a person engaged in the production of goods or services for an employer in his home or other premises of his choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment , materials or other inputs;</p> <p>(38) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under section 122;</p> <p>(39) "Inter-State migrant worker" means any person who is recruited by—</p>	

<p>18 of 2013</p> <p>53 of 1948</p>	<p>(i) an employer in one State for employment in his establishment situated in another State; or</p> <p>(ii) through a contractor in one State for employment in an establishment in another State, under an agreement or other arrangement for such employment and draws wages not exceeding the amount notified by the Central Government from time to time;</p> <p>(40) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908;</p> <p>(41) "manufacturing process" means any process for—</p> <p>(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, refining, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or</p> <p>(ii) pumping oil, water, sewage or any other substance; or</p> <p>(iii) generating, transforming or transmitting power; or</p> <p>(iv) composing, offset, printing, printing by letter press, lithography, photogravure screen printing, three or four dimensional printing, prototyping, flexography or other types of printing process or book binding; or</p> <p>(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or</p> <p>(vi) preserving or storing any article in cold storage; or</p> <p>(vii) such other processes as the Central Government may notify;</p> <p>40(a) "maternity benefit", in respect of Chapter VI, means the payment referred to in sub-section (1) of section 60;</p> <p>(42) "medical practitioner" means a person registered under any law for the time being in force, or any person declared by the State Government, by notification, to be qualified as medical practitioner for the purposes of this Code:</p> <p>Provided that different class or classes of medical practitioner having specific qualification may be notified by the Central Government for the purpose, of Chapter IV and by the appropriate Government for other Chapters of this Code;</p> <p>(43) "medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of the Medical Termination of Pregnancy Act, 1971;</p> <p>(44) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952;</p> <p>(45) "minor" means a person who has not attained the age of eighteen years;</p> <p>(46) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy, but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code;</p> <p>(47) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend the duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but does not include any such person —</p> <p>(i) who is employed in a factory;</p>	
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<p>15 of 1908</p> <p>24 of 1989</p> <p>11 of 1976</p>	<p>(ii) to whom the provisions of any law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;</p> <p>(47) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;</p> <p>(48) "occupational disease" means a disease specified in the Third Schedule as a disease peculiar to the employment of the employee;</p> <p>(49) "occupier" in respect of a factory means the person who has ultimate control over the affairs of the factory:</p> <p>Provided that—</p> <p>(a) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;</p> <p>(b) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;</p> <p>(c) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government, shall be deemed to be the occupier:</p> <p>Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier;</p> <p>(50) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948;</p> <p>(51) "organised sector" means an enterprise which is not an unorganised sector;</p> <p>(52) "permanent partial disablement" means, where the disablement is of a permanent nature such disablement as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:</p> <p>Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement;</p> <p>(53) "permanent total disablement " means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:</p> <p>Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent.;</p> <p>(54) "plantation" means—</p> <p>(a) any land used or intended to be used for—</p> <p>(i) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;</p> <p>(ii) growing any other plant, which admeasures five hectares or more and in which ten or more persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the</p>	
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	<p>approval of the Central Government, the State Government, by notification, so directs.</p> <p>Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the piece of land first mentioned shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more;</p> <p>(b) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares: Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and</p> <p>(c) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (a) and sub-clause (b); but does not include factory on the premises;</p> <p>(55) "platform work" means a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services in-exchange-for payment; or such activities which are notified by the Central Government, in exchange for payment ;</p> <p>(56) "platform worker" means a person engaged in or undertaking platform work;-</p> <p>(57) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908;</p> <p>(58) "prescribed" means prescribed by rules made under this Code;</p> <p>(59) "railway" has the meaning assigned to it in clause (31) of section 2 of the Railways Act, 1989;</p> <p>(60) "railway company" includes any persons whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway;</p> <p>(61) "Recovery Officer" means any officer of the Central Government, State Government, Central Board or the Corporation, who may be authorised by the Central Government or the State Government, as the case may be, by notification, to discharge the functions and to exercise the powers of a Recovery Officer under this Code;</p> <p>(62) "regulations" means regulations made by the Corporation under this Code;</p> <p>(63) "retirement" means termination of the service of an employee otherwise than on superannuation;</p> <p>(63 A) "retrenchment" means the termination by the employer of the service of a worker for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—</p> <p>(i) voluntary retirement of the worker or an employee; or</p> <p>ii) retirement of the worker on reaching the age of superannuation or</p> <p>iii) termination of the service of the worker as a result of the non-renewal of the contract of employment between the</p>	
14 of 1947		
14 of 1947		

	<p>employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or</p> <p>(iv) termination of service of the worker as a result of completion of tenure of fixed term employment;</p> <p>(v) termination of the service of a worker on the ground of continued ill- health;</p> <p>{64} "sales promotion employees" means the sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976;</p> <p>{65} "Schedule" means a Schedule to this Code;</p> <p>{66} "seamen" means any person forming part of the crew of any ship, but does not include the master of the ship;</p> <p>{67} "seasonal factory " means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of ground-nuts, the manufacture of indigo, lac, sugar (including gur) or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year in a manufacturing process as the Central Government may, by notification, specify;</p> <p>{68} "self-employed worker" means any person who is not employed by an employer, but engages himself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;</p> <p>{69} "shop", in respect of a State, means a shop as defined in any law for the time being in force dealing with the shop and for the time being in force in that State;</p> <p>{69A} "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds.</p> <p>{70} "social security" means the measures of protection afforded to employees, unorganized workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights enshrined; and schemes framed, under this Code;</p> <p>{71} "Social Security Organisation" means any of the following organisations established under this Code, namely:—</p> <ol style="list-style-type: none"> (a) the Central Board of Trustees for Employees Provident Fund constituted under section 4; (b) the Employees State Insurance Corporation constituted under section 5; (c) the National Social Security Board for unorganised Workers constituted under section 6; (d) the State Unorganised Workers' Social Security Board constituted under section 6; and (e) the State Building Workers' Welfare Boards constituted under section 7; (f) the Gig and Platform Workers' Board constituted under Section 114; and (g) any other organisation or special purpose vehicle declared to be the social security organisation by the Central Government; <p>{72} "State" includes a Union territory;</p>	
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	<p>(73) "State Government" includes—</p> <ul style="list-style-type: none"> (a) in relation to a Union territory with legislature, the Government of the Union territory; and (b) in relation to a Union territory without legislature, the administrator appointed under article 239 of the Constitution as an administrator thereof; <p>(74) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service, as the age on the attainment of which the employee shall vacate the employment; Provided that for the purposes of Chapter III, the age of superannuation shall be 58 years.</p> <p>(75) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of the injury;</p> <p>(76) "Tribunal" means the Industrial Tribunal constituted by the appropriate Government under section 7A of the Industrial Disputes Act, 1947;</p> <p>(77) "unorganised sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;</p> <p>Explanation.- for the purposes of this clause the expression "enterprise" means a business or undertaking required for the providing services as specified in this clause.</p> <p>(78) "unorganised worker" means a home-based worker, self-employed worker, agriculture worker or a wage worker in the unorganized sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act, 1947 or Chapters III to VII of this Code;</p> <p>(79) "vacancy", for the purposes of Chapter XIII, means an unoccupied post (including newly created post, post of trainee, post to be filled through apprentice or any unoccupied post created in an establishment by any other means) in a cadre or occupation for the purpose of employing a person in it and carrying remuneration;</p> <p>(80) "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,—</p> <ul style="list-style-type: none"> (a) basic pay; (b) dearness allowance; and (c) retaining allowance, if any, <p>but does not include—</p> <ul style="list-style-type: none"> (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 	
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	<p>provident fund, and the interest which may have accrued thereon;</p> <p>(d) any conveyance allowance or the value of any travelling concession;</p> <p>(e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;</p> <p>(f) house rent allowance;</p> <p>(g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;</p> <p>(h) any overtime allowance;</p> <p>(i) any commission payable to the employee;</p> <p>(j) any gratuity payable on the termination of employment;</p> <p>(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:</p> <p>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:</p> <p>Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages the emoluments specified in sub-clauses (d), (f), (g) and (h) shall be taken for computation of wage.</p> <p>Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;</p> <p>(81) "wage ceiling" means such amount of wages or income as may be notified by the Central Government respectively for the purposes of becoming member or availing benefits under chapter III and chapter IV and for other purposes under this code, from time to time. for the purposes of this Code;</p> <p>(82) "wage worker" means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be;</p> <p>(83) "woman" means a woman employed, whether directly or through any agency contractor, for wages in any establishment :</p> <p>Provided that for the purpose of Chapter IV, a woman who is or was an employee in respect of whom contribution is or were payable under the said Chapter and who is by reason thereof, entitled to any of the benefits provided under the said Chapter shall be called "insured woman" and shall include-</p> <p>(i) a commissioning mother who as biological mother wishes to have a child and prefers to get embryo implanted in any other woman.</p> <p>(ii) a woman who legally adopts a child of upto three months of age.</p>	
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	<p>3. Every establishment to which this Code applies shall be electronically or otherwise, registered by such authority within such time and in such manner as may be prescribed by the Central Government:</p> <p>Provided that the establishment which is already registered under any other central or state labour law for the time being in force shall not be required to obtain registration again under this Code and such registration shall be deemed to be registration for the purposes of this Code :</p> <p>Provided further that an establishment to which Chapter III or Chapter IV applies may, on cessation of business activities, apply to the concerned Social Security Organization in such form and manner as may be prescribed by the Central Government for the cancellation of registration and Where the Social Security Organization does not convey cancellation of registration within three months of submission of the application, the registration shall be deemed to be cancelled.</p> <p>Provided also that such cancellation of registration shall not be permitted solely on account of the fact that the number of employees have fallen in a registered establishment below coverage threshold as prescribed in Schedule I after the registration:</p> <p>Provided also that the concerned Social Security Organization may also after such enquiry as it deem necessary cancel registration of an establishment under Chapter III or Chapter IV, if it is satisfied that the establishment fails to comply with the requirements of the registration.</p>	Registration and cancellation of an Establishment
	<p style="text-align: center;">CHAPTER II SOCIAL SECURITY ORGANISATIONS</p>	
	<p>4.</p> <p>(1) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Board of Trustees, a part of administrative organisation to be called the Employees Provident Fund Organisation for the purposes of Chapter III and the provisions of this Code relating to that Chapter; for the territories to which this Chapter extends and for the administration of the funds vested in it in such manner as may be prescribed by the Central Government, consisting of the following members, namely:—</p> <ol style="list-style-type: none"> (a) a Chairperson and a Vice-Chairperson to be appointed by the Central Government; (b) not more than five persons appointed by the Central Government from amongst its officials; (c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, to be appointed by the Central Government; (d) ten persons representing employers of the establishments to which the Schemes referred to in sub-section (1) of section 15 applies, to be appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf; (e) ten persons representing employees in the establishments to which schemes, framed under Chapter III referred to in sub-section (1) of section 15, applies, who shall be appointed by the Central Government after consultation with such organisations of employees as may be recognised <p>(2) notwithstanding the expiry of the tenure of his office, continue to hold</p>	Constitution of Central Board of Trustees

	<p>office until his successor is appointed.</p> <p>(f) The Central Board, apart from the functions specified in this Code, shall also perform such other functions in such manner as may be by the Central Government in this behalf; and</p> <p>(g) the Central Provident Fund Commissioner, ex-officio.</p> <p>(3) The Central Board shall be a body corporate, having perpetual succession and a common seal and shall by the said name sue and be sued.</p> <p>(4) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an Executive Committee from amongst the members of the Central Board to assist the Central Board in performance of its functions in such manner as may be prescribed by the Central Government.</p> <p>(5) The Central Board may, by order, constitute one or more committees of such composition as may be specified in the order to assist it in the discharge of its functions.</p> <p>(6) The terms and conditions, including tenure of office, subject to which a member of the Central Board and Executive Committee shall discharge their respective duties may be such as may be prescribed by the Central Government: Provided that a member of the Central Board shall, prescribed by the Central Government.</p>	
	<p>5.</p> <p>(1) The Central Government may, by notification, constitute with effect from such date as may be specified therein, a Corporation for the purposes of Chapter IV and the provisions of this Code relating to that Chapter, for the administration of Scheme of Employees State Insurance (hereinafter referred to as Employees' State Insurance Scheme) in such manner as may be prescribed by the Central Government, consisting of the following members, namely:—</p> <p>(a) a Chairperson to be appointed by the Central Government;</p> <p>(b) a Vice-Chairperson to be appointed by the Central Government;</p> <p>(c) not more than five persons to be appointed by the Central Government from amongst its officials;</p> <p>(d) one person representing each of such States in such manner, as may be prescribed by the Central Government;</p> <p>(e) one person to be appointed by the Central Government to represent the Union territories;</p> <p>(f) ten persons representing employers to be appointed by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;</p> <p>(g) ten persons representing employees to be appointed by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;</p> <p>(h) two persons representing the medical profession to be appointed by the Central Government in consultation with such organisations of medical practitioners ⁴⁵ as may be recognised for the purpose by the Central Government;</p> <p>(i) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States; and</p> <p>(j) the Director General of the Corporation, ex officio.</p>	<p>Constitution of Employees' State Insurance Corporation</p>

	<p>(2) The corporation shall be a body corporate by the name of Employees' State Insurance Corporation, having perpetual succession and a common seal and shall by the said name sue and be sued.</p> <p>(3) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Standing Committee from amongst the members of the Corporation in such manner, as may be prescribed by the Central Government.</p> <p>(4) Subject to the general superintendence and control of the Corporation, the Standing Committee—</p> <ol style="list-style-type: none"> shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation in such manner as may be prescribed by the Central Government; shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf; and may, in its discretion, submit any other case or matter for the decision of the Corporation. <p>(5) (A) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Medical Benefit Committee of such composition as may be prescribed by it specified therein, to assist the Corporation and Standing Committee in performance of its functions relating to administration of medical benefits.</p> <p>(B) The Medical Benefit Committee shall have such duties and exercise such powers as prescribed by the central Government.</p> <p>(C) A person shall be disqualified for being chosen as or for being a member of the Medical Benefit Council, if—</p> <ol style="list-style-type: none"> he is declared to be of unsound mind by a competent Court; or he is an undischarged insolvent; or He has directly or indirectly by himself or by his partner any interest in subsisting contract with, or any work being done for, the corporation except as a medical practitioner or as a shareholder (not being a Director) of a company; or before or after the commencement of the Code, he has been convicted of an offence involving moral turpitude. he is an employer in an establishment and has defaulted in the payments due under Chapter IV of the code. <p>(D) The Central Government may remove any member of the Medical benefit Committee who,—</p> <ol style="list-style-type: none"> Is or has become subject to any disqualification mentioned in sub-rule (5) (C); or Is absent without leave of the Medical Benefit Committee for more than three consecutive meetings of the committee; or In the opinion of the Central Government, has so abused the position of his office as to render the member's continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as member of the committee; <p>Provided that no person shall be removed under clauses (b) and (c) unless the person has been given an opportunity to show cause as to why he should not be removed. (Discussed with Rahul Bhardawaj)</p> <p>(6) The Corporation may, by order, constitute one or more committees of such composition as may be specified in the regulations to assist it in</p>	
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	<p>the discharge of its functions.</p> <p>(7) The terms and conditions, including tenure of office, subject to which a member of the Corporation and Standing Committee shall discharge their respective duties may be such as may be prescribed by the Central Government:</p> <p>Provided that a member of the Corporation shall, notwithstanding the expiry of the tenure of his office, continue to hold office until his successor is appointed.</p>	
	<p>6.</p> <p>(1) The Central Government shall, by notification, constitute a National Social Security Board for unorganised workers (hereinafter referred to as National Social Security Board) to exercise the powers conferred on, and to perform the functions assigned to it under this Code, in such manner as may be prescribed by the Central Government.</p> <p>(2) The National Social Security Board shall consist of the following members, namely:—</p> <ul style="list-style-type: none"> (a) Union Minister for Labour and Employment as Chairperson; (b) Secretary, Ministry of Labour and Employment as Vice-Chairperson; (c) thirty-five forty members to be nominated by the Central Government, out of whom— <ul style="list-style-type: none"> (i) seven members representing unorganised sector workers; (ii) seven members representing employers of unorganised sector; (iii) seven members representing eminent persons from civil society; (iv) two members representing the Lok Sabha and one from the Rajya Sabha; (v) five ten members representing Central Government Ministries and Departments concerned; (vi) five members representing State Governments; and (vii) one member representing the Union territories; (d) Director General Labour Welfare—Member Secretary, ex officio. <p>(3) The Chairperson and Other members except Chairperson of the National Social Security Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.</p> <p>(4) The manner in which members number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the National Social Security Board shall be such as may be prescribed by the Central Government: Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.</p> <p>(5) The term of the National Social Security Board shall be three years.</p> <p>(6) The National Social Security Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.</p> <p>(7) The National Social Security Board shall perform the following functions, namely:—</p> <ul style="list-style-type: none"> (a) recommend to the Central Government suitable schemes for different sections of unorganised workers; (b) advise the Central Government on such matters arising out of the administration of this Code as may be referred to it; 	<p>National Social Security Boards</p>

	<p>(c) monitor such social welfare schemes for unorganised workers as are administered by the Central Government;</p> <p>(d) review the record keeping functions performed at the State level;</p> <p>(e) review the expenditure from the funds under various schemes; and</p> <p>(f) undertake such other functions as are assigned to it by the Central Government from time to time.</p> <p>(8) The Central Government may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the Central Government upon such matters arising out of the administration of this Code relating to unorganised workers and such other matters as the Central Government may refer to it for advice.</p> <p>(9) Every State Government shall, by notification, constitute a State Board to be known as (name of the State) Unorganised Workers' Social Security Board (hereinafter referred to as the State Unorganised Workers' Board) to exercise the powers conferred on, and to perform the functions assigned to it under this Code, in such manner as may be prescribed by the State Government.</p> <p>(10) Every State Unorganised Workers' Board shall consist of the following members, namely:—</p> <p>(a) Minister of Labour and Employment of the concerned State-Chairperson, ex officio;</p> <p>(b) Principal Secretary or Secretary (Labour) as Vice-Chairperson;</p> <p>(c) twenty-eight thirty two members to be nominated by the State Government, out of whom—</p> <p>(i) seven representing the unorganised workers;</p> <p>(ii) seven representing employers of unorganised workers;</p> <p>(iii) two members representing the Legislative Assembly of the concerned State;</p> <p>(iv) five members representing eminent persons from civil society; and</p> <p>(v) seven ten members representing State Government Departments concerned;</p> <p>(d) Member Secretary as notified by the State Government.</p> <p>(11) The Chairman and Other members except Chairman of the State Unorganised Workers' Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.</p> <p>(12) The manner in which members number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (10), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Unorganised Workers' Board shall be such as may be prescribed by the State Government: Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.</p> <p>(13) The term of the State Unorganised Workers' Board shall be three years.</p> <p>(14) The State Unorganised Workers' Board shall meet at least once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed by the State Government.</p> <p>(15) The State Board shall perform the following functions, namely:—</p> <p>(a) recommend the State Government in formulating suitable</p>	
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	<p>schemes for different sections of the unorganised sector workers;</p> <p>(b) advise the State Government on such matters arising out of the administration of this Code as may be referred to it;</p> <p>(c) monitor such social welfare schemes for unorganised workers as are administered by the State Government;</p> <p>(d) review the record keeping functions performed at the district level;</p> <p>(e) review the progress of registration and issue of cards to unorganised sector workers;</p> <p>(f) review the expenditure from the funds under various schemes; and</p> <p>(g) undertake such other functions as are assigned to it by the State Government from time to time.</p> <p>(16) The State Government may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the State Government upon such matters arising out of the administration of this Code relating to unorganised workers and such other matters as the State Government may refer to it for advice.</p>	
	<p>7.</p> <p>(1) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the..... (name of the State) Building and Other Construction Workers' Welfare Board (hereinafter referred to as Building Workers' Welfare Board) to exercise the powers conferred on, and perform the functions assigned to, it under this Chapter.</p> <p>(2) The Building Workers' Welfare Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.</p> <p>(3) The Building Workers' Welfare Board shall consist of a chairperson to be nominated by the State Government, one member to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:</p> <p>Provided that the Building Workers' Welfare Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman.</p> <p>(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Building Workers' Welfare Board, and the manner of filling of casual vacancies of the members of the Building Workers' Welfare Board, shall be such as may be prescribed by the State Government.</p> <p>(5) (a) The Building Workers' Welfare Board shall appoint a Secretary and such officers and employees as it considers necessary for the efficient discharge of its functions of the Building Workers' Welfare Board under this Code.</p> <p>(b) The Secretary of the Building Workers' Welfare Board shall be its chief executive officer.</p> <p>(c) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Building Workers' Welfare Board shall be such as may be prescribed by the State Government.</p> <p>(6) The Building Workers' Welfare Board shall perform the following functions, namely:—</p> <p>(a) provide death and disability benefits to a beneficiary or his dependents;</p> <p>(b) make payment of pension to the beneficiaries who have</p>	<p>Constitution of State Building Workers Welfare Boards</p>

	<p>completed the age of sixty years;</p> <ul style="list-style-type: none"> (c) pay such amount in connection with premium for Group Insurance Scheme of the beneficiaries as may be prescribed by the appropriate Government; (d) frame educational schemes for the benefit of children of the beneficiaries as may be prescribed by the appropriate Government; (e) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependent, as may be prescribed by the appropriate Government; (f) make payment of maternity benefit to the beneficiaries; (g) frame skill development and awareness schemes for the beneficiaries; (h) provide transit accommodation or hostel facility to the beneficiaries; (i) formulation of any other welfare scheme for the building worker beneficiaries by State Government in concurrence with the Central Government; and (j) make provision and improvement of such other welfare measures and facilities as may be prescribed by the Central Government. <p>(7) The State Government may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the State Government upon such matters arising out of the administration of this Code relating to building workers and such other matters as the State Government may refer to it for advice.</p>	
	<p>8.</p> <p>(1) No person shall be chosen as, or continue to be, a member of a Social Security Organisation, or any Committee thereof who,—</p> <ul style="list-style-type: none"> (a) is or at any time has been adjudged an insolvent; or (b) is found to be a lunatic or becomes of unsound mind; or (c) is or has been convicted of any offence involving moral turpitude; or (d) is an employer in an establishment and has defaulted in the payment of any dues under this Code; (e) is a member of a Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, when he ceases to be such member of the Parliament or State Legislative Assembly, as the case may be; or (f) is a member of Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, and he becomes a— <ul style="list-style-type: none"> (i) Minister of Central or State Government; or (ii) Speaker or Deputy Speaker of House of the People or a State Legislative Assembly; or (iii) Deputy Chairman of the Council of States. <p>Explanation 1.—If any question arises whether any person is disqualified under clause (d), it shall be referred to the appropriate Government and the decision of the appropriate Government on any such question shall be final.</p> <p>Explanation 2.—Clause (f) shall not apply in case of persons who are members of the Social Security Organisation ex officio, by virtue of being a Minister.</p> <p>(2) The Central Government, in case of the Central Board, the Corporation and the National Social Security Board and the State Government in case of the State Unorganised Workers' Board and the Building Workers' Welfare Board, may remove any member of such Social Security Organisation from his office, who,—</p>	<p>Disqualification and removal of a member of any Social Security Organisation</p>

	<p>(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or</p> <p>(b) is absent without leave of the Social Security Organisation of which he is a member for more than three consecutive meetings of the Social Security Organisation or a Committee thereof;</p> <p>(c) in the opinion of such Government, has so abused the position of his office as to render that member's continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member in the opinion of such Government:</p> <p>Provided that, no person shall be removed under clauses (b) and (c), unless that person has been given an opportunity to show cause as to why he should not be removed:</p> <p>Provided further that a member of the Executive Committee of the Central Board or the Standing Committee of the Corporation shall cease to hold office if he ceases to be a member of the Central Board or the Corporation, as the case may be.</p> <p>(3) Any member of a Social Security Organisation or a Committee thereof may at any time resign from his office in writing under his hand addressed to the Central Government or the State Government, as the case may be, which had made his appointment and on acceptance of such resignation, his office shall become vacant.</p> <p>(4) If in a Social Security Organisation or a Committee thereof, the Central Government or the State Government, as the case may be, is of the opinion that—</p> <p>(a) any member thereof representing employers or the employees or the unorganised workers, as the case may be, ceases to adequately represent so; or</p> <p>(b) any member thereof representing to be an expert in a specified area, is later on found not to possess sufficient expertise in that area; or</p> <p>(c) having regard to exigencies of circumstances or services in such Government, the member thereof representing such Government cannot continue to represent the Government; then, such Government may, by order, remove such member from his office:</p> <p>Provided that no person shall be removed under clause (a) or clause (b), unless that person has been given an opportunity to show cause as to why he should not be removed.</p> <p>(5) If any member of a Social Security Organisation or a Committee thereof, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration of the Social Security Organisation or a Committee thereof, then, he shall, as soon as may be possible after such fact of interest has come to his knowledge, disclose the nature of the interest and such disclosure shall be recorded in the proceedings of the Social Security Organisation or the Committee thereof, as the case may be, and such member, thereafter, shall not take part in any proceeding or decision of the Social Security Organisation, or a Committee thereof relating to that matter.</p>	
	<p>9.</p> <p>(1) A Social Security Organisation or any committee thereof shall meet at such intervals and observe such procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed by the Central Government.</p> <p>(2) All orders and decisions of the Social Security Organisation shall be</p>	<p>Procedure for transaction of business of Social Security Organisation, etc</p>

	<p>authenticated by the signature of the Central Provident Fund Commissioner, Director General, Director General Labour Welfare, State Principal Secretary or Secretary (Labour) of the respective Social Security Organisations or such other member officer as may be prescribed notified by the appropriate Government and all other instruments issued by the Social Security Organisation shall be authenticated by the signature of such officer as may be authorized by an order by the respective Social Security Organisation or member so prescribed .</p> <p>(3) No act done or proceeding taken by a Social Security Organisation or any Committee thereof shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Social Security Organisation or the Committee thereof, as the case may be.</p> <p>(4) Such members of a Social Security Organisation or any Committee thereof shall be entitled for such fee and allowances as may be prescribed by the Central Government.</p>	
	<p>10. The Central Provident Fund Commissioner and the Director General shall be the whole-time officer of the Central Board or the Corporation, as the case may be, and shall not undertake any work unconnected with his office without the prior approval of the Central Government.</p>	Executive Heads of Central Board and Corporation
	<p>11.</p> <p>(1) If the Central Government in case of the Central Board, the Corporation or the National Social Security Board and the State Government, in case of the State Unorganised Workers' Board or the Building Workers' Welfare Board is of the opinion that the Corporation or the Central Board of Trustees or the National Social Security Board or the State Unorganised Workers Board or the Building Workers' Welfare Board or any of the Committee thereof, as the case may be, is unable to perform its functions, or, has persistently made delay in the discharge of its functions or has exceeded or abused its powers or jurisdiction, then such Government may, by notification, supersede the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers Board or the Building Workers' Welfare Board, or any of the Committees thereof, as the case may be, and re-constitute it in such manner as may be prescribed by the Central Government:</p> <p>Provided that, before issuing a notification under this sub-section on any of the grounds specified herein, such Government shall give an opportunity to the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers Board or the Building Workers' Welfare Board or any Committee thereof, as the case may be, to show cause as to why it should not be superseded and shall consider the explanations and objections raised by it and take appropriate action thereon.</p> <p>(2) After the supersession of the Corporation, or the Central Board or the National Social Security Board, the State Unorganised Workers Board or the Building Workers' Welfare Board, or any of the Committee thereof, as the case may be, and until it is reconstituted, the Central Government or the State Government, as the case may be, shall make such alternate arrangements for the purpose of administration of the relevant provisions of this Code, as may be prescribed by the Central Government.</p> <p>(3) The Central Government or the State Government shall cause, a full report of any action taken by it under this section and the circumstances leading to such action, to be laid before each House of Parliament or the State Legislature, as the case may be, at the earliest opportunity and in any case not later than three months from the date</p>	Supersession of Corporation, Central Board of Trustees, Unorganised Workers National Social Security Board or State Unorganised Workers Social Security Board

	of the notification of supersession issued under sub-section (1).	
	<p>12(1). The Central Government may, by notification,—</p> <ul style="list-style-type: none"> (i) and after consultation with the Government of any State, constitute for that State, a Board of Trustees (hereinafter in this Code referred to as a State Board) which shall exercise such powers and perform such functions as may be assigned by notification, to it by the Central Government from time to time; (ii) specify the manner of constitution of a State Board, the terms and conditions of the appointment of its members and the procedure of its meeting and other proceedings relating thereto; and <p>(2). The Corporation, may, by Order, after consultation with the Corporation, appoint Regional Boards and local committees in such area and in such manner to perform such functions and to exercise such powers as may be specified in the regulations. notification.</p>	State Board, Regional Boards, local committees, etc.
	<p>13. Notwithstanding anything contained in this Code, the Central Government may, by notification,—</p> <ul style="list-style-type: none"> (i) assign additional functions to a Social Security Organisation including administration of any other Act or scheme relating to social security subject to such provisions as may be specified in this behalf in the notification: <p>Provided that while the additional function of administering the Act or scheme are assigned under this clause to a Social Security Organisation, then, the officer or authority of such organisation, to whom such function has been assigned, shall exercise the powers under the enactment or scheme required for discharging such function in the manner as may be specified in the notification: Provided further that the Social Security Organisations may assign such additional functions to existing officers or appoint or engage new officers necessary for such purpose, if such functions may not be performed and completed with the assistance of its personnel as existing immediately before the assignment of the additional functions;</p> <ul style="list-style-type: none"> (ii) specify the terms and conditions of discharging the functions under clause (i) by the Social Security Organisation; (iii) provide that the expenditure incurred in discharging the functions specified in clause(i) including appointment or engagement of personnel necessary for proper discharge of such functions shall be borne by the Central Government; (iv) specify the powers which the Social Security Organisation shall exercise while discharging the functions specified in clause (i); and (iv) provide that any expenditure referred to in clause (iii) shall be made by the Social Security Organisation after prior approval of the Central Government. 	Entrustment of additional functions to Social Security Organisations
	<p style="text-align: center;">CHAPTER III</p> <p style="text-align: center;">EMPLOYEES PROVIDENT FUND</p>	
	<p>14.</p> <ul style="list-style-type: none"> (1) The Central Government may appoint a Central Provident Fund Commissioner of the Central Board who shall be subject to the general control and superintendence of that Board. (2) The Central Government shall also appoint a Financial Advisor and Chief Accounts Officer to assist the Central Provident Fund Commissioner in the discharge of his duties. (3) The Central Board may appoint, subject to the maximum scale of pay, as may be specified in the Scheme, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and such other officers and employees as it may 	Appointment of officers of Central Board

	<p>consider necessary for the efficient administration of the Provident Fund Scheme, the Pension Scheme and the Insurance Scheme, respectively, referred to in section or other responsibilities assigned to the Central Board from time to time by the Central Government.</p> <p>(4) No appointment to the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Adviser and Chief Accounts Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' post under the Central Government shall be made except after consultation with the Union Public Service Commission:</p> <p>Provided that no such consultation shall be necessary in regard to any such appointment—</p> <p>(a) for a period not exceeding one year; or</p> <p>(b) if the person to be appointed is at the time of his appointment —</p> <p>(i) a member of the Indian Administrative Service, or</p> <p>(ii) in the service of the Central Government or the Central Board in a Group 'A' or Group 'B' post.</p> <p>(5) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner and the Financial Adviser and Chief Accounts Officer shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the fund referred to in clause (a) of sub-clause (1) of section 16.</p> <p>(6) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:</p> <p>Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.</p> <p>(b) In determining the corresponding scales of pay of officers and employees under clause (a), the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.</p> <p>Explanation: For the purposes of this section, the expression “Scheme” means, the Employees’ Provident Fund Scheme referred to in sub-section (1) of 15.</p>	
	<p>15.</p> <p>(1) The Central Government may, by notification:—</p> <p>(a) frame a scheme to be called the Employees' Provident Fund Scheme (hereinafter referred to as the Provident Fund Scheme) for which the provident funds shall be established under this Chapter for employees or for any class of employees and specify the establishments or class of establishments to which the said scheme shall apply;</p> <p>(b) frame a scheme to be called the Employees' Pension Scheme (hereinafter referred to as the Pension Scheme) for the</p>	Schemes

	<p>purpose of providing for—</p> <ul style="list-style-type: none"> (i) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies; and (ii) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; <ul style="list-style-type: none"> (c) frame a scheme to be called the Employees' Deposit Linked Insurance Scheme (hereinafter referred to as Insurance Scheme) for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Chapter applies; (d) any other scheme or schemes for the purposes of providing social security benefits under this Code to self-employed workers or any other class of persons. (e) modify any scheme referred to in clauses (a), (b) and (c) by adding thereto, amending or varying therein, either prospectively or retrospectively. <p>(2) Subject to the provisions of this Chapter, the schemes referred to in clauses (a), (b) and (c) of sub-section (1) may provide for all or any of the matters respectively specified in Part A, Part B and Part C of the Fifth Schedule.</p> <p>(3) The schemes may provide that all or any of its provisions shall take effect either prospectively or retrospectively on and from such date as may be specified in that behalf in the scheme.</p>	
	<p>16.</p> <p>(1) The Central Government may, for the purposes of—</p> <ul style="list-style-type: none"> (a) the Provident Fund Scheme, establish a Provident Fund where the contribution paid by the employer to the fund shall be ten per cent. of the wages for the time being payable to each of the employees (whether employed by him directly or by or through a contractor), and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten per cent. of the wages, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section: <p>Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words "ten per cent." at both the places where they occur, the words "twelve per cent". shall be substituted:</p> <p>Provided further that the Central Government, after making such inquiry as it deems fit, may, by notification, specify rates of employees' contributions and the period for which such rates shall apply for any class of employee;</p> <ul style="list-style-type: none"> (b) the Pension Scheme, establish a pension fund (hereinafter referred to as the Pension Fund) in the manner prescribed specified in that Scheme by that Government into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,— (i) such sums from the employer's contribution under sub-section (a) not exceeding eight and one- third per cent. of the wages or such per cent. of wages as may 	Funds

	<p>be notified by the Central Government;</p> <p>(ii) such sums payable as contribution to the pension fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 144 to which the pension scheme applies;</p> <p>(iii) such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify;</p> <p>Provided that the Central Government shall contribute only up to the wage ceiling in case of only those employees who draw wages less than or equal to wage ceiling as may be notified.</p> <p>(c) the Insurance Scheme, establish a Deposit- Linked Insurance Fund (hereinafter referred to as the Insurance Fund) in the manner prescribed specified in that Scheme by that Government into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent. of the wages or such per cent. of wages as may be notified by the Central Government for the time being payable in relation to such employee:</p> <p>Provided that the employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under this clause, as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under the Insurance Scheme.</p> <p>(2) The Provident Fund, the Pension Fund and the Insurance Fund shall vest in, and be administered by, the Central Board in such manner as may be specified in the respective Schemes.</p>	
	<p>17.</p> <p>(1) The amount of contribution (that is to say, the employer's contribution as well as the employee's contribution in pursuance of any Scheme and the employer's contribution in pursuance of the Insurance Scheme) and any charge for meeting the cost of administering the Fund paid or payable by an employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.</p> <p>(2) A contractor from whom the amounts mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him may recover from such employee the employee's contribution under any Scheme by deduction from the wages payable to such employee.</p> <p>(3) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section (1) from the wages payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.</p>	Contribution in respect of employees and contractors
	<p>18. For the purposes of the Income-tax Act, 1961, the Provident Fund shall be deemed to be a recognised provident fund within the meaning of clause (38) of section 2 of that Act:</p> <p>Provided that nothing contained in the said Act shall operate to render ineffective any provision of the Provident Fund Scheme (under which the Provident Fund is established) which is repugnant to any of the provisions of that Act or of the rules made thereunder.</p>	Fund to be recognised under Act 43 of 1961

31 of 2016	<p>19. Notwithstanding anything contained in any other law for the time being in force, any amount due under this Chapter shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of section 53 of the Insolvency and Bankruptcy Code, 2016.</p>	<p>Priority of payment of contributions over other debts</p>
2 of 1912	<p>20.</p> <p>(1) This Chapter shall not apply—</p> <p>(a) to any establishment registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State relating to cooperative societies employing less than fifty persons and working without the aid of power; or</p> <p>(b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or</p> <p>(c) to any other establishment set up under any Central or State or any other law for the time being in force and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that law governing such benefits.</p> <p>(2) If the Central Government is of the opinion that having regard to the financial position of any class of establishment or other circumstances of the case, it is necessary or expedient so to do, it may, by notification and subject to such conditions, as may be specified in the notification, exempt, whether prospectively or retrospectively, that class of establishments from the operation of this Chapter for such period as may be specified in the notification.</p>	<p>Chapter not to apply to certain establishment</p>
	<p>21.</p> <p>(1) The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer by an order in writing, to maintain a provident fund account in relation to the establishment, in such manner as may be prescribed by the Central Government and subject to such terms and conditions as may be specified in the Scheme:</p> <p>Provided that no authorisation shall be made under this sub-section if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Code during the three years immediately preceding the date of such authorisation.</p> <p>(2) Where an establishment is authorised to maintain a provident fund account under sub-section (1), the employer in relation to such establishment shall maintain such account, submit such return, deposit the contribution in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Scheme.</p> <p>(3) Any authorisation made under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Code:</p> <p>Provided that before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard.</p>	<p>Authorising certain employers to maintain provident fund accounts</p>
	<p>22. Where an employee,—</p> <p>(a) employed in an establishment to which this Chapter applies,</p>	<p>Transfer of accounts</p>

	<p>relinquishes his employment therefrom and obtains employment in any other establishment to which this Chapter applies or not; or</p> <p>(b) employed in an establishment to which this Chapter does not apply, relinquishes his employment therefrom and obtains employment in an establishment to which this Chapter applies,</p> <p>then, his accumulated amount in provident fund account or pension account, as the case may be, shall be transferred or dealt with in the manner as may be prescribed specified in the Provident Fund Scheme or Pension Scheme, as the case may be. by the Central Government.</p>	
	<p>23.</p> <p>(1) Any person aggrieved by an order passed by the Central Government or any other authority in regard to the following matters may prefer an appeal to the Tribunal constituted by the Central Government, namely:</p> <p>—</p> <p>(a) determination and assessment of dues under section 125 relating to Chapter III and</p> <p>(b) levy of damages under section 130 relating to Chapter III,</p> <p>(c) order of the appellate authority under section 127 in respect of Chapter III;</p> <p>(b) determination of escaped amount under section 128 in respect of Chapter III; and</p> <p>(d) levy of damages under section 130 .</p> <p>(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and accompanied by such fees as may be prescribed by the Central Government.</p> <p>(3) No appeal by the employer shall be entertained by the Tribunal unless he has deposited with the Social Security Organisation concerned forty percent of the amount due from him as determined by an officer under section 125.</p> <p>(4) he may refer an appeal to an appellate authority as may be prescribed by the Central Government, within sixty days of the date of such order on deposit of twenty five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the concerned Social Security Organisation:-</p> <p>(4) Provided that the Tribunal appellate authority shall endeavour to decide the appeal within a period of one year from the date on which the appeal has been preferred.</p> <p>(5) Provided further that in case of Chapter IV, as who would be appointed as an appellate authority shall be specified in the regulations:</p>	<p>Appeal to tribunal</p>
	<p>CHAPTER IV</p> <p>EMPLOYEES STATE INSURANCE CORPORATION</p>	
	<p>24.</p> <p>(1) The Central Government may, in consultation with the Corporation, appoint a Director General of the Corporation and a Financial Commissioner, who shall be the Principal Officers of the Corporation.</p> <p>(2) The Director General or and the Financial Commissioner shall hold office for such period, not exceeding five years, or as may be, specified in the their respective order appointing him of appointment:</p> <p>Provided that outgoing Director General or Financial Commissioner shall be eligible for reappointment if he is otherwise qualified.</p> <p>(3) The Director General or the Financial Commissioner shall receive such</p>	<p>Principal Officers and other staff</p>

	<p>salary and allowances as may be prescribed by the Central Government.</p> <p>(4) The Director General and Financial Commissioner shall exercise such powers and discharge such duties as may be prescribed by the Central Government and they shall perform such other functions as may be specified in the regulations.</p> <p>(5) A person shall be disqualified from being appointed as or for being the Director General of the Corporation or the Financial Commissioner if he is subject to any of the disqualifications specified in section 8.</p> <p>(6) The Central Government may at any time remove the Director General of the Corporation or the Financial Commissioner from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-third of the total strength of the Corporation.</p> <p>(7) The Corporation may employ such other officers and employees as may be necessary for the efficient transaction of its business and for discharge of any other responsibilities assigned to the Corporation from time to time by the Central Government:</p> <p>Provided that the sanction of the Central Government shall be obtained for the creation of any post the maximum monthly salary of which exceeds such salary as may be prescribed by the Central Government.</p> <p>(8) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:</p> <p>Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government:</p> <p>Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis.</p> <p>(b) In determining the corresponding scales of pay of the members of the staff under clause (a), the Corporation shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Corporation shall refer the matter to the Central Government whose decision thereon shall be final.</p> <p>(9) Every appointment to posts (other than medical, nursing or para-medical posts) corresponding to group A and group B Gazetted posts under the Central Government shall be made in consultation with the Union Public Service Commission:</p> <p>Provided that the provisions of this sub-section shall not apply to an officiating or temporary appointment for a period not exceeding one year:</p> <p>Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade.</p> <p>(10) If any question arises whether a post corresponds to a group A and group B post under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.</p>	
	<p>25.</p> <p>(1)—All contributions, user charges paid under this Chapter and all other</p>	<p>Employees' State Insurance Fund</p>

	<p>moneys received on behalf of the Corporation shall be paid into a fund (hereinafter referred as the Employees' State Insurance Fund) which shall be held and administered by the Corporation for the purposes of this Chapter Code.</p> <p>Provided the "user charges" collected from the other beneficiaries shall be deemed to be contribution and shall form part of Employees' State Insurance Corporation.</p> <p>(2)–The Corporation may accept grants, donations, Corporate Social Responsibility Fund and gifts from the Central or any State Government, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Chapter.</p> <p>(3)–Subject to the other provisions contained in this Code and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be deposited in such bank or banks as may be approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund.</p> <p>(4)–The Employees State Insurance Fund or any other money which is held by the Corporation shall be deposited or invested in the manner approved prescribed by the Central Government after consultation with the Corporation.</p> <p>(5)–Such account shall be operated by such officers as may be authorised by the Committee constituted under sub-section (3) of section 5 (hereinafter referred to as the Standing Committee) with the approval of the Corporation.</p>	
	<p>26. Subject to the provisions of this Chapter and the rules and regulations relating thereto, made under this Code, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:—</p> <p>(a) payment of benefits and provision of medical treatment and attendance to insured persons referred to in section 28 and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Chapter and the rules and regulations relating thereto and defraying the charges and costs in connection therewith;</p> <p>(b) payment of fees and allowances to members of the Corporation, the Standing Committee, the Medical Benefit Committee or other Committees thereof;</p> <p>(c) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and staff of the Corporation and meeting the expenditure in respect of offices, and staff and other services set up for the purpose of giving effect to the provisions of this Code relating to this Chapter;</p> <p>(d) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons referred to in section 28 and, where the medical benefit is extended to their families, their families;</p> <p>(e) payment of contributions to any State Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons referred to in section 28 and, where the medical benefit is extended to their families, their families, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;</p> <p>(f) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;</p> <p>(g) defraying the cost (including all expenses) of the Employees' Insurance</p>	<p>Purposes for which Employees' State Insurance Fund may be expended expended</p>

	<p>Courts set up under this Chapter;</p> <p>(h) payment of any sums under any contract entered into for the purposes of this Code by Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;</p> <p>(i) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or staff for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;</p> <p>(j) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Code relating to this Chapter;</p> <p>(k) defraying expenditure, within the limits prescribed by the Central Government after consultation with the Corporation, on measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons referred to in section 28 who have been disabled or injured; and</p> <p>(l) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.</p>	
	<p>27.</p> <p>(1) The Corporation may, subject to such conditions as may be prescribed by the Central Government after consultation with the Corporation, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.</p> <p>(2) Subject to such conditions as may be prescribed by the Central Government, and after consultation with the Corporation, the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Code and may, subject to as aforesaid, from time to time re-invest or realise such investments.</p> <p>(3) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.</p> <p>(4) The Corporation may constitute for the benefit of its officers and staff or any class of them, such provident or other benefit fund as it may think fit.</p>	Holding of property, etc.
	<p>28. Subject to the provisions of this Code, all employees in establishments to which this Chapter applies shall be insured (hereinafter referred to as insured persons) in such manner whether electronically or otherwise, as may be prescribed by the Central Government and an employee in respect of whom contributions are or were payable under this Chapter and who is by reason thereof, entitled to any of the benefits provided under this Chapter shall be called as "Insured Person"</p>	All employees to be insured
	<p>29.</p> <p>(1) The contribution payable under this Chapter in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.</p> <p>(2) The contributions (employer's contribution and the employees' contribution both) shall be paid at such rates as may be prescribed by the Central Government.</p>	Contributions

	<p>(3) The wage period in relation to an employee shall be the unit as specified in the regulation (hereinafter referred to as the wage period) in respect of which all contributions shall be payable under this Chapter.</p> <p>(4) The contributions payable in respect of each wage period shall ordinarily fall due on the last day of the wage period, and where an employee is employed for part of the wage period, or is employed under two or more employers during the same wage period the contributions shall fall due on such days as may be prescribed by the Central Government specified in the regulations.</p>	
	<p>30. The types of expenses which may be termed as administrative expenses and the percentage of the income of the Corporation which may be spent for such expenses shall be such as may be prescribed by the Central Government and the Corporation shall keep its administrative expenses within the limit so prescribed by the Central Government.</p>	Administrative expenses
	<p>31.</p> <p>(1) The employer shall pay in respect of every employee, whether directly employed by him or by or through a contractor, both the employer's contribution and the employee's contribution.</p> <p>(2) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Code and the rules and regulations, if any, made thereunder in this behalf, the employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by reduction from his wages and not otherwise:</p> <p>Provided that no such deduction shall be made from any wages other than such as relates to the period or part of the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period.</p> <p>(3) Notwithstanding any contract to the contrary, neither the employer nor the Contractor shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.</p> <p>(4) Any sum deducted by the employer from wages under this Chapter shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.</p> <p>(5) The employer shall bear the expenses of remitting the contributions to the Corporation.</p> <p>(6) An employer, who has paid contribution in respect of an employee employed by or through a contractor, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any,) from the contractor, either by deduction from any amount payable to him by the employer under any contract, or as a debt payable by the contractor.</p> <p>(7) The contractor shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the employer before the settlement of any amount payable under sub-section (6).</p> <p>(8) In the case referred to in sub-section (6), the contractor shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to such conditions as may be specified in the regulations as specified in the proviso to sub-section (2) above .</p>	Provisions as to payment of contributions by employer, etc.

	(9) Subject to the provisions of this Code, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Chapter.	
	<p>32.</p> <p>(1) Subject to the provisions of this Code, the insured persons, their dependents or the persons hereinafter mentioned, as the case may be, shall be entitled to the following benefits, namely:—</p> <ul style="list-style-type: none"> (a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf (hereinafter referred to as sickness benefit); (b) periodical payments to an insured person being a woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit); (c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained by him as an employee for the purposes of this Chapter and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit); (d) periodical payments to such dependents of an insured person who dies as a result of an employment injury sustained by him as an employee for the purposes of this Chapter, as are entitled under this Chapter (hereinafter referred to as dependents' benefit); (e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit); and (f) payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person, or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person (to be known as funeral expenses): <p>Provided that the amount of payment under this clause shall not exceed such amount as may be prescribed by the Central Government and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow.</p> <ul style="list-style-type: none"> (2) The Corporation may, subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person. (3) The qualification of a person to claim sickness benefit, maternity benefit, disablement benefit and dependents' benefit and the conditions subject to which such benefit may be given, the rate and period thereof shall be such as may be prescribed by the Central Government. (4) Subject to the provisions of this Code, the Corporation may make regulations for any matter relating or incidental to the accrual and payment of benefits payable under this Chapter. 	Benefits
	<p>33. The Corporation may, in addition to the benefits specified in this Chapter, promote measures for the improvement of the health and welfare of insured</p>	Corporation's power to

	persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured and may incur in respect of such measures expenditure from the Employees' State Insurance Fund of the Corporation within such limits as may be prescribed by the Central Government.	promote measures for health, etc., of insured persons
	<p>34.</p> <p>(1) For the purposes of this Chapter, an accident arising in the course of an employee's employment shall be presumed, in the absence of evidence to the contrary, to have arisen out of that employment.</p> <p>(2) An accident happening to an employee in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succor or protect persons who are, or are thought to be or possibly to be, injured or imperiled, or to avert or minimize serious damage to property.</p> <p>(3) An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.</p> <p>(4) An accident happening while an employee is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—</p> <p style="padding-left: 40px;">(a) the accident would have been deemed so to have arisen had he been under such obligation; and</p> <p style="padding-left: 40px;">(b) at the time of the accident, the vehicle—</p> <p style="padding-left: 80px;">(i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and</p> <p style="padding-left: 80px;">(ii) is not being operated in the ordinary course of public transport service.</p> <p><i>Explanation.</i>—In this section, "vehicle" includes a vessel and an aircraft.</p>	Presumption as to accident arising in course of employment
	<p>35. An accident shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—</p> <p style="padding-left: 40px;">(a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and</p> <p style="padding-left: 40px;">(b) the act is done for the purpose of and in connection with the employer's trade or business.</p>	Accidents happening while acting in breach of law, etc.
	<p>36.</p> <p>(1) If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that</p>	Occupational disease

	<p>employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify by regulations in respect of each such employment, contracts any disease specified in such Part C as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury " arising out of and in the course of employment.</p> <p>(2) Save as provided by sub-section (1), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.</p> <p>(3) The provisions of sub -section (1) of section 34 shall not apply to the cases to which this section applies.</p>	
	<p>37.</p> <p>(1) Any question—</p> <ol style="list-style-type: none"> whether the relevant accident has resulted in permanent disablement; or whether the extent of loss of earning capacity can be assessed provisionally or finally; or whether the assessment of the proportion of the loss of earning capacity is provisional or final; or in the case of provisional assessment, as to the period for which such assessment shall hold good, shall be determined by a medical board constituted in accordance with the provisions of the regulations (hereinafter referred to as medical board) and any such question shall hereafter be referred to as the "disablement question". <p>(2) The case of any insured person for permanent disablement benefit shall be referred by the Corporation to a medical board for determination of the disablement question and if, on that or any subsequent reference, the extent of loss of earning capacity of the insured person is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.</p> <p>(3) Any decision under this Chapter of a medical board may be reviewed at any time by the medical board if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact whether the non-disclosure or misrepresentation was or was not fraudulent.</p> <p>(4) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury:</p> <p>Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of the opinion, having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, that substantial injustice will be done by not reviewing it.</p> <p>(5) Except with the leave of a medical appeal tribunal constituted by regulations, an assessment shall not be reviewed under sub-section (3) on any application made less than five years, or in the case of a provisional assessment, six months, from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.</p> <p>(6) Subject to the foregoing provisions of this section, a medical board may</p>	

	<p>deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment notwithstanding that the assessment under review was final and the provisions of sub-section (1) shall apply to an application for review under this sub-section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under that sub-section and to a decision of the medical board in connection with such case.</p> <p>(7) If the insured person or the Corporation is aggrieved by any decision of the medical board, the insured person or the Corporation, as the case may be, may appeal to the medical appeal tribunal in the manner specified in the regulations with a further right to appeal in the specified manner and specified time to the Employees' State Insurance Court or directly to the Employees' Insurance Courts constituted under section 48:</p> <p>7(a) If the insured person or the Corporation is aggrieved by any decision of the medical board, the insured person or the Corporation, may appeal to the medical appeal tribunal in the manner specified in the regulations or directly to the Employees' Insurance Court constituted under section 48: in the manner and within the time period prescribed by the Central Government :</p> <p>(i) the medical appeal tribunal constituted in accordance with the provisions of the regulations; or</p> <p>(ii) the Employees' Insurance Court directly;</p> <p>Provided that no appeal by an insured person shall lie under this sub-section if such person has applied for commutation of disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefits:</p> <p>Provided further that no appeal by the Corporation shall lie under this sub-section if the Corporation paid the commuted value of the disablement benefit on the basis of the decision of the medical board.</p> <p>(b) Where the insured person or the corporation preferred to appeal to the medical appellate tribunal under sub-clause (i) of clause (e) instead to the Employees Insurance Court under sub-clause 2(i) of clause (a), then, he or it, as the case may be shall have the further right to file second appeal to the Employees' Insurance Court in such manner and within such time as may be prescribed by the appropriate Government.</p>	
	<p>38.</p> <p>(1) If an insured person dies as a result of an employment injury sustained as an employee under this Chapter (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury) dependents' benefit shall be payable to his dependents specified in sub-clause (a) and sub-clause (b) of clause (24) of section 2 at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.</p> <p>(2) In case the insured person dies without leaving behind him the dependents as aforesaid, the dependents' benefit shall be paid to the other dependents of the deceased at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.</p> <p>(3) Any decision awarding dependents' benefit under this Chapter may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure</p>	<p>Dependents' benefit</p>

	<p>or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Chapter due to any birth or death or due to the marriage, re-marriage, or infirmity of, or attainment of the age of eighteen years by, a claimant.</p> <p>(4) Subject to the provisions of this Chapter, the Corporation may, on such review under sub-section (3), direct that the dependents' benefit be continued, increased, reduced or discontinued.</p>	
	<p>39.</p> <p>(1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.</p> <p>(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.</p> <p>(3) The qualification of an insured person and (where such medical benefit is extended to his family) his family, to claim medical benefit and the conditions subject to which such benefit may be given, the scale and period thereof shall be such as may be prescribed by the Central Government. in consultation with the Corporation: Provided that a person in respect of whom contribution ceases to be payable under this Chapter may be allowed medical benefit for such period and of such nature as may be provided under the regulations.</p> <p>Provided that an insured person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be specified in the regulations:</p> <p>Provided further that an insured person who ceases to be in insurable employment on account of permanent disablement caused due to employment injury shall continue to receive medical benefits, subject to payment of contribution and other conditions as may be prescribed by the Central Government. to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not attained such permanent disablement.</p> <p>(4) The Corporation may establish medical colleges, dental colleges, nursing colleges and the training institutes for its officers and staff with a view to improve the quality of services provided under the Employees' State Insurance Scheme. Further, the students of such colleges shall furnish bond for serving the corporation for such time and in such manner, as may be specified in the regulations by the corporation.</p> <p>(5) The colleges and training institutions referred to in sub-section (4) may be run by the Corporation itself or on the request of the Corporation by the Central Government, any State Government, any Public Sector Undertaking of the Central Government or the State Government or any other body notified by the Central Government.</p> <p>Explanation.—For the purposes of sub-section (5), the expression “other body” means any such organisation of persons which the Central Government considers capable to run colleges and training institutions referred to in sub-section (4).</p>	<p>Medical benefit</p>
	<p>40.</p> <p>(1) The State Government shall provide for insured persons and (where such benefit is extended to their families) their families in the State, reasonable medical, surgical and obstetric treatment:</p>	<p>Provision of medical treatment by State Government or</p>

	<p>Provided that the State Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.</p> <p>(2) Where the incidence of sickness benefit payment to insured persons in any State is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the State Government in such proportion as may be fixed by agreement between them:</p> <p>Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the State Government.</p> <p>(3) The Corporation may enter into an agreement with a State Government in regard to the nature and scale of the medical treatment that should be provided to insured persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the State Government.</p> <p>(4) In default of agreement between the Corporation and any State Government as aforesaid, the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator who shall be appointed by Central Government in consultation with State Government. (who shall be or shall have been a Judge of the High Court of a State appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the State Government).</p> <p>(5) The State Government may, in addition to the Corporation under this Code, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:</p> <p>Provided that any reference to the State Government in this Code relating to this Chapter shall also include reference to the organisation as and when such organisation is established by the State Government.</p> <p>(6) The organisation referred to in sub-section (5) shall have such structure, discharge functions, exercise powers and undertake such activities as may be prescribed by the State Central Government.</p> <p>(7) The Corporation may, with the approval of the Central State Government establish and maintain in a State such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families), their families.</p> <p>(8) The Corporation may enter into agreement with any local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.</p> <p>(9) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation</p>	by Corporation
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	<p>for providing medical treatment and attendance to insured persons and (where such medical benefit has been extended to their families), to their families.</p> <p>(10) Notwithstanding anything contained in any other provision of this Chapter, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to insured persons and (where such medical benefit is extended to their families), to the families of such insured persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.</p> <p>(11) In the event of the Corporation exercising its power under sub-section (10), the provisions relating to medical benefit under this Chapter shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.</p> <p>(12) Notwithstanding anything contained in this Code, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government.</p>	
	<p>41.</p> <p>(1) Save as may be provided in the regulations, no person shall be entitled to commute for a lump sum any disablement benefit admissible under this Chapter.</p> <p>(2) Save as may be provided in the regulations, no person shall be entitled to sickness benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives wages or on any day on which he remains on strike.</p> <p>(3) A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement)—</p> <ol style="list-style-type: none"> shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Chapter, and shall carry out the instructions given by the medical officer or medical attendant in-charge thereof; shall not while under treatment do anything which might retard or prejudice his chances of recovery; shall not leave the area in which medical treatment provided by this Chapter is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and shall allow himself to be examined by any duly appointed medical officer or other person authorised by the Corporation in this behalf. <p>(4) An insured person shall not be entitled to receive for the same period—</p> <ol style="list-style-type: none"> both sickness benefit and maternity benefit; or both sickness benefit and disablement benefit for temporary disablement; or both maternity benefit and disablement benefit for temporary disablement. <p>(5) Where a person is entitled to more than one of the benefits mentioned in sub-section (4), he shall be entitled to choose which benefit he shall receive.</p> <p>(6) If a person dies during any period for which he is entitled to a cash benefit under this Chapter, the amount of such benefit up to and</p>	<p>General provisions as to benefits</p>

	<p>including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.</p> <p>(7) (a) Any person eligible for availing dependent or disablement benefit under this Chapter shall not be entitled to claim Employees Compensation from his employer under Chapter VII.</p> <p>(b) Any women employee eligible for availing maternity benefit under this Chapter shall not be entitled to claim maternity benefit from her employer under Chapter VI.</p> <p>(8) Where any person has received any benefit or payment under this Chapter when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of death, his legal representative shall be liable to repay the same from the assets of the deceased devolved on him.</p> <p>(9) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.</p> <p>(10) The amount recoverable under this section may be recovered in the manner specified under sections 131 to 134.</p>	
	<p>42.</p> <p>(1) If any employer,—</p> <p>(a) fails or neglects to insure under section 28, an employee at the time of his appointment or within such extended period as may be prescribed by the Central Government, as a result of which the employee becomes disentitled to any benefit under this Chapter; or</p> <p>(b) insures under section 28, an employee on or after the date of accident which resulted in personal injury to such employee which has the effect of making such employee entitled to receive any dependent benefit or disablement benefit from the Corporation; or</p> <p>(c) fails or neglects to pay any contribution which under this Chapter he is liable to pay in respect of any employee and by reason thereof such employee becomes disentitled to any benefit or becomes entitled to a benefit on a lower scale,</p> <p>then, the Corporation may, on being satisfied in the manner prescribed by the Central Government that the benefit is payable to the employee, pay to the employee benefit at such rate to which he is entitled or would have been entitled if the failure or neglect would not have occurred, and the Corporation shall be entitled to recover from the employer, subject to the employer being given an opportunity of being heard, the capitalised value of the benefit paid to the employee, to be calculated in such manner as may be prescribed by the Central Government:</p> <p>Provided that the capitalised value to be calculated may be adjusted for the payment of any contribution and interest or damages that the employer is liable to pay for delay in the payment of or non-payment of such contribution.</p> <p>(2) The amount recoverable under this section may be recovered as if it were an arrear of land revenue or recovered in the manner specified under sections 131 to 134.</p>	<p>Corporation's rights when an employer fails to register, etc.</p>
	<p>43.</p> <p>(1) Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of—</p> <p>(a) insanitary working conditions in a factory or other establishment or the neglect of the owner or occupier of the</p>	<p>Liability of owner or occupier of factories, etc., for excessive sickness benefit</p>

	<p>factory or other establishment to observe any health regulations enjoined on him by or under any enactment for the time being in force, or</p> <p>(b) insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactments for the time being in force,</p> <p>then, the Corporation may send to the owner or occupier of the factory or other establishment or to the owner of the tenement or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.</p> <p>(2) If the appropriate Government is of the opinion that a prima facie case for inquiry is disclosed, it may appoint a competent person or persons to hold an inquiry into the matter referred under sub-section (1).</p> <p>(3) If upon inquiry under sub-section (2), it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or other establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.</p> <p>(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.</p> <p>(5) For the purposes of this section, "owner" of tenements or lodging shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.</p>	
	<p>44. Notwithstanding anything contained in this Chapter, the Central Government may, in consultation with the Corporation, and by notification, frame, scheme or amend, vary or rescind scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is under-utilised on payment of user charges, and prescribe the terms and conditions subject to which the scheme may be operated.</p> <p>Explanation.—For the purposes of this section,—</p> <p>(a) "other beneficiaries" means persons other than employees insured under section 28;</p> <p>(b) "underutilised hospital" means any hospital not fully utilised by the employees insured under section 28; and</p> <p>(c) "user charges" means the amount which is to be charged from other beneficiaries for medical facilities as may be specified in the regulations after prior approval of the Central Government.</p>	Scheme for other beneficiaries
	<p>45.</p> <p>(1) Notwithstanding anything contained in this Chapter, the Central Government may, in consultation with the Corporation, and by notification, frame, amend, vary or rescind scheme for unorganised workers, gig workers and platform workers and the members of their families for providing benefits, admissible under this Chapter, by the</p>	Schemes for unorganised workers, gig workers and platform workers

	<p>Corporation.</p> <p>(2) The contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions subject to which the scheme may be operated shall be such as may be prescribed specified in the scheme.</p>	
	<p>46. The appropriate Government may, after consultation with the Corporation, by notification and subject to such conditions as may be specified in the notification, exempt any factory or other establishment belonging to any local authority, from the operation of this Chapter if the employees in any such factory or other establishment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Chapter.</p>	<p>Exemption of factories or other establishments belonging to Government or any local authority</p>
31 of 2016	<p>47. Notwithstanding anything contained in any other law for the time being in force, any amount due under this Chapter shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of section 53-of the Insolvency and Bankruptcy Code, 2016.</p>	<p>Contributions, etc., due to Corporation to have priority over other debts</p>
	<p>48.</p> <p>(1) The State Government shall, by notification, constitute an Employees' Insurance Court for such local area as may be specified in the notification.</p> <p>(2) The Court shall consist of such number of Judges as the State Government may think fit.</p> <p>(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.</p> <p>(4) The State Government may appoint the same Court for two or more local areas or two or more Courts for the same local area.</p> <p>(5) Where more than one Court has been appointed for the same local area, the State Government may by general or special order regulate the distribution of business between them.</p>	<p>Constitution of Employees' Insurance Court</p>
	<p>49.</p> <p>(1) If any question or dispute or claim arises as to—</p> <p>(a) whether any person is an employee within the meaning of this Code relating to this Chapter or whether he is liable to pay the employee's contribution; or</p> <p>(b) the rate of wages or average daily wages of an employee for the purposes of this Chapter; or</p> <p>(c) the rate of contribution payable by an employer in respect of any employee under this Chapter; or</p> <p>(d) the person who is or was the employer in respect of any employee for the purposes of this Chapter; or</p> <p>(e) the right of any person to any benefit under this Chapter and as to the amount and duration thereof; or</p> <p>(f) any direction issued by the Corporation on a review of any payment of dependents' benefit under this Chapter; or</p> <p>(g) any other matter which is in dispute between an employer and the Corporation relating to this Chapter, or between an employer and a Contractor relating to this Chapter or between a person and the Corporation relating to this Chapter or between an employee and an employer or Contractor relating to this Chapter, in respect of any contribution or benefit or other dues payable or recoverable under this Code relating to this Chapter;</p> <p>(h) claim for the recovery of contributions from the employer</p>	<p>Matters to be decided by Employees' Insurance Court</p>

	<p>under this Code relating to this Chapter;</p> <ul style="list-style-type: none"> (i) claim under sub-section (8) of section 41 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; (j) claim against an employer under section 42; (k) order of the appellate authority under section 127 in respect of Chapter IV; (l) claim by an employer to recover contributions from any contractor under this Code relating to this Chapter; and (m) any other claim for the recovery of any benefit admissible under this Chapter, such matter shall be decided by the Employers' Insurance Court. <p>(2) No matter which is in dispute between an employer and the Corporation in respect of any contribution or any other dues under this Chapter shall be raised by the employer in the Employees' Insurance Court unless he has deposited with the Court fifty per cent. of the amount due from him as claimed by the Corporation:</p> <p>Provided that the Employees' Insurance Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section.</p> <p>(3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as specified in sub-section (1) or to adjudicate on any liability which by or under this Code relating to this Chapter is to be decided by a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court.</p>	
2 of 1974	<p>50.</p> <ul style="list-style-type: none"> (1) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such court shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. (2) The Employees' Insurance Court shall follow such procedure as may be prescribed by the State Government. (3) All costs incidental to any proceeding before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the State Government, be in the discretion of the court. (4) An order of the Employees' Insurance Court shall be enforceable by it as if it were a decree passed in a suit by a Civil Court. 	Powers of Employees' Insurance Court
	<p>51.</p> <ul style="list-style-type: none"> (1) The manner of commencement of proceedings before the Employees Insurance Court and the time limit of filing, fees and procedure thereof shall be such as may be prescribed by the State appropriate Government and the limitation for initiating the proceedings by the aggrieved person in the Employees' Insurance Court shall be three years from the date on which the cause of action arises. The time limit for filing shall not exceed three years. <p style="color: green;">Provided that the "arising of cause of action" in respect of a claim by the insured person or dependents; by the Corporation for recovering contribution (including interest and damages) from the employer; and the claim by the employer for recovering contributions from a contractor and the time period within which such claims, recovery of contribution from employer by the corporation and recovery of contribution by the employer from the contractor, shall be as specified in the regulations.</p> <ul style="list-style-type: none"> (2) Any application, appearance or act required to be made or done by any person to or before an Employees' Insurance Court (other than 	Proceedings of Employees' Insurance Courts.

	<p>appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of the court, by any other person so authorised.</p> <p>(3) An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.</p>	
36 of 1963	<p>52.</p> <p>(1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.</p> <p>(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court if it involves a substantial question of law.</p> <p>(3) The appeal shall be filed under this section within a period of sixty days from the date of the order made by the Employees' Insurance Court.</p> <p>(4) The provisions of sections 5 and 12 of the Limitation Act, 1963 shall apply to appeals under this section.</p> <p>(5) Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court, shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.</p>	Appeal to High Court
	CHAPTER V GRATUITY	
	<p>53.</p> <p>(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—</p> <p>(a) on his superannuation; or</p> <p>(b) on his retirement or resignation; or</p> <p>(c) on his death or disablement due to accident or disease; or</p> <p>(d) on termination of his contract period under fixed term employment; or</p> <p>(e) on happening any such event as may be notified by the Central Government:</p> <p>Provided that in case of working journalist as defined in clause (f) of Section 2 of the Working Journalists and other Newspaper Employees (condition of service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years:</p> <p>Provided further that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed term employment or happening of any such event as may be notified by the Central Government:</p> <p>Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the competent authority as may be notified by the appropriate Government who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed by the appropriate Government, until such minor attains majority.</p> <p>(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages or such number of days as may be notified by the Central Government, based on the rate of wages last drawn by the employee concerned:</p>	Payment of gratuity

	<p>Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:</p> <p>Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days' wages for each season:</p> <p>Provided also that in the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on pro rata basis.</p> <ol style="list-style-type: none"> (3) The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government. (4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced. (5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer. (6) Notwithstanding anything contained in sub-section (1),— <ol style="list-style-type: none"> (a) the gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused; (b) the gratuity payable to an employee may be wholly or partially forfeited— <ol style="list-style-type: none"> (i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or (ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment. <p>Explanation 1.—For the purposes of this Chapter, employee does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.</p> <p>Explanation 2.—For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease, resulting in such disablement.</p> <p>Explanation 3.—For the purposes of this section, it is clarified that in the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.</p> 	
	<p>54. For the purposes of this Chapter,—</p> <ol style="list-style-type: none"> (A) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, 	<p>Continuous service</p>

<p>20 of 1946 14 of 1947</p>	<p>absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Code;</p> <p>(B) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (A), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—</p> <p>(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—</p> <p>(i) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and</p> <p>(ii) two hundred and forty days, in any other case;</p> <p>(b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than—</p> <p>(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and</p> <p>(ii) one hundred and twenty days, in any other case.</p> <p>Explanation.—For the purposes of this clause, the number of days on which an employee has actually worked under an employer shall include the days on which—</p> <p>(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;</p> <p>(ii) he has been on leave with full wages, earned in the previous year;</p> <p>(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and</p> <p>(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twenty-six weeks;</p> <p>(C) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (A), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy- five per cent. of the number of days on which the establishment was in operation during such period.</p>	
	<p>55.</p> <p>(1) Each employee, who has completed one year of service, shall make, a nomination within such time, in such form and in such manner, as may be prescribed by the appropriate Government.</p>	<p>Nomination</p>

	<p>(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Chapter amongst more than one nominee.</p> <p>(3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family shall be void.</p> <p>(4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed by the appropriate Government, a fresh nomination in favour of one or more members of his family.</p> <p>(5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written intimation in such form and in such manner as may be prescribed by the appropriate Government, of his intention to do so.</p> <p>(6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the form prescribed by the appropriate Government, in respect of such interest.</p> <p>(7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.</p>	
	<p>56.</p> <p>(1) A person who is eligible for payment of gratuity under this Chapter or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed by the appropriate Government, for payment of such gratuity.</p> <p>(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the competent authority specifying the amount of gratuity so determined.</p> <p>(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.</p> <p>(4) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits:</p> <p>Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the competent authority for the delayed payment on this ground.</p> <p>(5) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Chapter or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the competent authority such amount as he admits to be payable by him as gratuity.</p> <p>(b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the competent authority in the form prescribed by the Central Government for deciding the dispute.</p>	<p>Determination of amount of gratuity</p>

<p>5 of 1908</p> <p>45 of 1860</p>	<p>(c) The competent authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the competent authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.</p> <p>(d) The competent authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.</p> <p>(e) As soon as may be after a deposit is made under clause (a), the competent authority shall pay the amount of the deposit—</p> <ol style="list-style-type: none"> (i) to the applicant where he is the employee; or (ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or heir of the employee if the competent authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity. <p>(6) For the purpose of conducting an inquiry under sub-section (5), the competent authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—</p> <ol style="list-style-type: none"> (a) enforcing the attendance of any person or examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) issuing commissions for the examination of witnesses. <p>(7) Any inquiry under this section shall be a judicial proceeding within the meaning of section 193, section 228, and for the purpose of section 196, of the Indian Penal Code.</p> <p>(8) Any person aggrieved by an order under sub-section (5) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:</p> <p>Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:</p> <p>Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the competent authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (5), or deposits with the appellate authority such amount.</p> <p>(9) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify, or reverse the decision of the competent authority.</p>	
<p>41 of 1999</p>	<p>57.</p> <p>(1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (2), obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity under this Chapter, from any insurance company regulated by the Authority as defined under clause (b) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999:</p>	<p>Compulsory insurance</p>

43 of 1961	<p>Provided that different dates may be appointed for different establishments or class of establishments or for different areas.</p> <p>(2) The appropriate Government may, subject to such conditions as may be prescribed by the Central Government, exempt every employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement, and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed by the Central Government from the provisions of sub-section (1).</p> <p>(3) For the purposes of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed by the Central Government get his establishment registered with the competent authority in the manner prescribed by the Central Government and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).</p> <p>(4) The appropriate Government may prescribe rules to give effect to the provisions of this section and the rules so prescribed may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund.</p> <p>(5) Where an employer fails to make any payment by way of premium in respect of the insurance referred to in sub-section (1) or by way of contribution to an approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Chapter (including interest, if any, for delayed payments) forthwith to the competent authority.</p> <p>Explanation.—In this section, "approved gratuity fund" shall have the same meaning as assigned to it in sub-section (5) of section 2 of the Income-tax Act, 1961.</p>	
	<p>58.</p> <p>(1) The appropriate Government may, by notification, appoint any person having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification.</p> <p>(2) Where more than one competent authority has been appointed for any area, the appropriate Government may, by general or special order, regulate the distribution of business among them.</p> <p>(3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under reference to assist him in holding the inquiry relating thereto.</p>	Competent authority
	<p style="text-align: center;">CHAPTER VI MATERNITY BENEFIT</p>	
	<p>59.</p> <p>(1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.</p> <p>(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.</p>	Employment of, or work by, women prohibited during certain period

	<p>(3) Without prejudice to the provisions of section 62, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do, during the period specified in sub-section (4), any work which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus or is likely to cause her miscarriage or otherwise to adversely affect her health.</p> <p>(4) The period referred to in sub-section (3) shall be—</p> <p>(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;</p> <p>(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 62.</p> <p>Explanation- For the purposes of this section, the expression “any work is of arduous nature” shall mean any work which involves or requires strenuous effort or is difficult and tiring in nature.</p>	
29 of 2019	<p>60.</p> <p>(1) Subject to the other provisions of this Code, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day.</p> <p>Explanation.—For the purposes of this sub-section, "the average daily wage" means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, subject to the minimum rate of wage fixed or revised under the Code on Wages, 2019.</p> <p>(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery.</p> <p>Explanation.—For the purposes of calculating the period under this sub-section, the days on which a woman has actually worked in the establishment, the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the expected date of her delivery shall be taken into account.</p> <p>(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the expected date of her delivery:</p> <p>Provided that the maximum period entitled to maternity benefit by a woman having two or more surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:</p> <p>Provided further that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:</p> <p>Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days upto and including the date of the death of the child.</p> <p>Explanation.—For the purposes of this sub-section, "child" includes a stillborn</p>	Right to payment of maternity benefit

	<p>child.</p> <p>(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.</p> <p>(5) In case the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.</p>	
	<p>61. Every woman entitled to the payment of maternity benefit under this Chapter, shall, notwithstanding the application of Chapter IV to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 32.</p>	<p>Continuance of payment of maternity benefit in certain cases</p>
	<p>62.</p> <p>(1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Chapter may give notice in writing in such form as may be prescribed by the Central Government, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Chapter may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.</p> <p>(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.</p> <p>(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.</p> <p>(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.</p> <p>(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed by the Central Government that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed by the Central Government that the woman has been delivered of a child.</p> <p>(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Chapter if she is otherwise entitled to such benefit or amount and in any such case an Inspector-cum-Facilitator may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.</p>	<p>Notice of claim for maternity benefit and payment thereof</p>
	<p>63. If a woman entitled to maternity benefit or any other amount under this Chapter, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 60, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 62 and in case there is no such nominee, to her legal representative.</p>	<p>Payment of maternity benefit in case of death of a woman</p>
	<p>64. Every woman entitled to maternity benefit under this Chapter shall also be entitled to receive from her employer a medical bonus of three thousand five hundred rupees or as such amount as may be notified by the Central Government, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.</p>	<p>Payment of medical bonus</p>

	<p>65.</p> <p>(1) In case of miscarriage, or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.</p> <p>(2) In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.</p> <p>(3) A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy shall, on production of such proof as may be prescribed by the Central Government, be entitled, in addition to the period of absence allowed to her under section 62, or, as the case may be, under sub-section (1), to leave with wages at the rate of maternity benefit for a maximum period of one month.</p>	Leave for miscarriage, etc.
	<p>66. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of such duration as may be prescribed by the Central Government, for nursing the child until the child attains the age of fifteen months.</p>	Nursing breaks
	<p>67.</p> <p>(1) Every establishment to which this Chapter applies, in which fifty employees or such number of employees as may be prescribed by the Central Government, are employed shall have the facility of crèche within such distance as may be prescribed by the Central Government, either separately or along with common facilities:</p> <p>Provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the intervals of rest allowed to her.</p> <p>Provided further that an establishment can avail common crèche facility of the Central government, State Government, municipality or private entity or provided by non- Governmental organization or by any other organization or group of establishments may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.</p> <p>(2) Every establishment to which this Chapter applies shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit available under this Chapter.</p>	Creche facility
	<p>68.</p> <p>(1) When a woman absents herself from work in accordance with the provisions of this Chapter, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service:</p> <p>Provided that the discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus under this Chapter, shall not have the effect of depriving her of the maternity benefit or medical bonus:</p> <p>Provided further that where the dismissal is for any gross misconduct as may be prescribed by the Central Government, the employer may, by order in writing, communicated to the woman, deprive her of the maternity benefit or medical</p>	Dismissal for absence during pregnancy

	<p>bonus, or both.</p> <p>(2) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed under sub-section (1), may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to the competent authority, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, or discharged or dismissed shall be final.</p>	
	<p>69. No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Chapter shall be made by reason only of—</p> <p>(a) the nature of work assigned to her by virtue of the provisions contained in section 59; or</p> <p>(b) breaks for nursing the child allowed to her under the provisions of section 66.</p>	No deduction of wages in certain cases
	<p>70. A woman who works for remuneration during the period she has been permitted by an employer to absent herself for availing the maternity benefits provided under this Chapter shall not be entitled to receive maternity benefit for such period.</p>	Forfeiture of maternity benefit
	<p>71. An abstract of the provisions of this Chapter and the rules relating thereto in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.</p>	Duties of employer
	<p>72.</p> <p>(1) Any woman claiming that,—</p> <p>(a) maternity benefit or any other amount to which she is entitled under this Chapter and any person claiming that payment due under this Chapter has been improperly withheld;</p> <p>(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Chapter, may make a complaint to the Inspector-cum-Facilitator.</p> <p>(2) The Inspector-cum-Facilitator may, on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that—</p> <p>(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his order in writing;</p> <p>(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Chapter, may pass such orders as he deems just and proper according to the circumstances of the case.</p> <p>(3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government.</p> <p>(4) The decision of the authority referred to in sub-section (3), where an appeal has been preferred to it under that sub-section or of the Inspector-cum-Facilitator where no such appeal has been preferred shall be final.</p>	Power of Inspector-cum-Facilitator to direct payments to be made
	<p style="text-align: center;">CHAPTER VII</p> <p style="text-align: center;">EMPLOYEE'S COMPENSATION</p>	
	<p>73.</p> <p>(1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death or serious bodily injury,</p>	Reports of fatal accidents and serious bodily injuries

	<p>the person required to give the notice shall, within seven days of the death or serious bodily injury, send a report to the competent authority giving the circumstances attending the death or serious bodily injury:</p> <p>Provided that where the State Government has so specified, the person required to give the notice may instead of sending such report to the competent authority send it to the authority to whom he is required to give the notice.</p> <p>Explanation.— For the purposes of this sub-section, "serious bodily injury" means an injury which involves, or in all probability will involve the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.</p> <p>(2) The State Government may, by notification, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the competent authority.</p> <p>(3) Nothing in this section shall apply to establishments to which Chapter IV, relating to Employees' State Insurance Corporation, applies.</p>	
	<p>74.</p> <p>(1) If personal injury is caused to an employee by accident or an occupational disease listed in the Third Schedule arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:</p> <p>Provided that the employer shall not be so liable—</p> <p>(a) in respect of any injury which does not result in the total or partial disablement of the employee for a period exceeding three days; and</p> <p>(b) in respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to—</p> <p>(i) the employee having been at the time thereof under the influence of drink or drugs, or</p> <p>(ii) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or</p> <p>(iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.</p> <p>(2) An accident or an occupational disease referred to in sub-section (1) shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident or at the time of contracting the occupational disease, referred to in that sub-section, acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if —</p> <p>(a) such accident or contracting of such occupational disease would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be ; and</p> <p>(b) the act is done for the purpose of and in connection with the employer's trade or business.</p> <p>(3) If an employee employed in any employment specified in the Second Schedule contracts any disease specified in the Third Schedule, being an occupational disease peculiar to that employment whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months, then, such disease shall be deemed</p>	<p>Employer's liability for compensation</p>

	<p>to be an injury by accident within the meaning of this section and unless the contrary is proved, the accident shall be deemed to have arisen out of and in the course of the employment.</p> <p>(4) An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and his employment is established.</p> <p>(5) The Central Government or the State Government, after giving, by notification, not less than three months' notice of its intention so to do, may, by a like notification, modify or add any description of employment to the employments specified in the Second Schedule, and shall specify in the case of employments so modified or added, the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply, in the case of a notification by the Central Government, within the territories to which this Code extends or, in case of a notification by the State Government, within that State as if such diseases had been declared by this Code to be occupational diseases peculiar to those employments.</p> <p>(6) Save as provided by sub-sections (2), (3) and (4), no compensation shall be payable to an employee in respect of any accident or disease unless the accident or disease is directly attributable to a specific injury by accident or disease arising out of and in the course of his employment.</p> <p>(7) Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any accident or disease if he has instituted in a Civil Court a suit for damages in respect of the accident or disease against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of any accident or injury—</p> <ol style="list-style-type: none"> if he has instituted a claim to compensation in respect of the accident or injury before a competent authority; or if an agreement has been made between the employee and his employer providing for the payment of compensation in respect of the accident or injury in accordance with the provisions of this Chapter. 	
	<p>75. If death or injury is caused to any worker or a member of his family as a result of the collapse of a house provided by the employer in a plantation, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to a natural calamity, the employer shall be liable to pay compensation under section 74.</p> <p>Explanation.—For the purposes of this section, the expression "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, and includes a person employed on contract for more than sixty days in a year, but does not include—</p> <ol style="list-style-type: none"> a medical officer employed in the plantation; any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed the amount as determined by the appropriate Government, by notification, from time to time; any person employed in the plantation primarily in a managerial or administrative capacity, notwithstanding that his monthly wages do not exceed the amount as determined by the appropriate Government, by notification, from time to time; any person temporarily employed in the plantation in any work relating 	<p>Compensation in case of death of or injury in plantation</p>

	to the construction, development or maintenance of buildings, roads, bridges, drains or canals.	
	<p>76.</p> <p>(1) Subject to the provisions of this Chapter, the amount of compensation shall be,—</p> <p>(a) where death results from the injury, an amount equal to fifty per cent of the monthly wages of the deceased employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more;</p> <p>(b) where permanent total disablement results from the injury, an amount equal to sixty per cent. of the monthly wages of the injured employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time or, whichever is more:</p> <p>Provided that the Central Government may, by notification from time to time, enhance the amount of compensation specified in clauses (a) and (b).</p> <p>Explanation.—For the purposes of clauses (a) and (b), "relevant factor", in relation to an employee means the factor specified in column (3) of the Sixth Schedule relating to factors against the corresponding entry in column (2) thereof, specifying the number of years which are the same as the completed years of the age of the employee on his last birthday immediately preceding the date on which the compensation fell due;</p> <p>(c) where permanent partial disablement results from the injury, —</p> <p>(i) in the case of an injury specified in Part II of the Fourth Schedule, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and</p> <p>(ii) in the case of an injury not specified in the Fourth Schedule, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the medical practitioner) permanently caused by the injury.</p> <p>Explanation 1.—For the purposes of this clause, where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.</p> <p>Explanation 2.—In assessing the loss of earning capacity under sub-clause (ii), the medical practitioner shall have due regard to the percentage of loss of earning capacity in relation to different injuries specified in the Fourth Schedule;</p> <p>(d) where temporary disablement, whether total or partial, results from the injury, a half-monthly payment of the sum equivalent to twenty-five per cent. of monthly wages of the employee, to be paid in accordance with the provisions of sub-section (4).</p> <p>(2) Notwithstanding anything contained in sub-section (1), while fixing the amount of compensation payable to an employee in respect of an accident which occurred outside India, the competent authority shall take into account the amount of compensation, if any, awarded to such employee in accordance with the law of the country in which the</p>	<p>Amount of compensation in case of death of or injury in plantation</p>

	<p>accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the employee in accordance with the law of that country.</p> <p>(3) The Central Government may, by notification, specify for the purposes of sub-section (1), such monthly wages in relation to an employee as it may consider necessary.</p> <p>(4) The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day—</p> <p>(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more; or</p> <p>(ii) after the expiry of a waiting period of three days from the date of disablement, where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever is shorter:</p> <p>Provided that—</p> <p>(a) there shall be deducted from any lump sum or half-monthly payments to which the employee is entitled the amount of any payment or allowance which the employee has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and such payment or allowance which the employee has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation;</p> <p>(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the employee before the accident exceeds half the amount of such wages which he is earning after the accident.</p> <p>(5) The employee shall be reimbursed, the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment, by his employer.</p> <p>(6) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.</p> <p>(7) If the injury of the employee results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the competent authority a sum of not less than fifteen thousand rupees or the amount as may be prescribed by the State Government, for payment of the same to the eldest surviving dependent of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependent or was not living with his dependent at the time of his death, to the person who actually incurred such expenditure:</p> <p>Provided that the Central Government may, by notification from time to time, enhance the amount specified in this sub-section.</p>	
	<p>77.</p> <p>(1) Compensation under section 74 shall be paid as soon as it falls due.</p> <p>(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the competent authority or made to the employee, as the case may be, without prejudice to the right of the employee to make any further claim.</p>	<p>Compensation to be paid when due and damages for default</p>

	<p>(3) Where any employer is in default in paying the compensation due under this Chapter within one month from the date it fell due, the competent authority shall—</p> <p>(a) direct that the employer shall, in addition to the amount of the arrears, pay interest at such rate as may be prescribed by the Central Government, on the amount due; and</p> <p>(b) if in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent. of such amount of arrears by way of damages:</p> <p>Provided that an order for the payment of damages shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause as to why it should not be passed.</p> <p>(4) The interest and the damages payable under sub-section (3) shall be paid to the employee or his dependent, as the case may be.</p>	
	<p>78. For the purposes of calculation of compensation under section 74, In this chapter and for the purposes thereof, the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:—</p> <p>(a) where the employee has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the employee shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;</p> <p>(b) where the whole of the continuous period of service immediately preceding the accident during which the employee was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the employee shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by an employee employed on the same work by the same employer, or, if there was no employee so employed, by an employee employed on similar work in the same locality;</p> <p>(c) in other cases including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b), the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.</p> <p>Explanation. — For the purpose of this section, "a period of service" shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.</p>	<p>Method of calculating monthly wages for purposes of compensation</p>
	<p>79.</p> <p>(1) Any half-monthly payment payable under this Chapter, either under an agreement between the parties or under the order of a competent authority, may be reviewed by the competent authority, on the application either of the employer or of the employee accompanied by the certificate of a medical practitioner that there has been a change in the condition of the employee or, subject to such conditions as may be prescribed by the State Government, on application made without such certificate.</p> <p>(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Chapter, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent</p>	<p>Review</p>

	disablement, be converted to the lump sum to which the employee is entitled less any amount which he has already received by way of half-monthly payments.	
	80. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the competent authority be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the competent authority, as the case may be.	Commutation of half-monthly payments
	<p>81.</p> <p>(1) No payment of compensation in respect of an employee whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the competent authority, and no such payment made directly by an employer shall be deemed to be a payment of compensation:</p> <p>Provided that, in the case of a deceased employee, an employer may make to any dependent advances on account of compensation of an amount equal to three months' wages of such employee and so much of such amount as does not exceed the compensation payable to that dependent shall be deducted by the competent authority from such compensation and repaid to the employer.</p> <p>(2) Any other sum amounting to not less than five thousand rupees which is payable as compensation may be deposited with the competent authority on behalf of the person entitled thereto.</p> <p>(3) The receipt of the competent authority shall be a sufficient discharge in respect of any compensation deposited with him.</p> <p>(4) (a) On the deposit of any money under sub-section (1) as compensation in respect of a deceased employee, the competent authority shall, if he thinks necessary, cause notice to be published or to be served on each dependent in such manner as he thinks fit, calling upon the dependents to appear before him on such date as he may fix for determining the distribution of the compensation.</p> <p>(b) If the competent authority is satisfied after any inquiry which he may deem necessary, that no dependent exists, he shall repay the balance of the money to the employer by whom it was paid.</p> <p>(c) The competent authority shall, on an application by the employer, furnish a statement showing in detail all disbursements made.</p> <p>(5) The compensation deposited in respect of a deceased employee shall, subject to any deduction made under sub-section (1), be apportioned by order by the competent authority among the dependents of the deceased employee or any of them in such proportion as the competent authority thinks fit, or may, in the discretion of the competent authority, be allotted to any one dependent:</p> <p>Provided that the competent authority shall not make any order under this sub-section without hearing the dependents and shall record reasons in the order for the apportionment of such compensation among dependents or any of them, as the case may be.</p> <p>(6) Where any compensation deposited with the competent authority is payable to any person, other than a woman or a person under legal disability, the competent authority may pay the compensation to the person entitled thereto.</p> <p>(7) Where any lump sum deposited with the competent authority is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the competent authority may direct; and where a half-monthly payment is payable to</p>	Distribution of compensation

1 of 1890	<p>any person under a legal disability, the competent authority may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependent of the employee or to any other person, whom the competent authority thinks fit to provide for the welfare of the employee.</p> <p>(8) Where, on application made to him in this behalf or otherwise, the competent authority is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependent or for any other sufficient cause, an order of the competent authority as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependent is to be invested, applied or otherwise dealt with, ought to be varied, the competent authority may make such orders for the variation of the former order as he thinks just in the circumstances of the case:</p> <p>Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause as to why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependent of any sum already paid to him.</p> <p>(9) Where the competent authority varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner as specified in sub-section (10).</p> <p>(10) The competent authority may recover as an arrear of land revenue any amount 10 referred to in sub-section (9), and for such purpose the competent authority shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.</p>	
	<p>82.</p> <p>(1) No claim for compensation shall be entertained by a competent authority unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or, in case of death, within two years from the date of death:</p> <p>Provided that where the accident is the contracting of a disease in respect of which the provisions of sub-section (3) of section 74 are applicable, the accident shall be deemed to have occurred on the first of the days during which the employee was continuously absent from work in consequence of the disablement caused by the disease:</p> <p>Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the employee to absent himself from work, the period of two years shall be counted from the day the employee gives notice of the disablement to his employer:</p> <p>Provided also that if an employee who, having been employed in an employment for a continuous period specified under sub-section (3) of section 74 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected.</p> <p>(2) The want of or any defect or irregularity, in a notice given under sub-section (1) shall not be a bar to the entertainment of a claim—</p> <p>(a) if the claim is preferred in respect of the death of an employee resulting from an accident which occurred on the premises of the employer, or at any place where the employee at the time of the accident was working under the control of the employer</p>	Notice and claim

	<p>or of any person employed by him, and the employee died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or</p> <p>(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed had knowledge of the accident from any other source at or about the time when it occurred:</p> <p>Provided that the competent authority may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time as provided under sub-section (1), if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.</p> <p>(3) Every such notice shall give the name and address of the person injured and shall state the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed.</p> <p>(4) The appropriate Government may require that any class of employers as may be prescribed by that Government shall maintain, at their premises, at which employees are employed, a notice-book, in such form as may be prescribed by that Government, which shall be readily accessible at all reasonable times to any injured employee employed on the premises and to any person acting bonafide on his behalf.</p> <p>(5) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or where possible, electronically or, where a notice-book is maintained, by entry in the notice-book.</p>	
59 of 1988	<p>83.</p> <p>(1) The provisions of this section shall, subject to the modifications specified in this section, apply in case of employees who are—</p> <ol style="list-style-type: none"> masters of ships or seamen; or captain and other members of crew of aircraft; persons recruited by companies registered in India and working as such abroad; persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 as drivers, helpers, mechanics, cleaners or other employees. <p>(2) The notice of the accident and the claim for compensation by a person injured may be served on the following persons, as if they were the employer—</p> <ol style="list-style-type: none"> in case of accident where the person injured is a seamen, but not the master of the ship, on the master of the ship; in case of accident where the person injured is a member of crew of an aircraft, but not the captain of the aircraft, on the captain of the aircraft; in case of persons recruited by companies registered in India and working as such abroad, on the local agent of the company; in case of persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees, on the local agent of the owner of the motor vehicle, in the country of the accident: 	<p>Special provisions relating to accidents occurring outside Indian territory</p>

	<p>Provided that where the accident happened and the disablement commenced on board, the ship or aircraft, as the case may be, then, it shall not be necessary for any seaman or members of the crew of aircraft to give any notice of the accident.</p> <p>(3) The claim of compensation shall be made—</p> <ol style="list-style-type: none"> in the case of the death of an employee referred to in sub-section (1), one year after the news of the death has been received by the claimant; in the case where the ship or the aircraft as the case may be, has been or is deemed to have been lost with all hands, eighteen months of the date on which the ship or the aircraft was, or is deemed to have been, so lost: <p>Provided that the competent authority may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.</p> <p>(4) Where an injured employee referred to in sub-section (1) is discharged or left behind in any part of India or in any foreign country, then, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claim, be admissible in evidence—</p> <ol style="list-style-type: none"> if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made; if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused, and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made. <p>(5) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.</p> <p>(6) Failure to give a notice or make a claim or commence proceedings within the time required by this section shall not be a bar to the maintenance of proceedings under this Chapter in respect of any personal injury, if such proceedings under this Chapter are commenced within one month from the date on which the said certificate of the appropriate Government was furnished to the person commencing the proceedings. (To be checked again)</p>	
	<p>84.</p> <p>(1) Where an employee has given notice of an accident, he, shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a medical practitioner, submit himself for such examination, and any</p>	<p>Medical examination</p>

	<p>employee who is in receipt of a half-monthly payment under this Chapter shall, if so required, submit himself for such examination from time to time: Provided that an employee shall not be required to submit himself for examination by a medical practitioner at more than such frequent interval as may be prescribed by the appropriate Government.</p> <p>(2) If an employee, on being required to do so by the employer under sub-section (1) or by the competent authority at any time, refuses to submit himself for examination by a medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless in the case of refusal, he was prevented by any sufficient cause from so submitting himself.</p> <p>(3) If an employee, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves the vicinity of the place in which he was employed without having been so examined, his right to compensation shall be suspended until he returns and offers himself for such examination:</p> <p>Provided that where such employee proves before the medical practitioner that he could not so submit himself for medical examination due to the circumstances beyond his control and he was also handicapped to communicate such information in writing, the medical practitioner may after recording such reasons in writing, condone the delay and his right to compensation shall be revived as if no such suspension was made.</p> <p>(4) Where an employee, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the competent authority may, if he thinks fit, direct the payment of compensation to the dependants of the deceased employee.</p> <p>(5) Where under sub-section (2) or sub-section (3), a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (ii) of sub-section (4) of section 76, the waiting period shall be increased by the period during which the suspension continues.</p> <p>(6) Where an injured employee has refused to be attended by a medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the employee has not thereafter been regularly attended by a medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the employee had been regularly attended by a medical practitioner, whose instructions he had followed, and compensation, if any, shall be payable accordingly.</p>	
	<p>85.</p> <p>(1) Where any employer in the course of or for the purposes of his trade or business contracts with contractor for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the employer, the employer shall be liable to pay to any employee employed in the execution of the work any compensation, which he would have been liable to pay if that employee had been immediately employed by him; and that the amount of</p>	Contracting

	<p>compensation shall be calculated with reference to the wages of the employee under the employer by whom he is immediately employed.</p> <p>(2) Where the employer is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the employee could have recovered the compensation and where a contractor who is himself an employer is liable to pay compensation or to indemnify an employer under this section, he shall be entitled to be indemnified by any person standing to him in relation of a contractor from whom the employee could have recovered the compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the competent authority.</p> <p>(3) Nothing in this section shall be construed as preventing an employee from recovering compensation referred to in sub-section (2) from the contractor instead of the employer.</p> <p>(4) The provisions of this section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the employer has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.</p>	
	<p>86. Where an employee has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 85 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.</p>	<p>Remedies of employer against stranger</p>
	<p>87.</p> <p>(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Chapter to any employee, then, in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the employee, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the employee than they would have been under the employer.</p> <p>(2) If the liability of the insurers to the employee is less than the liability of the employer to the employee, the burden of proof shall lie on the employee for the balance in the insolvency proceedings or liquidation.</p> <p>(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premium), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the employee:</p> <p>Provided that the provisions of this sub-section shall not apply in any case in which the employee fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.</p>	<p>Insolvency of employer</p>

<p>31 of 2016 18 of 2013</p>	<p>(4) There shall be deemed to be included among the debts which under section 53 of the Insolvency and Bankruptcy Code, 2016 or under section 320 of the Companies Act, 2013 are in the distribution of the assets of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation, the liability accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and the provisions of that Code and Act shall have effect accordingly.</p> <p>(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if applications were made for that purpose under section 80, and a certificate of the competent authority as to the amount of such sum shall be conclusive proof thereof.</p> <p>(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).</p> <p>(7) The provisions of this section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company. (to be examined with reference to IBC)</p>	
	<p>88.</p> <p>(1)—Where a competent authority receives information from any source that an employee has died as a result of an accident arising out of and in the course of his employment, he may send by registered post or where possible, electronically a notice to the employee's employer requiring him to submit, within thirty days of the service of the notice, a statement, in such form as may be prescribed by the appropriate Government, giving the circumstances attending the death of the employee, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death and a copy of such notice shall also be sent by the competent authority in the same manner to the dependents of such employee ascertained by the competent authority. in such manner as may be prescribed by of the appropriate Government.</p> <p>(2)—If the employer is of the opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.</p> <p>(3)—If the employer is of the opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.</p> <p>(4)—Where the employer has so disclaimed liability, the competent authority, after such inquiry as he may think fit, may inform any of the dependents of the deceased employee, that it is open to the dependents to prefer a claim for compensation, and may give them such other further information as he may think fit.</p> <p>(5)—Where in the opinion of the competent authority, a dependent of the deceased employee is not in a position to engage an advocate to file a claim for compensation; the competent authority may provide an advocate to such dependent, from the panel of advocates, maintained by the appropriate Government. in such manner as may be prescribed from the panel of advocates maintained by the appropriate</p>	<p>Power to require from employers statements regarding fatal accidents</p>

	Government for such purpose.	
9 of 1872	<p>89.</p> <p>(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman, or a person under a legal disability, a memorandum thereof shall be sent by the employer to the competent authority, who shall, on being satisfied as to its genuineness, record the memorandum in a register, electronically or otherwise, in such manner as may be prescribed by the appropriate Government:</p> <p>Provided that—</p> <p>(a) no such memorandum shall be recorded before seven days after communication by the competent authority of notice to the parties concerned;</p> <p>(b) the competent authority may at any time rectify the register;</p> <p>(c) where it appears to the competent authority that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, the competent authority may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as the competent authority thinks just in the circumstances.</p> <p>(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Code notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force.</p> <p>(3) Where a memorandum of any agreement, the registration of which is required under this section, is not sent to the competent authority as required by this section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Chapter, and notwithstanding anything contained in the proviso to sub-section (1) of section 76, shall not, unless the competent authority otherwise directs, be entitled to deduct more than half of any amount paid to the employee by way of compensation whether under the agreement or otherwise.</p>	Registration of agreements
	<p>90.</p> <p>(1) If any question arises in any proceedings under this Chapter as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not an employee or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a competent authority.</p> <p>(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Chapter required to be settled, decided or dealt with by a competent authority or to enforce any liability incurred under this Chapter.</p>	Reference to competent authority
	<p>91.</p> <p>(1) The State Government may, by notification, appoint any person who is or has 10 been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel</p>	Appointment of competent authority

	<p>management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the appropriate Government to be a competent authority for Employee's Compensation for such area as may be specified in the notification.</p> <p>(2) Where more than one competent authority has been appointed for any area, the State Government may, by general or special order, regulate the distribution of business amongst them.</p> <p>(3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.</p>	
	<p>92.</p> <p>(1) Where any matter under this Chapter is to be done by or before a competent authority, the same shall, subject to the provisions of this Chapter and in the manner prescribed in this behalf by the State Government, be done by or before the competent authority for the area in which—</p> <p>(a) the accident took place which resulted in the injury; or</p> <p>(b) the employee or in case of his death, the dependant claiming the compensation ordinarily resides; or</p> <p>(c) the employer has his registered office:</p> <p>Provided that no matter shall be processed before or by a competent authority, other than the competent authority having jurisdiction over the area in which the accident took place, without his giving notice electronically or otherwise in the manner prescribed by the Central Government to the competent authority having jurisdiction over the area and the State Government concerned:</p> <p>Provided further that, where the employee, being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or an employee in a motor vehicle or a company, meets with the accident outside India, any such matter may be done by or before a competent authority for the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.</p> <p>(2) If a competent authority, other than the competent authority with whom any money has been deposited under section 81, proceeds with a matter under this Chapter, the former may for the proper disposal of the matter call for transfer of any records or moneys remaining with the latter and on receipt of such a request, he shall comply with the same.</p> <p>(3) If a competent authority is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other competent authority, whether in the same State or not, he may, subject to rules made under this Code relating to this Chapter, order such matter to be transferred to such other competent authority either for report or for disposal, and, if he does so, shall forthwith transmit to such other competent authority all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the manner as may be prescribed by the Central Government any money remaining in his hands or invested by him for the benefit of any party to the proceedings:</p> <p>Provided that the competent authority shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard.</p> <p>(4) The competent authority to whom any matter is so transferred shall, subject to rules made under this Code relating to this Chapter, inquire therein to and, if the matter was transferred for report, return his</p>	<p>Venue of proceedings and transfer</p>

	<p>report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.</p> <p>(5) On receipt of a report from a competent authority to whom any matter has been transferred for report under sub-section (3), the competent authority by whom it was referred shall decide the matter referred to in conformity with such report.</p> <p>(6) The State Government may transfer any matter from any competent authority appointed by it to any other competent authority appointed by it.</p>	
	<p>93.</p> <p>(1) Where an accident occurs in respect of which liability to pay compensation under this Chapter arises, a claim for such compensation may, subject to the provisions of this Chapter, be made before the competent authority.</p> <p>(2) Subject to the provisions of sub-section (1), no application for the settlement of any matter by competent authority, other than an application by a dependant or joint application by dependants for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.</p> <p>(3) An application to a competent authority for claim under sub-section (1) or settlement under sub-section (2) may be made electronically or otherwise in such form and in such manner accompanied by such fee, if any, as may be prescribed by the Central Government.</p> <p>(4) The time limit for the disposal of applications under this section and the costs incidental to the proceedings under this section to be imposed by the competent authority shall be such as may be prescribed by the State Government.</p>	Form of application
	<p>94.</p> <p>(1) Where any sum has been deposited by an employer as compensation payable in respect of an employee whose injury has resulted in death, and in the opinion of the competent authority such sum is insufficient, the competent authority may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.</p> <p>(2) If the employer fails to show cause to the satisfaction of the competent authority, the competent authority may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.</p>	Power of competent authority to require further deposit in cases of fatal accident
<p>5 of 1908</p> <p>2 of 1974</p>	<p>95. The competent authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such competent authority is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the competent authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973.</p>	Powers and procedure of competent authority
	<p>96. Any appearance, application or act required to be made or done by any person before or to a competent authority (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector-cum-Facilitator appointed under sub-section (1) of section 122 or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the competent authority, by any other person so authorised.</p>	Appearance of parties

	<p>97. The competent authority shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be authenticated under the hand of the competent authority or in the manner as may be prescribed by the State Government and shall form part of the record:</p> <p>Provided that, if the competent authority is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:</p> <p>Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.</p>	Method of recording evidence
	<p>98. A competent authority may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.</p>	Power to submit cases
36 of 1963	<p>99.</p> <p>(1) An appeal shall lie to the High Court from the following orders of a competent authority under this Chapter, namely:—</p> <p>(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;</p> <p>(b) an order awarding interest or penalty by way of damages under section 77;</p> <p>(c) an order refusing to allow redemption of a half-monthly payment;</p> <p>(d) an order providing for the distribution of compensation among the dependants of a deceased employee, or disallowing any claim of a person alleging himself to be such dependant;</p> <p>(e) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 85; or</p> <p>(f) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:</p> <p>Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order as referred to in clause (c), unless the amount in dispute in the appeal is not less than ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify:</p> <p>Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the competent authority, or in which the order of the competent authority gives effect to an agreement come to by the parties:</p> <p>Provided also that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the competent authority to the effect that the appellant has deposited with him the amount payable under the order appealed against.</p> <p>(2) The period of limitation for an appeal under this section shall be sixty days from the date of passing of the order.</p> <p>(3) The provisions of section 5 of the Limitation Act, 1963, shall be applicable to appeal under this section.</p>	Appeal against order of competent authority
	<p style="text-align: center;">CHAPTER VIII</p> <p style="text-align: center;">SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS</p>	
	<p>100.</p> <p>(1) There shall be levied and collected a cess for the purposes of social security and welfare of building workers at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by</p>	Levy and collection of cess

	<p>notification, from time to time specify.</p> <p>Explanation.— For the purposes of this sub-section, the cost of construction shall not include:—</p> <ol style="list-style-type: none"> (a) the cost of land; and (b) any compensation paid or payable to an employee or his kin under Chapter VII. <p>(2) The cess levied under sub-section (1) shall be collected from every employer undertaking building or other construction work in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority or such other authority notified by the State Government is required, as may be prescribed by the Central Government.</p> <p>(3) The proceeds of the cess collected under sub-section (2) shall be deposited by the local authority or such other authority notified by the State Government to the Board in such manner as may be prescribed by the Central Government.</p> <p>Explanation.—For the purposes of this Chapter, the expression "Board" means the Building and other construction Workers' Welfare Board constituted under section 7.</p> <p>(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), the cess leviable under this Chapter including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed by the Central Government on the basis of the quantum of the building or other construction work involved.</p>	
	<p>101. If any employer fails to pay any amount of cess payable under section 100 within such time as may be prescribed by the appropriate Government, such employer shall be liable to pay interest at such rate as may be prescribed by the Central Government, on the amount of cess, to be paid, for the period from the date on which such payment is due till such amount is actually paid.</p>	Interest payable on delay in payment of cess
	<p>102. Notwithstanding anything contained in this Chapter, the Central Government may, by notification, exempt any employer or class of employers in a State from the payment of cess payable under this Chapter where such cess is already levied and payable under any corresponding law in force in that State.</p>	Power to exempt from cess
	<p>103.</p> <ol style="list-style-type: none"> (1) The employer shall, within sixty days or such period as may be notified by the appropriate Government of the completion of his each building and other construction work, pay such cess (adjusting the advance cess already paid under section 100) payable under this Chapter on the basis of his self-assessment on the cost of construction worked out on the basis of the documents and in the manner prescribed by the Central Government and after such payment of cess, he shall file a return under clause (d) of section 123. (2) If the officer or the authority to whom or to which the return has been filed under sub-section (1) finds any discrepancy in the payment under the self-assessment and the payment required under the return referred to in that sub-section, then, he or it shall, after making or causing to be made such inquiry as he or it thinks fit and after such inquiry make the appropriate assessment order. (3) An order of assessment made under sub-section (1) or sub-section (2) shall specify the date within which the cess shall be paid by the employer, if any. 	Self- assessment of cess
	<p>104. If any amount of cess payable by any employer under section 103 is not</p>	Penalty for non-

	<p>paid within the date specified in the order of assessment made under sub-section (2) of section 103, it shall be deemed to be in arrears and the authority prescribed by the Central Government in this behalf may, after making such inquiry as it deems fit, impose on such employer a penalty not exceeding the amount of cess:</p> <p>Provided that, before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.</p>	<p>payment of cess within the specified time</p>
	<p>105.</p> <p>(1) Any employer aggrieved by an order of assessment made under section 103 or by an order imposing penalty made under section 104 may, within such time as may be prescribed by the Central Government, appeal to such appellate authority in such form and in such manner as may be prescribed by the Central Government.</p> <p>(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed by the appropriate Government.</p> <p>(3) After the receipt of any appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.</p> <p>(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.</p>	<p>Appeal to appellate authority</p>
	<p>106. Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be registered by the officer authorised by the Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government.</p>	<p>Registration of building workers as beneficiaries</p>
	<p>107.</p> <p>(1) A building worker who has been registered as a beneficiary under section 106 shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:</p> <p>Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due to any personal injury caused to the building worker by accident arising out of and in the course of his employment.</p> <p>(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, then, he shall be eligible to get such benefits as may be prescribed by the Central Government.</p> <p>Explanation.—For computing the period of three years under this sub-section as a beneficiary registered with a Board, there shall be added any period for which a person had been a beneficiary registered with any other Board immediately before his registration with the Board.</p>	<p>Cessation as a beneficiary</p>
	<p>108.</p> <p>(1) There shall be constituted by a Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto</p> <p>(a) the amount of any cess levied under sub-section (1) of section 100;</p> <p>(b) any grants and loans made to the Board by the Central Government;</p> <p>(c) all sums received by the Board from such other sources as may be decided by the Central Government.</p> <p>(2) The Building and other Construction Worker Welfare Fund shall be</p>	<p>Building and Other Construction Workers' Welfare Fund and its application</p>

	<p>applied for meeting—</p> <ul style="list-style-type: none"> (a) expenses of the Board in the discharge of its functions under sub-section (6) of section 7; and (b) salaries, allowances and other remuneration of the members, officers and other employees for the Board; (c) expenses on objects and for purposes authorised by this Code. <p>(3) No Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year.</p>	
	<p style="text-align: center;">CHAPTER IX</p> <p style="text-align: center;">SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS</p>	
18 of 2013	<p>109.</p> <p>(1) The Central Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers, including audio visual workers, beedi workers, non-coal workers, on matters relating to —</p> <ul style="list-style-type: none"> (i) life and disability cover; (ii) health and maternity benefits; (iii) old age protection; (iv) education; (v) housing; and (vi) any other benefit as may be determined by the Central Government. <p>(2) The State Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—</p> <ul style="list-style-type: none"> (i) provident fund; (ii) employment injury benefit; (iii) housing; (iv) educational schemes for children; (v) skill up-gradation of workers; (vi) funeral assistance; and (vii) old age homes. <p>(3) Any scheme notified by the Central Government under sub-section (1) , may be—</p> <ul style="list-style-type: none"> (i) wholly funded by the Central Government; or (ii) partly funded by the Central Government and partly funded by the State Government; or (iii) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme formulated by the Central Government; or (iv) funded from any source including corporate social responsibility fund within the meaning of Companies Act, 2013 or any other such source as may be specified in the scheme. <p>(4) The Central Government may, by notification, constitute a Social Security Fund or Funds for provision of social security and welfare to the unorganised workers, platform workers or gig workers or any class</p>	<p>Framing of schemes for unorganised workers, and constitution of social security funds etc.</p>

	<p>of such workers comprising of the funding received under sub-section (3) or from any other source as may be notified by the Central Government.</p> <p>(5) The Social Security Fund or Funds as constituted under sub-section (4) shall be administered by the Central Government in such manner as may be prescribed by the Central Government.</p> <p>(6) Every scheme notified by the Central Government under sub-section (1) shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to all or any of the following, namely:—</p> <ul style="list-style-type: none"> (i) scope of the scheme; (ii) authority to implement the scheme; (iii) beneficiaries of the scheme; (iv) resources of the scheme; (v) agency or agencies that will implement the scheme; (vi) redressal of grievances; and (vii) any other relevant matter, <p>and a special purpose vehicle may also be constituted by the Central Government for the purpose of implementation of any such scheme.</p>	
	<p>110.</p> <p>(1) Any scheme notified by the State Government under sub-section (2) of Section 109 may be—</p> <ul style="list-style-type: none"> (a) wholly funded by the State Government; or (b) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the State Government; or (c) funded from any source including corporate social responsibility fund referred to in clause (iv) of sub-section (3) of section 109 or any other such source as may be specified in the scheme. <p>(2) The State Government may seek financial assistance from the Central Government for the schemes formulated by it.</p> <p>(3) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.</p>	Funding of State Government schemes.
	<p>111. The Government formulating and notifying the scheme under this Chapter shall provide therein the form and manner of keeping the records electronically or otherwise relating to the scheme and the authority by whom such records shall be maintained:</p> <p>Provided that such record shall, as far as may be possible, bear continuous number for the purpose of proper management of the scheme and for avoiding any duplication and overlapping in records.</p>	Record keeping.
	<p>112.</p> <p>(1) The Central Government or the State appropriate Government may set up a toll free call centre or helpline or such workers facilitation centres as may be considered necessary from time to time to perform any or more of to perform the following functions, namely:—</p> <ul style="list-style-type: none"> (a) to disseminate information on available social security schemes for the unorganized workers, gig workers and platform workers; (b) to facilitate filling, processing and forwarding of application 	Helpline and Workers facilitation centres.

	<p>forms for registration of unorganised workers, gig workers and platform workers;</p> <p>(c) to assist unorganized, gig workers and platform workers; to obtain registration from the authority specified in the scheme; and</p> <p>(d) to facilitate the enrolment of the registered unorganised workers gig workers and platform workers in social security schemes.</p>	
	<p>113.</p> <p>(1) Every unorganised worker, gig worker or platform worker shall be eligible required to be registered registration, for the purposes of this Chapter, subject to the fulfilment of the following conditions, namely:—</p> <p>(a) he has completed sixteen years of age or such age as may be prescribed by the Central Government;</p> <p>(b) he has submitted a self-declaration electronically or otherwise in such form and in such manner and to such authority containing such information as may be prescribed by the Central Government.</p> <p>(2) Every eligible unorganised worker, gig worker or platform worker under sub-section (1) shall make an application for registration in such form along with such documents including Aadhaar number, to such registering authority as may be prescribed by the Central Government and such unorganised worker shall be registered by such registering authority by shall be assigned assigning a distinguishable number to his application; or by linking the application to the Aadhaar number;</p> <p>Provided that the system of electronic registration maintained by the appropriate Government shall also provide for self-registration by any unorganised worker in such manner as may be prescribed by the Central Government.</p> <p>(3) A registered unorganised worker, gig worker or platform worker shall be eligible to avail the benefit of a scheme framed under this Chapter, if any, as may be specified in the scheme.</p> <p>(4) The Central Government, or as the case may be, the State Government shall make such contribution in a scheme as may be specified therein.</p> <p>Explanation- For the purposes of this section, the expression 'Aadhaar' shall have the same meaning as is assigned to it in Section 143.</p>	<p>Registration of unorganized workers, gig workers and platform workers.</p>
	<p>114.</p> <p>(1) The Central Government may formulate and notify, from time to time, suitable social security schemes for gig workers and platform workers on matters relating to—</p> <p>(d) life and disability cover;</p> <p>(e) accident insurance;</p> <p>(f) health and maternity benefits;</p> <p>(g) old age protection;</p> <p>(h) crèche;</p> <p>(i) any other benefit as may be determined by the Central Government.</p> <p>(2) Every scheme formulated and notified under sub-section (1) may provide for—</p>	<p>Schemes for gig workers and platform workers.</p>

	<p>(a) the manner of administration of the scheme;</p> <p>(b) the agency or agencies for implementing the scheme;</p> <p>(c) the role of aggregators in the scheme;</p> <p>(d) the sources of funding of the scheme; and</p> <p>(e) any other matter as the Central Government may consider necessary for the efficient administration of the scheme.</p> <p>(3) Any scheme notified by the Central Government under sub-section(1), may be—</p> <p>(a) wholly funded by the Central Government; or</p> <p>(b) partly funded by the Central Government and partly funded by the State Government; or</p> <p>(c) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the aggregators, as may be specified in the scheme formulated by the Central Government; or</p> <p>(d) funded from any source including corporate social responsibility fund within the meaning of Companies Act, 2013 or any other such source as may be specified in the scheme.</p> <p>(4) The Central Government may, by notification, constitute a Gig and Platform Workers’ Social Security Fund for the purposes of social security and welfare of gig workers and platform workers, or any class of such workers, comprising of the funding received under sub-section (3) or from any other source as may be notified by the Central Government.</p> <p>(5) The Gig and Platform Workers’ Social Security Fund as constituted under sub-section (4) shall be administered by the Central Government in such manner as may be prescribed by the Central Government.</p> <p>(6) The contribution to be paid by the aggregators into the Gig and Platform Workers’ Social Security Fund shall be at such rate not exceeding two percent, but not less than one percent, of the annual turnover from operations of an aggregator, as may be specified in the Seventh Schedule.</p> <p>Provided that the contribution by an aggregator shall not exceed five percent of the amount paid or payable by an aggregator to gig workers and platform workers.</p> <p>Explanation: For the purposes of this sub-section, the annual turnover of an aggregator shall not include any tax, levy, cess, paid or payable to the Government.</p> <p>(7) The date of commencement of contribution from aggregator under this section shall be notified by the Central Government.</p> <p>(8) (i) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Board for the purposes of welfare of gig workers and platform workers under the provisions of this Code, to be called the Gig and Platform Workers’ Board which shall consist of the following members, namely:-</p> <p>(a) a chairperson to be the minister in charge of the Ministry of Labour and Employment of the Government of India;</p> <p>(b) a vice-chairperson to be the Secretary in charge of the Ministry of Labour and Employment of the Government of India;</p> <p>(c) five representatives of the aggregators as Central Government</p>	
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	<p>may nominate;</p> <p>(d) five representatives of the gig worker and platform workers as Central Government may nominate;</p> <p>(e) Director General of the Corporation;</p> <p>(f) Central Provident Fund Commissioner of the Central Board;</p> <p>(g) such expert members as the Central Government may consider appropriate;</p> <p>(h) five representatives of the State Governments by such rotation as the Central Government may consider appropriate;</p> <p>(i) two any other members which Central Government may nominate;</p> <p>(j) Joint Secretary to the Government of India in the Ministry of Labour and Employment, who shall be the member secretary to the Board.</p> <p>(ii) The Gig and Platform Workers' Board shall be a body corporate, having perpetual succession and a common seal and shall by the said name sue or be sued.</p> <p>(iii) The terms and conditions, including tenure of office, subject to which a member of the Gig and Platform Workers' Board shall discharge their respective duties may be such as may be prescribed by the Central Government.</p> <p>(iv) The Gig and Platform Workers' Board shall perform such functions as may be prescribed by the Central Government.</p> <p>(v) Subject to the rules made in this behalf by the Central Government, the procedure of transaction of the business of the Gig and Platform Workers' Board shall be determined by its Chairperson.</p> <p>(9) The Central Government may prescribe for the followings, namely :-</p> <p>(a) the authority to collect and to expend the proceeds of contribution collected under sub-section 6;</p> <p>(b) the rate of interest to be paid by an aggregator in case of delayed payment, less payment or non-payment of contribution which shall not exceed ten percent per annum;</p> <p>(c) the exemption of contribution by notification by Central Government to an aggregator or class of aggregators and the conditions of such exemption;</p> <p>(d) self-assessment of contribution by aggregators;</p> <p>(e) conditions for cessation of a gig worker or a platform worker;</p> <p>(f) any other matter relating to smooth functioning of the social security scheme notified under this section.</p> <p>Explanation: If an aggregator has more than one business entity, each such entity shall be treated as a separate entity or aggregator for the purposes of under this section.</p>	
	<p>CHAPTER X</p> <p>FINANCE AND ACCOUNTS</p>	
	<p>115. Each of the Social Security Organisations shall maintain proper accounts of its income and expenditure in such form and in such manner as the appropriate Government may, after consultation with the Comptroller and Auditor-General of India, specify.</p>	Accounts
	<p>116.</p> <p>(1) The accounts of each of the Social Security Organisations shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be</p>	Audit

	<p>payable by the respective Social Security Organisation to the Comptroller and Auditor-General of India.</p> <p>(2) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of a Social Security Organisation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and to inspect any of the offices of the Social Security Organisation.</p> <p>(3) The accounts of a Social Security Organisation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Social Security Organisation which shall along with its comments on the audit report of the Comptroller and Auditor-General of India forward the same to the appropriate Government.</p>	
	<p>117.</p> <p>(1) Each of the Social Security Organisations shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the appropriate Government before such date as may be fixed by it in that behalf.</p> <p>(2) The budget shall contain provisions adequate in the opinion of the appropriate Government for the discharge of the liabilities incurred by the Social Security Organisation and for the maintenance of a working balance.</p>	Budget estimates
	<p>118.</p> <p>(1) Each of the Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities along-with and the budget finally adopted by the Social Security Organisation.</p> <p>(2) The appropriate Government shall cause a copy of the annual report, budget and the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the respective social security organisation thereon to be laid before each House of Parliament or the State legislature, as the case may be.</p>	Annual report
	<p>119. Each of the fund maintained by a Social Security Organisation or by an establishment under this Code shall have a valuation of its assets and liabilities made by a valuer or actuary, as the case may be, appointed, with the prior approval of the appropriate Government, by such Social Security Organisation or the establishment, as the case may be, in the following manner, namely:—</p> <p>(a) in case of Central Board, annually;</p> <p>(b) in case of Corporation, once in every three years;</p> <p>(c) in case of any other Social Security Organisation or establishment, as specified by the appropriate Government, by order:</p> <p>Provided that the appropriate Government, if it considers necessary, may direct such valuation to be made at such intervals other than provided in this section.</p>	Valuation of assets and liabilities
	<p>120.</p> <p>(1) A Social Security Organisation may, subject to such conditions as may be prescribed by the appropriate Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation is established.</p>	Holding of property, etc.

	<p>(2) Subject to such conditions as may be prescribed by the appropriate Government, a Social Security Organisation may, from time to time invest any moneys vested in it, which are not immediately required for expenses properly defrayable and may, subject to as aforesaid, from time to time re-invest or realise such investments.</p> <p>Provided that in case of Provident Fund, Pension Fund or Insurance Fund under Chapter III, such investment, re-investment or realization shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.</p> <p>(3) Each of the Social Security Organisations may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, raise loans and take measures for discharging such loans.</p> <p>(4) Each of the Social Security Organisations, may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, constitute for the benefit of its officers and staff or any class of them, such provident or other benefit funds as it may think fit.</p> <p>Provided that in case of officers and staff of the Central Board, the terms shall be specified in the Provident Fund Scheme.</p>	
	<p>121. Subject to the conditions as may be prescribed by the appropriate Government, where any of the Social Security Organisations is of the opinion that the amount of contribution, cess, interest and damages due to it, under this Code, is irrecoverable, the concerned Social Security Organisation may sanction the writing off of the said amount in such manner as may be prescribed by the appropriate Government.</p> <p>Provided that in case of Provident Fund, Pension Fund or Insurance Fund under Chapter III, such writing off shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.</p>	Writing off of losses
	<p style="text-align: center;">CHAPTER XI AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY</p>	
	<p>122.</p> <p>(1) The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters, and the appropriate Government for the purposes of other provisions of this Code, may, by notification, appoint Inspector-cum-Facilitators who shall discharge his duties under this code and exercise the powers conferred on them under sub-section (6) in accordance with the inspection scheme referred to in sub-section (2).</p> <p>(2) The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters and the appropriate Government in respect of other provisions of this Code, may, by notification, lay down an inspection scheme which may provide for generation of a web-based inspection and calling of information relating to the inspection under this Code electronically and such scheme shall, inter alia, have provisions to cater to special circumstances for assigning inspections and calling for information from the establishment or any other person.</p> <p>(3) Without prejudice to the provisions of sub-section (2), the Central Government for the purposes of Chapter III and Chapter IV and the other provisions in this Code relating to those Chapters and the appropriate Government in relation to other provisions of this Code, may, by notification, confer such jurisdiction of randomised selection of</p>	Appointment of Inspector-cum-Facilitators and their powers

	<p>inspection for the purposes of this Code, to the Inspector-cum-Facilitators as may be specified in such notification.</p> <p>(4) Without prejudice to the powers of the Central Government or the appropriate Government, as the case may be, under this section, the inspection scheme may be designed taking into account, inter alia, the following factors, namely:—</p> <ul style="list-style-type: none"> (a) assignment of unique number to each establishment (which will be same as the registration number allotted to that establishment), each Inspector-cum-Facilitator and each inspection in such manner as may be notified for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code as aforesaid, by the appropriate Government; (b) timely uploading of inspection reports in such manner and subject to such conditions as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code as aforesaid, by the appropriate Government; (c) provisions for special inspections based on such parameters as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code as aforesaid, by the appropriate Government; and (d) the characteristics of employment relationships, the nature of work and characteristics of the workplaces based on such parameters as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code as aforesaid, by the appropriate Government. <p>(5) The Inspector-cum-Facilitator may—</p> <ul style="list-style-type: none"> (a) advise the employers and employees relating to compliance with the provisions of this Code; and (b) inspect the establishments as assigned to him under the provisions of this Code, subject to the instructions or guidelines issued by the appropriate Government from time to time. <p>(6) Subject to the provisions of sub-section (4), the Inspector-cum-Facilitator may,—</p> <ul style="list-style-type: none"> (a) examine any person who is found in any premises of the establishment, whom the Inspector-cum-Facilitator has reasonable cause to believe, is an employee of the establishment; (b) require any person to produce any document or to give any information, which is in his power to give with respect to the names and addresses of the persons; (c) search, seize or take copies of such register, record of wages or notices or portions thereof as the Inspector-cum-Facilitator may consider relevant in respect of an offence under this Code and which the Inspector-cum-Facilitator has reason to believe has been committed by the employer; (d) bring to the notice of the appropriate Government defects or abuses not covered by any law for the time being in force; and (e) exercise such other powers as may be prescribed by the 	
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45 of 1860 2 of 1974	<p>appropriate Government.</p> <p>(7) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator for the purposes of sub-section (5) (6) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.</p> <p>(8) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure for the purposes of sub-section (5) (6), as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.</p>	
	<p>123. An employer ef or an establishment shall—</p> <p>(a) maintain records and registers in the form prescribed by the appropriate Government, electronically or otherwise, containing such particulars and details with regard to persons employed, muster roll, wages and such other particulars and details, in such manner, as may be prescribed by the appropriate Government including—</p> <ul style="list-style-type: none"> (i) number of days for which work performed; (ii) number of hours of work performed by the employees; (iii) wage paid; (iv) leave, leave wages, wages for overtime work and attendance; (v) employees identification number, by whatever nomenclature it may be called; (vi) number of dangerous occurrences, accidents, injuries in respect of which compensation has been paid by the employer and the amount of such compensation relating to Chapter IV and Chapter VII, respectively; (vii) statutory deductions made by employer from the wages of an employee in respect of Chapter III and Chapter IV; (viii) details as to cess paid in respect of building and other construction work; (ix) total number of employees (regular, contractual or fixed term employment) on the day specified; (x) persons recruited during a particular period; (xi) occupational details of the employees; and (xii) vacancies for which suitable candidates were not available during the specified period. <p>(b) display notices at the work places of the employees in such manner and form as may be prescribed by appropriate Government;</p> <p>(c) issue wage slips to the employees, in electronic forms or otherwise; and</p> <p>(d) file such return electronically or otherwise to such officer or authority in such manner and during such periods as may be prescribed by the appropriate Government:</p> <p style="color: red;">Provided that matters to be provided under the rules required to be made under this section relating to Chapter III shall, instead of providing them in rules to be made by the Central Government, be provided in Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.</p> <p style="color: red;">Provided further that the forms of records and registers and that of the return to be filed under Chapter IV shall be specified in the regulations.</p>	Maintenance of records, registers, returns, etc.
	<p>124. No employer in relation to an establishment to which this Code or any scheme framed thereunder applies shall, by reason only of his liability for the payment of any contribution under this Code, or any charges thereunder reduce whether directly or indirectly, the wages of any employee to whom the</p>	Employer not to reduce wages, etc.

	provisions of this Code or any scheme framed thereunder applies or the total quantum of benefits to which such employee is entitled under the terms of his employment, express or implied.	
	<p>125.</p> <p>(1) The Central Government may, by notification, authorise, such officers of the Central Board or the Corporation, as the case may be, not below the rank of Group A officer of that Government, to function as the Authorised Officers for the purposes of Chapter III or Chapter IV, as the case may be, who may, by order—</p> <ol style="list-style-type: none"> in a case where a dispute arises regarding the applicability of Chapter III or Chapter IV, as the case may be, to an establishment, decide such dispute; and determine the amount due from any employer under any provision of Chapter III or Chapter IV, as the case may be, or the schemes made under such Chapter; and for any of the purposes relating to clause (a) and clause (b), conduct such inquiry, as he may deem necessary for such purposes: <p>Provided that no proceeding under this sub-section shall be initiated after the expiry of the period of five years from the date on which the dispute referred to in clause (a) is alleged to have been arisen or, as the case may be, the amount referred to in clause (b) is alleged to have been due from an employer.</p> <p>(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the inquiry under sub-section (1), as far as practicable, shall be held on day-to-day basis and endeavour shall be made to ensure that the inquiry is concluded within a period of two years:</p> <p>Provided that where the inquiry is not concluded within the said period of two years, the Authorised Officer conducting such inquiry shall record the circumstances and reasons for not having concluded so and submit the circumstances and reasons so recorded to the Central Provident Fund Commissioner or the Director General of the Corporation as the case may be, or such other officer authorised by him in this behalf:</p> <p>Provided further that the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, after considering the circumstances and the reasons which have been submitted by the Authorised Officer may grant an extension of for a period upto one year to conclude the said inquiry:</p> <p>Provided also that the inquiries which are pending immediately before the date of commencement of this Code shall be concluded by the Authorised Officer within a period not exceeding two years from the date of such commencement.</p> <p>(3) The Authorised Officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry have the same powers as are vested in a court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:—</p> <ol style="list-style-type: none"> enforcing the attendance of any person or examining him on oath; requiring the discovery and production of documents; receiving evidence on affidavit; and issuing commissions for the examination of witnesses, and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code. <p>(4) No order shall be made under sub-section (1), unless the employer concerned is given a reasonable opportunity of representing his case.</p> <p>(5) Where the employer, employee or any other person required to attend</p>	<p>Assessment and determination of dues from employer</p>
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	<p>the inquiry under sub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so by the Authorised Officer conducting the inquiry, such inquiry officer may decide the applicability of the relevant provisions of this Code or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.</p> <p>(6) Where an order under sub-section (1) is passed against an employer ex parte, he may, within three months from the date of communication of such order, apply to the Authorised Officer who conducted the inquiry for setting aside such order and if the Authorised Officer is satisfied that the show cause notice was not duly served or that such employer was prevented by any sufficient cause from appearing when the inquiry was held, the Authorised Officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry:</p> <p>Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the Authorised Officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the Authorised Officer.</p> <p>Explanation.—Where an appeal has been preferred under this Code against an order passed ex parte and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the ex parte order.</p> <p>(7) No order passed under this section shall be set aside on any application under sub-section (4) (6) unless notice thereof has been served on the opposite party.</p>	
	<p>126.</p> <p>(1) Any person considering himself aggrieved by an order made under section 125, but from which no appeal has been preferred under section 127, and if such person, on account of some mistake or error apparent on the face of the record, desires to obtain a review of such order made against him, may apply for a review of that order to the authorized officer who made the order. from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order made against him, may apply for a review of that order to the Authorised Officer who made the order:-</p> <p>Provided that such Authorised Officer may also on his own motion review his order if he is satisfied that it is necessary so to do in the interest of justice:-</p> <p>(2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be prescribed by the Central Government.</p> <p>(3) Where it appears to the Authorised Officer, receiving an application for review under sub-section (2), that there is no sufficient ground for review, he shall reject the application.</p> <p>(4) Where the Authorised Officer is of the opinion that such application for review may be granted, he shall grant the same:-</p> <p>Provided that no such application shall be granted,—</p> <p>(a) without previous notice to all the opposite parties in the application to enable them to appear and be heard in support of the order against which the review is filed; and</p>	<p>Review of orders passed under section 125</p>

	<p>(b) on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.</p>	
	<p>127. If any employer person is not satisfied aggrieved by an with the order made under this section 125, he may prefer an appeal to an appellate authority as may be prescribed by the Central Government, within sixty days of the date of such order on deposit of twenty five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the concerned Social Security Organisation:-</p> <p>Provided that the appellate authority shall decide the appeal within a period of one year from the date on which the appeal has been preferred.</p> <p>Provided further that in case of Chapter IV, as who would be appointed as an appellate authority shall be specified in the regulations.</p> <p>Provided that such order made under section 125 shall not be brought into operation for such period as may be notified by the Central Government to provide convenience to the employer person who has preferred appeal. to prefer appeal:</p> <p>Provided further that if the employer person finally succeeds in the appeal, the concerned Social Security Organisation shall refund such deposit to the employer together with interest at such rate as may be prescribed by the Central Government within forty five days of such final order in appeal.</p> <p>(1) If an employer is not satisfied with the order referred to in section 125 and relates to Chapter IV, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty five percent, of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the corporation:</p> <p>Provided that the appellate authority shall decide the appeal within a period of six months from the date of preferring the appeal.</p> <p>Provided that if the employer finally succeeds in the appeal, the corporation shall refund such deposit to the employer together with such interest as may be specified in the regulation.</p>	<p>Appeal against order of Authorised Officer relating to Chapter IV</p>
	<p>128. Where an order determining the amount due from an employer under section 125 or section 126 has been passed and if the Authorised Officer who passed the orders—</p> <p>(a) has reason to believe that by reason of the omission or failure on the part of the employer to make any document or report available, or to disclose, fully and truly, all material facts necessary for determining the correct amount due from the employer, any amount so due from such employer for any period has escaped his notice;</p> <p>(b) has, in consequence of information in his possession, reason to believe that any amount to be determined under section 125 or section 126 has escaped from his determination for any period notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the employer;</p> <p>he may, within a period of five two years from the date of communication of the order passed under section 125 or section 126, reopen the case and pass appropriate orders re-determining the amount due from the employer in accordance with the provisions of this Chapter:-</p> <p>Provided that no order re-determining the amount due from the employer shall be passed under this section unless the employer is given a reasonable</p>	<p>Determination of escaped amount</p>

	opportunity of representing his case. (Check)	
	129. Except where expressly provided otherwise in this Code, the employer shall be liable to pay simple interest at such rate as may be prescribed notified from time to time by the Central Government, from the date on which any amount has become due under this Code till the date of its actual payment.	Interest on amount due
31 of 2016	<p>130. Where an employer makes default in the payment of any contribution which he is liable to pay in accordance with the provisions of Chapter III or Chapter IV, as the case may be, or any scheme framed thereunder or in the transfer of accumulations under Chapter III, or in the payment of any charges payable under any other provision of this Code, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or such other officer as may be authorised, by notification, by the appropriate Government, may levy on, and recover from, the employer by way of damages, an amount not exceeding the amount of arrears, in such the manner as under: may be specified in the Scheme prescribed by the Central Government for chapter III and as may be specified in regulation for the purpose of Chapter IV and for the Chapter III and in respect of Provident Fund Scheme, Pension Scheme, and Insurance Scheme such levy and recovery shall be in the manner as may be specified in the respective Scheme by the Central Government:</p> <p>Provided further that before levying and recovering such damages, the employer shall be given an opportunity of being heard:</p> <p>Provided further also that the Central Board or the Corporation as the case may be, may reduce or waive the damages levied under this section in relation to an establishment for which a resolution plan or repayment plan recommending such waiver has been approved by the adjudicating authority established under the Insolvency and Bankruptcy Code, 2016 subject to the terms and conditions as may be specified by notification, by the Central Government.</p>	Power to recover damages
	<p>131.</p> <ol style="list-style-type: none"> (1) Any amount due from an employer or any other person in relation to an establishment including any contribution or cess payable, charges, interest, damages, or benefit or any other amount may, if the amount is in arrear, be recovered in the manner specified in this section and sections 132 to 134. (2) Where any amount is in arrear under this Code, the Authorised Officer, or the competent authority, as the case may be, shall issue to the Recovery Officer referred to in sub-section (4), a certificate under his signature, electronically or otherwise, specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below, namely:— <ol style="list-style-type: none"> (a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, of the employer; (b) arrest of the employer and his detention in prison; (c) appointing a receiver for the management of the movable or immovable properties of the defaulter: <p>Provided that the attachment and sale of any property under this section shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount or arrears specified in the certificate, the Recovery Officer may move such proceeding against the property of the employer for recovery of the whole or any part of such arrears.</p> <ol style="list-style-type: none"> (3) The Authorised Officer or the competent authority, as the case may be, may issue a certificate under sub-section (2), notwithstanding that 	Recovery of amount due

	<p>proceeding for recovery of the arrears by any other mode has been taken.</p> <p>(4) The Authorised Officer or the competent authority, as the case may be, may forward the certificate issued under this section, to the Recovery Officer within whose jurisdiction the employer—</p> <p>(a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or</p> <p>(b) resides or any movable or immovable property of, the establishment or, the employer is situates.</p> <p>(5) Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officers and the Recovery Officer to whom a certificate is sent by the Authorised Officer or the competent authority, as the case may be—</p> <p>(a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or</p> <p>(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,</p> <p>he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified by him in the manner prescribed by the Central Government, specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the Authorised Officer or the competent authority, as the case may be.</p>	
	<p>132.</p> <p>(1) When the Authorised officer or the Competent Authority, as the case may be, issues a certificate to a Recovery Officer under section 131, it shall not be open to the employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall be entertained by the Recovery Officer.</p> <p>(2) Notwithstanding the issue of a certificate to a Recovery Officer, the Authorised Officer or the competent authority, as the case may be, shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending intimation to the Recovery Officer.</p> <p>(3) The Authorised Officer or the Competent Authority, as the case may be, shall intimate to the Recovery Officer any orders of withdrawing or cancelling a certificate or any correction made by him in respect of the said certificate under sub-section (2).</p> <p>(4) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Authorised Officer or the competent authority, as the case may be, may grant time to the employer for payment of the amount recoverable under the certificate and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.</p> <p>(5) Where a certificate for the recovery of amount has been issued, the Authorised Officer or the competent authority, as the case may be, shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.</p> <p>(6) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued under section 131 has been modified in appeal or other proceeding under this Code, resulting in</p>	<p>Validity of certificate and amendment thereof</p>

	<p>reduction of the demand but the order is the subject-matter of further proceeding under this Code, the Authorised Officer or the competent authority, as the case may be, shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.</p> <p>(7) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Code, the Authorised Officer or the competent authority, as the case may be, shall, when the order being the subject-matter of such appeal or other proceeding become final and conclusive, amend the certificate or withdraw it, as the case may be, in consonance with such finality or conclusion.</p>	
5 of 1908	<p>133.</p> <p>(1) Notwithstanding the issue of a certificate to the Recovery Officer under section 131, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation so authorised by it in this behalf, may, recover the amount by any one or more of the modes provided in this section.</p> <p>(2) If any amount is due from any person to any employer who is in arrears, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, may, require such person to deduct from the said amount the arrears so due, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation so authorised by it in this behalf:</p> <p>Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.</p> <p>(3) (a) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently hold money for or on account of the employer or, as the case may be, the establishment, to pay to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer authorised by it in this behalf either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the employer in respect of arrears or the whole of the money when it is equal to or less than that amount.</p> <p>(b) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the employer jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.</p> <p>(c) A copy of the notice shall be forwarded to the employer at his last address known to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf and in the case of a joint account to</p>	Other modes of recovery

	<p>all the joint holders at their last addresses so known.</p> <p>(d) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.</p> <p>(e) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.</p> <p>(f) Where a person to whom a notice under this sub-section is sent objects to it by statement on oath that the sum demanded or any part thereof is not due to the employer or that he does not hold any money for or on account of the employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, to the extent of his own liability to the employer on the date of the notice, or to the extent of the employer's liability for any sum due under this Code, whichever is less.</p> <p>(g) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.</p> <p>(h) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the employer to the extent of the amount so paid.</p> <p>(i) Any person discharging any liability to the employer after the receipt of a notice under this sub-section shall be personally liable to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this Code, whichever is less.</p> <p>(j) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceeding may be moved against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 131 to 134 and the notice shall have the same effect as an attachment of amount in arrears by the Recovery Officer in exercise of his powers under section 131.</p> <p>(4) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount</p>	
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43 of 1961	<p>due.</p> <p>(5) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, if so authorised by the Central Government by general or special order, recover any arrears of amount due from an employer or, as the case may be, from the establishment by distraint and sale of his or its movable property in the manner laid down in the Third Schedule to the Income tax Act, 1961.</p>	
43 of 1961	<p>134. The provisions of the Second Schedule and the Third Schedule to the Income-tax Act, 1961 and the Income tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules refer to the amount in arrears of the amount mentioned in section 131 of this Code instead of to the income tax: Provided that any reference in the said provisions and the rules to the "assesses" shall be construed as a reference to an employer or establishment, as the case may be, as defined in this Code.</p>	Application of certain provisions of Income-tax Act
	<p style="text-align: center;">CHAPTER XII OFFENCES AND PENALTIES</p>	
	<p>135. If any person,—</p> <ol style="list-style-type: none"> (a) being an employer, fails to pay any contribution which he is liable to pay under this Code or rules, regulations or schemes made thereunder; or (b) deducts or attempts to deduct from the wages of an employee, the whole or any part of employer's contribution; or (c) in contravention of the provisions of this Code, reduces the wages or any privilege or benefits admissible to an employee; or (d) in contravention of the provisions of Chapter IV or Chapter VI or rules, regulations or schemes made or framed under this Code respectively relating, respectively, to such Chapters, dismisses, discharges, reduces in rank or otherwise penalises a woman employee; or (e) fails or refuses to submit any return, report, statement or any other information required under this Code or any rules, regulations or schemes made or framed thereunder; or (f) obstructs any Inspector-cum-Facilitator or other officer or staff of the Central Board or the Corporation or other Social Security Organisation or a Competent Authority in the discharge of his duties; or (g) fails to pay any amount of gratuity to which an employee is entitled under this Code; or (h) fails to pay any amount of compensation to which an employee is entitled under this Code; or (i) fails to provide any maternity benefit to which a woman is entitled under this Code; or (j) fails to send to a competent authority a statement which he is required to send under Chapter VII; or (k) fails to produce on demand by the Inspector-cum-Facilitator any register or document in his custody kept in pursuance of this Code or the rules, regulations or schemes made or framed thereunder; (l) fails to pay the cess for building workers which he is liable to pay under 	Penalty for failure to pay contributions, etc.

	<p>this Code; or</p> <p>(m) is guilty of any contravention of or non-compliance with any of the requirements of this Code or the rules or the regulations or schemes made or framed thereunder in respect of which no special penalty is provided in this Chapter; or</p> <p>(n) obstructs executive officer in exercising his functions under Chapter XIII, or</p> <p>(o) dishonestly makes a false return, report, statement or information to be submitted thereunder, or</p> <p>(p) fails or makes default in complying with any condition subject to which exemption under section 144 was granted; or</p> <p>(q) fails to pay any administrative or inspection charges payable under any of the schemes framed under Chapter III,</p> <p>he shall be punishable—</p> <p>(i). where he commits an offence under clause (a), with imprisonment for a term which may extend to three years two years but—</p> <p>(a) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of one lakh rupees;</p> <p>(b) which shall not be less than two months but maybe extended to six months not be less than six months, in any other case and shall also be liable to fine of fifty thousand rupees:</p> <p>Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term;</p> <p>(ii). Where he commits an offence under clause (g), with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both.</p> <p>(iii). where he commits an offence under any of the clauses (d), (f), (i), (k), (l) and (o) (g), with imprisonment for a term which may extend to one year six months or with fine which may extend to fifty thousand rupees, or with both;</p> <p>(iv). Where he commits an offence under any of the clauses (b), (c), (e), (h), (j), (m), (n), (p) and (q) and (m) and (p) with fine which may extend to fifty thousand rupees;</p> <p>(v). where he commits an offence under any of the clauses (h), (j) and (n), with a fine which may extend to fifty thousand rupees;</p> <p>(vi). where he commits an offence under clause (o), with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.</p>	
	<p>136. Whoever, having been convicted by a court of an offence punishable under this Code, commits the same offence shall, for second, or every subsequent such offence, be punishable with imprisonment for a term which may extend to two years and with fine of two lakh rupees:</p> <p>Provided that where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit or gratuity compensation which under this Code he is liable to pay, he shall, for such second or subsequent offence, be punishable with imprisonment for a term which may extend to five three years but which shall not be less than two years and shall also be liable to fine of three lakh rupees.</p>	Enhanced punishment in certain cases after previous conviction
	<p>137.</p> <p>(1) Where an offence under this Chapter has been committed by a</p>	Offences by companies

	<p>company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(2) Notwithstanding anything contained in sub-section (1), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, secretary or other officer of the company, such director, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p> <p>Explanation.—For the purposes of this section,—</p> <p>(a) "company" means anybody corporate, and includes a firm or other association of individuals; and</p> <p>(b) "Director", in relation to a firm, means a partner in the firm.</p>	
	<p>138.</p> <p>(1) No court shall take cognizance of an offence punishable under this Code, except on a complaint made by such officer or other aggrieved person as may be prescribed notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed thereunder, by the officer notified by the appropriate Government.</p> <p>(2) Notwithstanding anything contained in sub-section (1), no prosecution under this Code shall be instituted, except by or with the previous sanction of the authority prescribed notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made thereunder, the authority notified by the appropriate Government.</p> <p>(3) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Chapter.</p>	Cognizance of offences
	<p>139. Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator or any other officer notified for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government, shall, before initiation of prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to the employer to comply with the aforesaid relevant provisions by way of a written direction, which shall lay down a time period for such compliance, and, if the employer complies with the direction within such period, then, no such proceeding shall be initiated against the employer; but no such opportunity shall be accorded to an employer, if the violation of the same nature of such provisions is repeated within a period of five three years from the date on which</p>	Prior opportunity before prosecution

	such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of this Chapter.	
2 of 1974	<p>140.</p> <p>(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed for the first time, punishable under this Chapter, not being an offence-</p> <p>(i). punishable with fine only; or</p> <p>(ii). Punishable with imprisonment for a term which is not more than one year and also with fine,</p> <p>may, on an application made, either before or after the institution of any prosecution, be compounded by an officer authorised by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government, in such manner as may be prescribed by the Central Government on payment by the offender to the appropriate Government such amount as may be notified by that Government –</p> <p>(a) in the case of an offence punishable with fine only, the half of the maximum fine provided for that offence; and</p> <p>(b) in the case of an offence punishable with imprisonment for a term which is not more than one year and also with fine, the three fourth of the maximum fine provided for that offence.</p> <p>(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five three years from the date –</p> <p>(a) of commission of a similar offence which was earlier compounded; or</p> <p>(b) of commission of similar offence for which such person was earlier convicted.</p> <p>(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government.</p> <p>(4) Every application for the compounding of an offence shall be made in such form and in such manner as may be prescribed by the Central appropriate Government.</p> <p>(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.</p> <p>(6) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the court in which the prosecution is pending in writing by the officer referred to in sub-section (1), and on such notice of the compounding of the offence being given to the court, the person against whom the offence is so compounded shall be discharged.</p> <p>(7) Any person who fails to comply with the order made by the officer referred to in sub-section (1), shall be liable to pay a sum equivalent to</p>	Compounding of offences

	twenty per cent. of the maximum fine provided for the offence, in addition to such fine.	
	CHAPTER XIII EMPLOYMENT INFORMATION AND MONITORING	
	<p>141.</p> <p>(1) The appropriate Government may, by notification, require that from such date as may be specified in the notification, the employer in every establishment or any class or category of establishments, before filling up any vacancy in any employment in that establishment or such class or category of establishment, as the case may be, shall report or cause to be reported that vacancy to such career centre as may be specified in the notification, and the employer shall thereupon comply with such requisition.</p> <p>(2) For the purposes of sub-section (1), the appropriate Government may prescribe the following, namely:—</p> <ul style="list-style-type: none"> (i) the manner in which the vacancies, referred to in sub-section (1), shall be reported to the career centres electronically or otherwise; (ii) the form in which such vacancies shall be reported to the career centres; and (iii) the manner and form of filing the return by the employer to the concerned career centre. <p>(3) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the career centre to fill any vacancy merely because such vacancy has been reported.</p> <p>(4) The executive officer shall have access to any record or document in the possession of any employer required to furnish any information or returns for the purposes of this Chapter and may enter at any reasonable time any premises where he believes such record or document to be and inspect or take copies of such records or documents or ask any question necessary for obtaining any information required.</p>	Reporting of vacancies to career centres
	<p>142.</p> <p>(1) The provisions of Section 141 shall not apply in relation to vacancies,—</p> <ul style="list-style-type: none"> (a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment in plantation; or (b) in any employment in domestic service; or (c) in any employment connected with the staff of Parliament or any State Legislature; or (d) in any employment the total duration of which is less than ninety days; (e) in any class or category of establishments as may be notified by the Central Government; and (f) in any other employment as may be notified by the Central Government. <p>(2) Unless the Central Government, by notification direct, the provisions of this Chapter shall not apply in relation to—</p> <ul style="list-style-type: none"> (a) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or through independent recruitment agencies such as Union Public Service Commission, Staff Selection Commission or a State Public Service Commission or any other agencies as may be notified by the Central Government; or 	Exclusions from application of this Chapter

	(b) vacancies in an employment which carries a monthly remuneration of less than an amount notified by the appropriate Government.	
	CHAPTER XIV MISCELLANEOUS	
	<p>142A.</p> <p>(1) There shall be established by the appropriate government a welfare fund for the welfare of the unorganized workers to which there shall be credited the amount received from composition of offences as specified in Section 140.</p> <p>(2) The contribution for the fund may also include such other sources as may be prescribed by the appropriate government.</p> <p>(3) The fund shall be administered and expended for welfare of the unorganized workers in such manner as may be prescribed by the appropriate government including the transfer of amount in the fund to any fund established under any other law for the time being in force for the welfare of the unorganized workers.</p>	Welfare Fund.
<p>18 of 2016</p> <p>18 of 2016</p>	<p>143.</p> <p>(1) An employee or unorganised worker or any other person, as the case may be, for—</p> <ul style="list-style-type: none"> (a) registration as member or beneficiary; or (b) seeking benefit whether in kind, cash or medical sickness benefit or pension, gratuity or maternity benefit or any other benefit or for withdrawal of fund; or (c) availing services of career centre as defined in section 2(8) of this Code (d) receiving any payment or medical attendance as insured person himself or for his dependents, <p>under this Code or rules, regulations or schemes made or framed thereunder has to establish his identity or, as the case may be, the identity of his family members or dependents through Aadhaar number in such manner as may be prescribed by the Central Government and for such purpose the expression "Aadhaar" shall have the meaning as defined in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.</p> <p>Provided further that any foreigner employee shall obtain and submit Aadhar number for establishing his identity as soon as possible he becomes resident within the meaning clause (v) of Section 2 as per the regulatory requirement of the Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016</p> <p>(2) For the purposes of sub-section (1), the Aadhaar number issued to an individual shall be in accordance with the provisions of section 3 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.</p>	Application of Aadhaar
	<p>144.</p> <p>(1) Notwithstanding anything contained in this Code, the appropriate Government may, by notification, and subject to the conditions which may include the eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption, and the grounds of surrender as may be prescribed by the Central Government in this behalf, grant exemption to an establishment or class of establishments (including factory or other establishments under the control of Central Government or State Government or local bodies) or</p>	Power to exempt establishment

	<p>employees or class of employees, from any or all of the provisions of this Code or the scheme framed thereunder, as may be specified in the notification and may renew for further period such exemption by like notification:</p> <p>Provided that no such exemption,—</p> <ol style="list-style-type: none"> (i) in respect of Chapter III Provident Fund Scheme, Pension Scheme and Insurance Scheme of Chapter III, without prior consultation with the Central Board; and (ii) in respect of Chapter IV, without prior consultation with the Corporation, <p>shall be granted or renewed and the Central Board or the Corporation, as the case may be, shall on such consultation forward its view to the appropriate Government within such time as may be prescribed by that Government:</p> <p>Provided further that in case such exemption is in respect of those Chapters or in respect of any of them, the establishment or class of establishments so exempted shall, in order to provide benefits which are substantially similar or superior to the benefits provided in those Chapters or any of them arrange insurance of such value which the appropriate Government considers appropriate for granting such exemption:</p> <ol style="list-style-type: none"> (2) The appropriate Government may, in the notification referred to in sub-section (1), specify therein conditions as may be prescribed which the exempted establishment or the class of establishment or employee or class of employees as the case may be, shall comply with after such exemption: Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme of Chapter III, the terms and conditions subject to which exemption is to be granted shall be specified in respective scheme framed by the Central Government. (3) The exemption granted under sub-section (1) to an establishment or class of establishment or employee or class of employees, as the case may be, shall be initially for a period of three years from the date of publication of such notification and may be extended by the appropriate Government to the extent of such period as may be prescribed by the Central Government: Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme of Chapter III, exemption may be extended for such period as may be specified in respective scheme framed by the Central Government. (4) The exemption granted under sub-section (1) shall only be granted if the employees in the establishment or class of establishments or employee or the class of employees so exempted are otherwise in receipt of benefits substantially similar or superior to the benefits provided in the provisions of this Code or the scheme framed thereunder to be so exempted. <p>(4) For the purposes of administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the Fund created, and any other matter specified in the Scheme for any exempted establishment or class of establishment or employees or class of employees, a board of trustees shall be constituted by the employer which will be a legal entity which can sue</p>	
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	<p>and can be sued. The conditions for management of the trust shall be prescribed by the Appropriate Government as part of the conditions for exemption.</p> <p>Provided that conditions for administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the Fund created, in respect of exemption from Provident Fund Scheme, Pension Scheme and Insurance Scheme of Chapter III, shall be specified in respective scheme framed by the Central Government.</p> <p>(5) Where an exemption is granted under this section from operation of any or all the provisions of the Code or any of the Scheme under Chapter III of the Code to any establishment, class of establishment, employee or class of employees, the employer in relation to such establishment shall furnish such returns electronically in respect of persons employed, accounts maintained in respect of employees, investments made from the Fund, provide facilities for inspection and pay such inspection charges as the Central Government may direct.</p> <p>(6) If the employer in relation to any establishment or class of establishments or employee or class of employees in respect of whom the exemption has been granted under sub-section (1), fails to comply with, any of the conditions specified under that sub-section or other sub-sections, then, the appropriate Government may on such failure cancel the exemption so granted.</p> <p>(7) Where any exemption granted under sub-section (1) is cancelled, the entire amount of accumulations to the credit of every employee, to whom such exemption applied, in the exempted Fund of the establishment in which he is employed shall be transferred to the statutory fund created under this Code within such time and manner as prescribed in the conditions for grant of exemption.</p> <p>Provided that in respect of any cancellation of exemption from the Provident Fund Scheme, Pension Scheme and Insurance Scheme of Chapter III, the time limit, form and manner of transfer of accumulations of exempted employees from the exempted funds to statutory funds created under section 16 shall be specified in the respective Scheme framed by the Central Government.</p>	
	<p>144A. Notwithstanding anything contained in Chapter III or Chapter IV, the Central Government may by order, defer or reduce employer's contribution, or employee's contribution, or both payable under Chapter III or Chapter IV, as the case may be, for a period upto three months at a time, in respect of establishment to which, as the case may be, Chapter III or Chapter IV applies, for whole of India or part thereof in the event of pandemic, endemic or national disaster.</p>	Power to defer
	<p>145. Where an employer transfers his establishment in whole or in part, by sale, gift, lease or license or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any liabilities, cess or any other amount payable under this Code in respect of the periods up to the date of such transfer:</p> <p>Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.</p>	Liability in case of transfer of establishment

45 of 1860	<p>146. Every member of a Social Security Organisation and the officers and staff thereof, any Inspector-cum-Facilitator, competent authority, Authorised officer, Recovery Officer and any other person discharging any function under this Code shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.</p>	The members, officers and staff to be public servants
	<p>147. No suit, prosecution or other legal proceeding shall lie against —</p> <ul style="list-style-type: none"> (i) the Central Government; (ii) a State Government; (iii) a Social Security Organisation; (iv) a competent authority; (v) any officer or staff of a Social Security Organisation; or (vi) any other person or authority, <p>discharging the functions or exercising the powers under this Code, for anything which is in good faith done or intended to be done in pursuance of this Code or of any rules, regulations or schemes made or framed thereunder.</p>	Protection of action taken in good faith
	<p>148. If the appropriate Government is satisfied in the manner prescribed by it that any establishment or any other person has misused any benefit provided to him under this Code or rules, regulations or schemes made or framed thereunder, then, such Government may, by notification, deprive such establishment or other person, as the case may be, from such benefit for such time as may be specified in the notification:</p> <p>Provided that no such order shall be passed unless an opportunity of being heard is given to such establishment or other person, as the case may be.</p> <p>Provided further that the manner to ascertain misuse of any benefit under this section relating to Chapter III, shall be specified in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be.</p>	Misuse of benefits
	<p>149. The Central Government may give directions to</p> <ul style="list-style-type: none"> (i) any state Government or to a State Board to carrying into execution in that state of any of the provision of this Code; or (ii) any of the Social Security Organization in respect of the matters relating to the implementation of the provisions of this Code. 	Power of Central Government to give directions to State Governments, state Boards and Social Security Organisations
	<p>150. The appropriate Government may, subject to the condition of previous publication, frame schemes not inconsistent with this Code, for the purposes of giving effect to the provisions thereof.</p>	Power to frame schemes
	<p>151.</p> <ul style="list-style-type: none"> (1) Notwithstanding anything contained in any law for the time being in force, the amount standing to be credited in favour of the employee under Chapters III, IV, V, VI or VII or, of any member of any fund under this Code, or of any exempted employee in a provident fund maintained by his employer, shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by such employee or member or the exempted employee, as the case may be. (2) Any amount standing to the credit of a member in the fund or of an exempted employee in a provident fund maintained by his employer at the time of the death of such member or the exempted employee, as the case may be, and payable to his nominee or family under the scheme or the rules of the fund shall, subject to any deduction authorised by the said scheme or rules, as the case may be, vest in the nominee or such family and shall be free from any debt or other liability incurred by the deceased or the nominee before his death and shall also 	Protection against attachment, etc.

31 of 2016	<p>not be liable to attachment under any decree or order of any court.</p> <p>(3) Notwithstanding anything contained in any other law for the time being in force, any amount due under the Chapters referred to in sub-section (1) shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of section 53 of the Insolvency and Bankruptcy Code, 2016.</p>	
	<p>152.</p> <p>(1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the First Schedule, Fourth Schedule, Fifth Schedule and Sixth Schedule by way of addition or deletion therein and upon such addition or deletion, the Schedules shall stand to have been amended accordingly.</p> <p>(2) If the appropriate Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the Second Schedule and Third Schedule by way of addition therein and not otherwise, and upon such addition, the Schedule shall stand to have been amended accordingly.</p>	Power to amend Schedule
<p>19 of 1952</p> <p>34 of 1948</p>	<p>152A. Notwithstanding anything contained in this Code, the following organizations constituted or established under the enactments repealed under section 163, namely:-</p> <ul style="list-style-type: none"> (i). the Central Board constituted under section 5A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; (ii). Executive Committee constituted under section 5AA of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; (iii). the Corporation established under section 3 of the Employees' State Insurance Act, 1948; (iv). the Medical Benefit Council constituted under section 10 of the Employees' State Insurance Act, 1948; (v). the Standing Committee of the Corporation constituted under section 8 of the Employees' State Insurance Act, 1948; and (vi). the Board constituted under sub-section (1) of section 18 of the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, <p>shall, after the commencement of this Code, continue to exercise the powers and discharge the functions of the corresponding organisations respectively, the Central Board of Trustees for Employees Provident Fund constituted under section 4, the Executive Committee constituted under sub-section (3) of section 4, the Employees State Insurance Corporation, constituted under Section 5, the Medical Benefit Committee constituted under sub-section 5 of section 5, the Standing Committee constituted under sub-section (3) of section 5, Building Workers' Welfare Board constituted under sub-section (1) of section 7 as if such organisations constituted or established under such repealed enactments, as the case may be, had been constituted under the respective provisions of this Code under which their corresponding organisations under this Code shall be constituted, till such corresponding organisations are constituted under this Code or till their respective time period under the repealed enactments expire, whichever is earlier.</p>	Transitional Provisions
	<p>153.</p> <p>(1) The appropriate Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters,</p>	Power of appropriate Government to make rules

	<p>namely:—</p> <p>(a)—the amount in connection with premium for Group Insurance Scheme of the beneficiaries under clause (c), educational schemes for the benefit of children of the beneficiaries under clause (d), medical expenses for treatment of major ailments of a beneficiary or, such dependent under clause (e), of sub-section (6) of section 7;</p> <p>(aa) Manner and time of second appeal under clause (b) of sub-section (7) of section 38.</p> <p>(b)—other member who may authenticate by signature the orders and decisions of the Social Security Organisations and other instruments issued under sub-section (2) of section 9;</p> <p>(b1) manner of commencement of proceedings, fees and procedure thereof under sub-section (1) of section 51;</p> <p>(c)—bank or other financial institution in which the gratuity shall be invested for the benefit of minor under the second proviso to sub-section (1) of section 53;</p> <p>(d)—time, form and manner of nomination by an employee under sub-section (1), time to make fresh nomination under sub-section (4), the form and manner of modification of a nomination under sub-section (5), and the form for fresh nomination under sub-section (6), of section 55;</p> <p>(e)—time and form of application under sub-section (1) of section 56;</p> <p>(f)—the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the Competent Authority of the amount of the gratuity payable to an employee from the insurer under sub-section (4) of section 57;</p> <p>(g)—the qualifications and experience of Competent Authority under sub-section (1) of section 58;</p> <p>(h)—authority to whom an appeal may be preferred under sub-section (3) of section 72;</p> <p>(i)—class of employers and the form of notice-book under sub-section (4) of section 82;</p> <p>(j)—the interval for medical examination under proviso to sub-section (1) of section 84;</p> <p>(k)—form of statement, and the manner of ascertaining the dependents under sub-section (1). and the manner of providing an advocate to the dependant under sub-section (5) of section 88;</p> <p>(l)—manner of recording memorandum under sub-section (1) of section 89;</p> <p>(m)—such other experience and qualifications for appointment as a Competent Authority under sub-section (1) of section 91;</p> <p>(n)—time-limit to pay the amount of cess under section 101;</p> <p>(o)—fees for appeal under sub-section (2) of section 105;</p> <p>(p)—conditions to acquire, hold sell or otherwise transfer any movable or immovable property under sub-section (1), conditions to invest moneys, re-invest or realise investments under sub-section (2), terms to raise loans and take measures for discharging such loans under sub-</p>	
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	<p>section (3), and terms to constitute provident or other benefit funds under sub-section (4), of section 120 except in case of Provident Fund Scheme or Pension Scheme or Insurance Scheme;</p> <p>(q) conditions and manner of writing off losses irrecoverable dues under section 121 except in case of Provident Fund Scheme, Pension Scheme or Insurance Scheme;</p> <p>(r) other powers of Inspector-cum-Facilitator under clause (e) of sub-section (6) of section 122;</p> <p>(s) form and manner for maintenance of records and registers and other particulars and details under clause (a), manner and form for display of notices at the work places of the employees under clause (b), and the manner, officer or authority and periods of filing returns to the officer or authority under clause (d), of section 123; except in case of Provident Fund Scheme, Pension Scheme or Insurance Scheme;</p> <p>(t) officer or other person who may make complaint under sub-section (1), and the authority to give sanction for prosecution under sub-section (2) of section 138;</p> <p>(u) the manner and form for reporting vacancies to the career centres under clauses (i) and (ii), and the manner and form of filing the return by the employer to the concerned career centre under clause (iii), of sub-section (2), of section 141;</p> <p>(v) the time within which the Central Board or the Corporation, as the case may be shall forward its view to the appropriate Government under sub-section (1); and the conditions which the exempted establishment or the class of establishment or class of employees shall comply after exemption under sub-section (2), of section 144;</p> <p>(w) any other matter which is required to be, or may be, prescribed by the appropriate Government under the provisions of this Code.</p> <p>(v) manner of satisfaction under Section 148;</p>	
	<p>154.</p> <p>(1) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—</p> <p>(a) manner of establishment and maintenance of career centre and the career services under clause (8) of section 2; (Dr singh to review)</p> <p>(b) the income of dependent parents (including father-in-law and mother-in-law of a woman employee) under sub-clause (e) of clause (33) of section 2;</p> <p>(c) such other authority who, may appoint the person or persons to manage the affairs of the factory and the matters which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier, under the proviso to clause (c) of section 2;</p> <p>(c) other authority under clause (c) of the first proviso to clause (49) of section 2;</p> <p>(cc) matters under second proviso to clause (49) of section 2;</p> <p>(d) the time and manner of registration of establishment under section 3;</p> <p>(e) the manner of administration of the funds vested in the Board under sub-section (1), the manner of performance of functions by an Executive Committee</p>	<p>Power of Central Government to make rules</p>

	<p>under sub-section (3), the terms and conditions, including tenure of office of member of the Central Board and Executive Committee and their duties under sub-section (5), and the manner of performance of such other functions under sub-section (6), of section 4;</p> <p>(f) the manner of administration of Employees' State Insurance Scheme; and the manner of representation of States under clause (d), of sub-section (1), the manner of constitution of Standing Committee under sub-section (3), the manner of administration of the affairs of the Corporation, and exercise of powers and performance of function by the Standing Committee under clause (a) of sub-section (4), the composition of the Medical Benefit Committee under sub-section (5), and the terms and conditions, including tenure of office, subject to which a member of the Corporation and Standing Committee shall discharge their respective duties under sub-section (7), of section 5;</p> <p>(g) the manner of exercising the powers and performance of the functions by the National Social Security Board under sub-section (1) the manner in which members as in Section 6(4), the number of persons to be nominated as members, their term of office and other conditions of their service, procedure to be followed in the discharge their functions and manner of filling vacancies under sub-section (4) and time, place and rules of procedure relating to transaction of business under sub-section (6), of section 6.</p> <p>(h) welfare measures and facilities under clause (j) of sub-section (6) of section 7;</p> <p>(i) meetings and procedure in regard to the transaction of business at meetings under sub-section (1), the other officer under sub-section (2) and the fee and allowances of members of Social Security Organisation or any Committee under sub-section (4), of section 9;</p> <p>(j) manner of re-constitution of the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers Board or the Building Workers' Welfare Board, or any of the Committees under sub-section (1), and alternate arrangements for the purpose of administration of the relevant provisions of this Code under sub-section (2), of section 11;</p> <p>(k) manner of establishment of a Pension Fund under clause (b) and the manner of establishment of Insurance Fund under clause (c), of sub-section (1) of section 16;</p> <p>(l) the manner of maintenance of a provident fund account in relation to the establishment under sub-section (1) of section 21;</p> <p>(m) the manner of transfer and dealing with accounts under section 22;</p> <p>(n) form, manner, time-limits and fees for filing of appeal under sub-section (2) of section 23;</p> <p>(o) salary and allowances of the Director General or the Financial Commissioner under sub-section (3) and the limit of maximum monthly salary under the proviso to sub-section (6), of section 24;</p> <p>(o) Manner of investment of Employees State Insurance Fund or any other money which is held by Corporation.</p> <p>(p) limits for defraying expenditure under clause (k) of section 26;</p> <p>(q) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (1), conditions to invest moneys by the corporation under sub-section (2), and the terms to raise loans and take measures for discharging such loans under sub-section (3), of section 27;</p> <p>(r) manner of insurance of employees under section 28;</p> <p>(s) the rate of contributions under sub-section (2), and the days on which the contributions fall due where an employee is employed for part of the wage period, or is employed under two or more employers during the same wage period under sub-section (4), of section 29;</p> <p>(t) the percentage of income which may be spent on expenses and the limits for such expenses under section 30;</p>	
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	<p>(u) the amount of payment under the proviso to clause (f) of sub-section (1), and the qualifications to claim benefits, conditions, rate and period thereof under sub-section (3), of section 32;</p> <p>(v) the limits within which the Corporation may incur expenditure from the Employees' State Insurance Fund under section 33;</p> <p>(w) the rates, periods and conditions for payment of dependants' benefit under sub-sections (1) and (2) of section 38;</p> <p>(x) the qualification of an insured person and his family, to claim medical benefit and the conditions subject to which such benefit may be given, the scale and period thereof under sub-section (3), and the payment of contribution and other conditions under the second proviso to sub-section (3), of section 39;</p> <p>(xx) extended period under clause (a) of sub-section (1) of Section 42;</p> <p>(xxx) manner of satisfaction under sub-section (1) of Section 42;</p> <p>(xxxx) manner of calculation of capitalized value of benefit under sub-section (1) of Section 42;</p> <p>(y) the terms and conditions subject to which the scheme may be operated under section 44;</p> <p>(z) the contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions under sub-section (2) of section 45;</p> <p>(za) the form of application to the competent authority under clause (b) of sub-section (5) of section 56;</p> <p>(zb) the manner of obtaining an insurance by every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government under sub-section (1), the conditions to exempt and manner of establishing an approved gratuity fund under sub-section (2), and the time and manner to get establishment registered and the manner thereof under sub-section (3), of section 57 and the qualifications and experience of Competent Authority under sub-section (1) of section 58;</p> <p>(zc) the form of notice under sub-section (1), and the proof of pregnancy and proof of delivery under sub-section (5), of section 62;</p> <p>(zd) the proof of miscarriage or medical termination of pregnancy under sub-section (1), the proof of tubectomy operation under sub-section (2) and the proof of illness under sub-section (3), of section 65; (ze) the duration of breaks under section 66;</p> <p>(zf) the number of employees and distance for creche facility under sub-section (1) of section 67;</p> <p>(zg) gross misconduct under the second proviso to sub-section (1) of section 68;</p> <p>(zh) rate of interest to be paid by the employer under clause (a) of sub-section (3) of section 77;</p> <p>(zi) the manner of notice under the first proviso to sub-section (1), and the manner of transmitting money under sub-section (3), of section 92;</p> <p>(zj) the form, manner and fee for application for claim or settlement under sub-section (3) of section 93;</p> <p>(zk) manner and time of collection of cess under sub-section (2), and manner of deposit of the cess so collected under sub-section (3) and the uniform rate or rates of advance cess under sub-section (4), of section 100;</p> <p>(zl) the rate of interest in case of delayed payment of cess under section 101;</p> <p>(zm) the manner of self-assessment of cess under sub-section (1) of section 103;</p> <p>(zn) the authority to inquire and impose penalty under section 104;</p> <p>(zo) time-limit to prefer appeal, appellate authority, form and manner of appeal under sub-section (1) of section 105;</p> <p>(zp) manner of registration as beneficiary under section 106;</p> <p>(zq) benefits of a beneficiary under sub-section (2) of section 107;</p> <p>(zr) manner of administration of the Social Security Fund or funds under sub-section (5) of section 109;</p> <p>(zs) eligible age for registration under clause (a) and form, manner, authority and</p>	
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	<p>information under clause (b) of sub-section (1) and the form of application and documents for registration and registering authority under sub-section (2), of section 113;</p> <p>{zt) form, manner and time for filing application for review under sub-section (2), of section 126;</p> <p>{zu) appellate authority to whom an employer may prefer an appeal under section 127, and rate of interest on the refund of deposit to the employer, under the second proviso, to the said section;</p> <p>{zv) the rate of simple interest which the employer shall be liable to pay under section 129;</p> <p>{zw) manner of levying and recovery of damages under section 130 except in cases of Chapter III;-</p> <p>{zx) manner to certify under sub-section (5) of section 131;</p> <p>{zy) manner of compounding of offences under sub-section (1) and the form and manner of application for compounding of an offence under sub-section (4), of section 140;</p> <p>{zz) manner to establish identity under section 143;-</p> <p>{zza) the eligibility conditions to be fulfilled prior to exemption and the conditions to be complied with after exemption under sub-section (1) and the period of extension of exemption under sub-section (3) of section 144 except in case of Provident Fund Scheme, Pension Scheme and Insurance Scheme;</p> <p>{zzb) any other matter which is required to be, or may be, prescribed by the Central Government under the provisions of this Code.</p>	
	<p>155.</p> <p>(1) The State Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—</p> <p>(a) the manner of exercising the powers and performance of functions by State Unorganised Workers' Board under sub-section (9), the number of persons the manner in which members to be nominated as members, their term of office and other conditions of service, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Unorganised Workers' Board under sub-section (12), and the time, place and rules of procedure relating to the transaction of business at its meetings under sub-section (14), of section 6;</p> <p>(b) the terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members under sub-section (4), and the terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees under clause (c) of sub-section (5) of section 7;</p> <p>(c) structure, functions, powers and activities of the organisations under sub-section (6) of section 40;</p> <p>(d) procedure to be followed by the Employees' Insurance Court under sub-section (2) of section 50;</p> <p>(dd) rules under sub-section (3) of Section 50;</p> <p>(e) manner of commencement of proceedings before the Employees' Insurance Court and the time-limit of filing, fees and procedure thereof under sub-section (1) of section 51;-</p> <p>(f) conditions of review when application for review is made</p>	<p>Power of State Government to make rules</p>

	<p>without certificate of a medical practitioner under sub-section (1) of section 79;</p> <p>(g) manner of matters to be dealt by or before a Competent Authority under sub- section (1) of section 92;</p> <p>(h) time- limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93;</p> <p>(i) the manner of authentication of memorandum under section 97; and</p> <p>(j) any other matter which is required to be, or may be, prescribed by the State Government under the provisions of this Code.</p>	
	<p>156.</p> <p>(1) The Corporation may, by notification, and subject to the condition of previous publication, make regulations, not inconsistent with this Code and the rules and schemes made or framed thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of Chapter IV and the provisions of this Code relating to that Chapter.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—</p> <p>(a) the cases and matters to be submitted for the decision of the Corporation under clause (b) of sub-section (4) and the composition of committees under sub-section (6), of section 5;</p> <p>(b) the method of recruitment, salary and allowances, discipline and other con- ditions of service of the officers and employees under clause (a) of sub-section (7) of section 24;</p> <p>(c) unit in respect of which all contribution shall be payable under sub-section (3) of section 29;</p> <p>(d) maintenance of register of employees by or through the contractor under sub-section (7), conditions for deduction of wages under sub-section (8) and any matter relating or incidental to the payment and collection of contribution under sub-section (9), of section 31;</p> <p>(e) qualifications and experience of other person to certify sickness under clause (a), authority to certify eligibility of a woman under clause (b), authority to certify eligibility for payment under clause (c) of sub-section (1), the conditions for extension of medical benefits under sub-section (2) and any matter relating or incidental to the accrual and payment of benefits under sub-section (4), of section 32;</p> <p>(f) continuous period in which the employee contracts occupational disease under sub-section (1) of section 36;</p> <p>(g) constitution of medical board under sub-section (1), constitution of medical appeal tribunal under sub-section (5) and manner of filing appeals before the medical appeal tribunal under sub-section (7), of section 37;</p> <p>(h) conditions for voluntary retirement scheme under the first proviso to sub-section (3) of section 39;</p> <p>(hh) regulations sub-sections (1) and (2) of Section 41;</p> <p>(i) other authority for providing permission under clause (c) of sub-section (3), form of nomination under sub-section (6) and the authority to determine benifits under sub-section (9), of section 41;</p> <p>(j) user charges to be paid by other beneficiaries for medical facilities under clause (c) of the Explanation to section 44; and</p>	<p>Power of Corporation to make regulations</p>

	(k) any matter in respect of which regulations are required or permitted to be made by this Code.	
	<p>157. The power to make rules, regulations and schemes under this Code shall be subject to the condition of the previous publication of the same being made, in the following manner, namely:—</p> <p>(a) The date to be specified after a draft of rules, regulations and schemes under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rules, regulations and schemes is published for general information in the Official Gazette;</p> <p>(b) rules, regulations and schemes shall finally be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Code.</p>	Prior publication of rules, regulations, etc.
	<p>158.</p> <p>(1) The Central Government may, by notification, make rules for the transfer to any foreign country of money deposited with a competent authority under Chapter VII which has been awarded to or may be due to, any person residing or about to reside in such foreign country and for the receipt, distribution and administration in any State of any money deposited under the law relating to employees' compensation in any foreign country, which has been awarded to, or may be due to any person residing or about to reside in any State:</p> <p>Provided that no sum deposited under Chapter VII in respect of fatal accidents shall be so transferred without the consent of the employer concerned after the competent authority receiving the sum has passed orders determining its distribution and apportionment under section 81.</p> <p>(2) Where money deposited with a competent authority has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Code regarding distribution by the competent authority of compensation deposited with him shall cease to apply in respect of any such money.</p>	Rules to give effect to arrangements with other countries for the transfer of money paid as compensation
	<p>159.</p> <p>(1) Every rule, regulation, notification and scheme made or framed by the Central Government or the Corporation, as the case may be, under this Code shall be laid, as soon as may be after it is made or framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation, notification or scheme, as the case may be, or both Houses agree that the rule, regulation, notification or scheme, as the case may be, should not be made, such rule, regulation, notification or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, notification or scheme, as the case may be.</p> <p>(2) Every rule and scheme made or framed, and every notification issued by, the State Government under this Code, shall be laid as soon as may be after it is made or framed, before the State Legislatures, where it consists of two Houses, or where such legislature consists of one House, before that House.</p>	Laying of rules, regulations and schemes, etc.
	<p>160.</p> <p>(1) The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Code:</p>	Effect of laws and agreements inconsistent with this Code

	<p>Provided that where under any such award, agreement, contract of service or otherwise, a person is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Code.</p> <p>(2) Nothing contained in this Code shall be construed to preclude a person from entering into an agreement with his employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Code.</p>	
	<p>161. The appropriate Government may, by notification, direct that all or any of the powers and functions which may be exercised or performed by that Government may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers Board, Building Workers Welfare Board or any officer or authority subordinate to the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers Board, Building Workers Welfare Board.</p>	Delegation of powers
	<p>162.</p> <p>(1) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Code, as may be necessary or expedient for removing the difficulty:</p> <p>Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Code.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	Power to remove difficulties
<p>8 of 1923. 34 of 1948. 19 of 1952. 31 of 1959. 53 of 1961. 39 of 1972. 33 of 1981. 28 of 1996. 33 of 2008</p>	<p>163.</p> <p>(1) The following enactments are hereby repealed, namely:—</p> <ol style="list-style-type: none"> 1. The Employees' Compensation Act, 1923; 2. The Employees' State Insurance Act, 1948; 3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; 5. The Maternity Benefit Act, 1961; 6. The Payment of Gratuity Act, 1972; 7. The Cine-Workers Welfare Fund Act, 1981; 8. The Building and Other Construction Workers' Welfare Cess Act, 1996; 9. The Unorganised Workers Social Security Act, 2008. <p>(2) Notwithstanding such repeal,—</p> <p>(a) anything done or any action taken under the enactments so repealed including any rule, regulation, notification (including the notifications issued by the States), scheme, appointment, order or direction made thereunder or any benefit provided or given under any provision of such enactments, rules, regulations, notifications or schemes made thereunder for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder and shall be in force to the extent they are not contrary to the provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder till they are repealed under the corresponding</p>	Repeal and savings
19 of 1952		

FIRST SCHEDULE

**[See section 1(4)]
APPLICABILITY**

Chapter No. (1)	Chapter Heading (2)	Applicability (3)
III	Employee's Provident Fund	<p>Every establishment in which twenty or more employees, within the wage ceiling as may be notified by the Central Government, are employed.</p> <p>In case of Employees' Pension Scheme, the Central Government shall contribute 1.16 percent of wages to the employees' whose wages is limited to rupees 15000 per month or such sum as may be notified. The contribution of 1.16 percent will not be payable by the Central Government in case of employees' whose wages are more than rupees 15000 or an employee who have exceeded the limit of rupees 15000 per month after he had become the member of Employees' Pension Scheme.</p> <p>Provided that in case of Union Territories of Jammu & Kashmir and Laddakh, contribution as were payable by the establishments of those Union Territories before the commencement of this Code, shall be continued after the commencement of this Code or till they are otherwise notified by the Central Government.</p> <p>(US (SKD) to show the notification)</p>
IV	Employee's State Insurance Corporation	<p>Every establishment in which ten or more persons employees, within the wage ceiling as is notified by the Central Government, are employed other than a seasonal factory:</p> <p>Provided that Chapter IV shall also be applicable to an establishment, which carries on such hazardous or life threatening occupation as notified by the Central Government, in which even a single employee is employed:</p> <p>Provided further that an employer of a plantation may opt the application of Chapter IV in respect of the plantation by giving willingness to the corporation. where the benefits available to the employees under that Chapter are better than what the employer is providing to them.—</p> <p>Provided also that the contribution from the employers and employees of an establishment shall be payable under section 29 on and from the date on which any benefits under Chapter IV relating to the Employees State Insurance Corporation are provided by the Corporation to the employees of the establishment and such date</p>

		shall be notified by the Central Government.
V	Gratuity	(a) every factory, mine, oilfield, plantation, port and railway company; and (b) every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such other shops or establishments as may be notified by the appropriate Government from time to time.
VI	Maternity Benefit	(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government; and (b) to every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such other shops or establishments notified by the appropriate Government.
VII	Employee's Compensation	Subject to the provisions of the Second Schedule, it applies to the employers and employees to whom chapter IV does not apply.
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Every establishment which falls under the building and other construction work.
IX	Social Security for Unorganised Workers	Unorganised sector, unorganised workers,
X	Social Security for gig worker, platform workers	
XI	Employment Information and Monitoring	Career centres, vacancies and employers.

SECOND SCHEDULE

[See section 2(26)]

LIST OF PERSONS WHO ARE EMPLOYEES WITHIN THE MEANING OF SECOND PROVISO TO CLAUSE (26) OF SECTION 2

The following persons are employees within the meaning of second proviso to clause (26) of section 2 and subject to the said proviso, any person who is-

- (i) employed in railways, in connection with the operation, repair or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or
- (ii) employed, in any premises wherein or within the precincts whereof a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948 (63 of 1948), is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made whether or not employment in any such work is within such premises or precincts, and steam, water or other mechanical power or electrical power is used; or
- (iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises.
Explanation.--For the purposes of this clause, persons employed outside such premises or precincts but in any work incidental to, or connected with, the work relating to making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale of any article or part of an article shall be deemed to be employed within such premises or precincts; or
- (iv) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or
- (v) employed, in any mine as defined in clause (j) of section 2 of the Mines Act, 1952 (35 of 1952), in any mining operation or in any kind of work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or
- (vi) employed as the master or as a seaman of-
 - (a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or
 - (b) any sea going ship not included in sub-clause (a) provided with sufficient area for navigation under sails alone; or
- (vii) employed for the purpose of --
 - (a) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any port subject to the Ports Act, 1908 (15 of 1908), or the Major Port Trusts Act, 1963 (38 of 1963)], of goods which have been discharged from or are to be loaded into any vessel; or
 - (b) warping a ship through the lock; or
 - (c) mooring and unmooring ships at harbour wall berths or in pier; or
 - (d) removing or replacing dry dock caissons when vessels are entering or leaving dry docks; or
 - (e) the docking or undocking of any vessel during an emergency; or
 - (f) preparing splicing coir springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of gangways, maintaining life-buoys up to standard or any other maintenance work of a like nature; or
 - (g) any work on jolly-boats for bringing a ship's line to the wharf; or
- (viii) employed in the construction, maintenance, repair or demolition of --
 - (a) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof; or
 - (b) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or
 - (c) any road, bridge, tunnel or canal; or
 - (d) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

- (ix) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard or fittings and fixtures for the same; or
- (x) employed, in the construction, working, repair or demolition of any aerial ropeway, canal, pipeline or sewer; or
- (xi) employed in the service of any fire brigade; or
- (xii) employed upon a railway as defined in clause (31) of section 2 and subsection (1) of section 197 of the Railways Act, 1989 (24 of 1989), either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or
- (xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service or as a telegraphist or as a postal or railway signaller, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or
- (xiv) employed, in connection with operation for winning natural petroleum or natural gas; or
- (xv) employed in any occupation involving blasting operations; or
- (xvi) employed in the making of any excavation for which explosives have been used, or whose depth from its highest to its lowest point exceeds twelve feet; or
- (xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or
- (xviii) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or;
- (xix) employed, in the generating, transforming transmitting or distribution of electrical energy or in generation or supply of gas; or
- (xx) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse, Act 1927 (17 of 1927); or
- (xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
- (xxii) employed in the training, keeping or working of elephants or wild animals; or
- (xxiii) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forests fires; or
- (xxiv) employed in operations for the catching or hunting of elephants or other wild animals; or
- (xxv) employed as a diver; or
- (xxvi) employed in the handling or transport of goods in, or within the precincts of,-
 - (a) any warehouse or other place in which goods are stored, or,
 - (b) any market; or
- (xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radioactive substances; or
- (xxviii) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934 (22 of 1934); or
- (xxix) employed in horticultural operations, forestry, bee-keeping or farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or
- (xxx) employed, in the construction, working, repair or maintenance of a tube-well; or
- (xxxi) employed in the maintenance, repair or renewal of electric fittings in a building; or
- (xxxii) employed in a circus;
- (xxxiii) employed as watchman in any factory or establishment; or
- (xxxiv) employed in any operation in the sea for catching fish; or
- (xxxv) employed in any employment which requires handling of snakes for the purpose of extraction of venom or for the purpose of looking after snakes or handling any other poisonous animal or insect; or
- (xxxvi) employed in handling animals like horses, mules and bulls; or
- (xxxvii) employed for the purpose of loading or unloading any mechanically propelled vehicle or in the handling or transport of goods which have been loaded in such vehicles; or
- (xxxviii) employed in cleaning of sewer lines or septic tanks within the limits of a local authority; or
- (xxxix) employed on surveys and investigation, exploration or gauge or discharge observation of rivers including drilling operations, hydrological observations and flood forecasting activities, ground water surveys and exploration; or

- (xl) employed in cleaning of jungles or reclaiming land or ponds; or
- (xli) employed in cultivation of land or rearing and maintenance of live-stock or forest operations or fishing; or
- (xlii) employed in installation, maintenance or repair of pumping equipment used for lifting of water from wells, tube-wells, ponds, lakes, streams and the like; or
- (xliii) employed in the construction, boring or deepening of an open well or dug well, bore well, bore-cum-dug well, filter point and the like; or
- (xliv) employed in spraying and dusting or insecticides or pesticides in agricultural operations or plantations; or
- (xlv) employed in mechanised harvesting and threshing operations; or
- (xlvi) employed in working or repair or maintenance of bulldozers, tractors, power tillers and the like; or
- (xlvii) employed as artist for drawing pictures on advertisement boards at a height of 3.66 metres or more from the ground level; or
- (xlviii) employed in any newspaper establishment as defined in the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955) and engaged in outdoor work; or
- (xlix) Employed as sales promotion employee; or
- (l) any other employee or class of employee employed in an establishment or class of establishment to which the Employees' Compensation Act, 1923 (8 of 1923) was applicable in any State immediately before the commencement of this Code.

THIRD SCHEDULE
[See sections 36 and 74]

LIST OF OCCUPATIONAL DISEASES

Serial No. (1)	Occupational disease (2)	Employment (3)
PART A		
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) all work involving exposure to health or laboratory work; (b) all work involving exposure to veterinary work; (c) work relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; (d) other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air	All work involving exposure to the risk concerned.
3.	Diseases caused by lead or its toxic compounds	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes	All work involving exposure to the risk concerned.
5.	Poisoning by organo phosphorus compounds	All work involving exposure to the risk concerned.
PART B		
1.	Diseases caused by phosphorus or its toxic compounds	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds	All work involving exposure to the risk concerned.
3.	Diseases caused by benzene or its toxic homologues	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds	All work involving exposure to the risk concerned..
6.	Diseases caused by arsenic or its toxic compounds	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations	All work involving exposure to the action of radioactive substances or ionising radiations

8.	Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances	All work involving exposure to the risk concerned.
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.
10.	Diseases caused by carbon disulphide	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations.	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances	All work involving exposure to the risk concerned.
16.	Diseases caused by beryllium or its toxic compounds	All work involving exposure to the risk concerned.
17.	Diseases caused by cadmium or its toxic compounds	All work involving exposure to the risk concerned.
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds	All work involving exposure to the risk concerned.
20.	Diseases caused by nitroglycerin or other nitroacid esters	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants, carbon monoxide, and its toxic derivatives, hydrogen sulphide	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos	All work involving exposure to the risk concerned.

24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter	All work involving exposure to the risk concerned.
25.	Snow blindness in snow bound areas	All work involving exposure to the risk concerned.
26.	Disease due to effect of heat in extreme hot climate	All work involving exposure to the risk concerned.
27.	Disease due to effect of cold in extreme cold climate	All work involving exposure to the risk concerned.
PART C		
1.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraosilicosis, asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death	All work involving exposure to the risk concerned.
2.	Bagassosis	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust (Byssionosis).	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alveolitis caused by the inhalation of organic dusts	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals	All work involving exposure to the risk concerned.
6.	Acute Pulmonary oedema of high altitude.	All work involving exposure to the risk concerned.

FOURTH SCHEDULE

[See sections 2(52) and 2(53)]

PART I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT

TOTAL DISABLEMENT

Serial No	Description of Injury	Percentage of loss of earning capacity
(1)	(2)	(3)
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100

PART II

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT

PARTIAL DISABLEMENT

Serial No	Description of Injury	Percentage of loss of earning capacity
(1)	(2)	(3)
1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than [20.32 Cms.] from tip of acromion	80

Serial No (1)	Description of Injury (2)	Percentage of loss of earning capacity (3)
3.	Amputation from [20.32 Cms.] from tip of acromion to less than [11.43 Cms.] below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from [11.43 Cms.] below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20
11.	Guillotine amputation of tip of thumb without loss of bone	10
	Amputation cases—lower limbs	
12.	Amputation of both feet resulting in end bearing stumps	90
13.	Amputation through both feet proximal to the metatarsophalangeal joint	80
14.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
15.	Loss of all toes of both feet proximal to the proximal interphalangeal joint	30
16.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
17.	Amputation at hip	90
18.	Amputation below hip with stump not exceeding [12.70 Cms.] in length measured from tip of great trochanter	80
19.	Amputation below hip with stump exceeding [12.70 Cms.] in length measured from tip of great trochanter but not beyond middle thigh	70

Serial No (1)	Description of Injury (2)	Percentage of loss of earning capacity (3)
20.	Amputation below middle thigh to [8.89 Cms.] below knee	60
21.	Amputation below knee with stump exceeding [8.89 Cms.] but not exceeding [12.70 Cms.]	50
22.	Amputation below knee with stump exceeding [12.70 Cms]	50
23.	Amputation of one foot resulting in end bearing	50
24.	Amputation through one foot proximal to the metatarsophalangeal joint	50
25.	Loss of all toes of one foot through the metatarsophalangeal joint	20
	Other injuries	
26.	Loss of one eye, without complications, the other being normal	40
27.	Loss of vision of one eye, without complications or disfigurement of eye-ball, the other being normal	30
28.	Loss of partial vision of one eye	10
	Loss of— A—Fingers of right or left hand Index finger	
29.	Whole	14
30.	Two phalanges	11
31.	One phalanx	09
32.	Guillotine amputation of tip without loss of bone	05
	Middle finger	
33.	Whole	12
34.	Two phalanges	9
35.	One phalanx	7
36.	Guillotine amputation of tip without loss of bone	4
	Ring or little finger	
37.	Whole	7
38.	Two phalanges	6
39.	One phalanx	5

Serial No (1)	Description of Injury (2)	Percentage of loss of earning capacity (3)
40.	Guillotine amputation of tip without loss of bone	2
	B—Toes of right or left foot Great toe	
41.	Through metatarso-phalangeal joint	14
42.	Part, with some loss of bone	3
	Any other toe	
43.	Through metatarso-phalangeal joint	3
44.	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe	
45.	Through metatarso-phalangeal joint	5
46.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe	
47.	Through metatarso-phalangeal joint	6
48.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe	
49.	Through metatarso-phalangeal joint	9
50.	Part-with some loss of bone	3

FIFTH SCHEDULE

[See section 15]

MATTERS THAT MAY BE PROVIDED FOR IN THE SCHEMES

Any Scheme framed under section 15 may provide for any of the following matters:-

PART A

Serial No.	Matters on which the Provident Fund Scheme may make provisions
(1)	(2)
1	The employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution.
2	The time and manner in which contributions shall be made to the Fund by employers and by, or on behalf of, employees, (whether employed by him directly or by or through a contractor), the contributions which an employee may, if he so desires, make under section 16, and the manner in which such contributions may be recovered.
3	The manner in which employees' contributions may be recovered by contractors from employees employed by or through such contractors.
4	The payment by the employer of such sums of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which the payment shall be made.
5	The constitution of any committee for assisting any board of trustees.
6	The opening of regional and other offices of any board of trustees.
7	The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the Central Government, the preparation of the budget, the audit of accounts and the submission of reports to the Central Government, or to any specified State Government.
8	The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
9	The fixation by the Central Government in consultation with the boards of trustees concerned of the rate of interest payable to members.
10	The form in which an employee shall furnish particulars about himself and his family whenever required.
11	The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.
12	The registers and records to be maintained with respect to employees and the returns to be furnished by employers or contractors.
13	The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.
14	The fees to be levied for any of the purposes specified in this Schedule.
15	The contraventions or defaults which shall be punishable under section 135.
16	The further powers, if any, which may be exercised by Inspector cum Facilitators.
17	The manner in which accumulations in any existing provident fund shall be transferred to the Fund and the mode of valuation of any assets which may be transferred by the employers in this behalf.
18	The conditions under which a member may be permitted to pay premia on life insurance, from the Fund.
19	Any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

PART-B

MATTERS THAT MAY BE PROVIDED FOR IN THE PENSION SCHEME

1. The employees or class of employees to whom the Pension Scheme shall apply.

2. The portion of employers' contribution to the Provident Fund which shall be credited to the Pension Fund and the manner in which it is credited.
3. The regulation of the manner in which and the period of service for which, no contribution is received.
4. The manner in which employees' interest will be protected against default in payment of contribution by the employer.
5. The manner in which the accounts of the Pension Fund shall be kept and investment of moneys belonging to Pension Fund to be made subject to such pattern of investment as may be determined by the Central Government.
6. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.
7. The forms, registers and records to be maintained in respect of employees, required for the administration of the Pension Scheme.
8. The scale of pension and pensionary benefits and the conditions relating to grant of such benefits to the employees.
9. The manner in which the exempted establishments have to pay contribution towards the Pension Scheme and the submission of returns relating thereto.
10. The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose.
11. The manner in which the expenses for administering the Pension Scheme will be met from the income of the Pension Fund.
12. Any other matter which is to be provided for in the Pension Scheme or which may be necessary or proper for the purpose of implementation of the Pension Scheme.

PART-C

MATTERS THAT MAY BE PROVIDED FOR IN THE EMPLOYEES' DEPOSIT-LINKED INSURANCE SCHEME

1. The employees or class of employees who shall be covered by the Insurance Scheme.
2. The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund subject to such pattern of investment as may be determined, by order, by the Central Government.
3. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.
4. The nomination of a person to receive the insurance amount due to the employee after his death and the cancellation or variation of such nomination.
5. The registers and records to be maintained in respect of employees; the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of his family entitled to receive the insurance amount.
6. The scales of insurance benefits and conditions relating to the grant of such benefits to the employees.
7. The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).
8. Any other matter which is to be provided for in the Employees' Deposit-linked Insurance Scheme or which may be necessary or proper for the purpose of implementing that Scheme.

SIXTH SCHEDULE

[See section 76(b)]

FACTORS FOR WORKING OUT LUMP SUM EQUIVALENT OF COMPENSATION AMOUNT IN CASE OF PERMANENT DISABLEMENT AND DEATH

(1)	Completed years of age on the last birthday of the employee immediately preceding the date on which the compensation fell due (In years) (2)	Factors (3)
Not more than in years	16	228.54
	17	227.49
	18	226.38
	19	225.22
	20	224.00
	21	222.71
	22	221.37
	23	219.95
	24	218.47
	25	216.91
	26	215.28
	27	213.57
	28	211.79
	29	209.92
	30	207.98
	31	205.95
	32	203.85
	33	201.66
	34	199.40
	35	197.06
	36	194.64

	37	192.14
	38	189.56
	39	186.90
	40	184.17
	41	181.37
	42	178.49
	43	175.54
	44	172.52
	45	169.44
	46	166.29
	47	163.07
	48	159.80
	49	156.47
	50	153.09
	51	149.67
	52	146.20
	53	142.68
	54	139.13
	55	135.56
	56	131.95
	57	128.33
	58	124.70
	59	121.05
	60	117.41
	61	113.77
	62	110.14
	63	106.52
	64	102.93
	65 or more	99.37

SEVENTH SCHEDULE

[See section 114(6)]

Classification of the Aggregators for the purposes of contributions
to the Gig and Platform Worker Welfare Fund

Sl.No.	Classification of Aggregator	Rates to be notified in terms of section 114(6)
1.	Ride sharing services	
2.	Food and grocery delivery services	
3.	Logistic services	
4.	e-Market place (both market place and inventory model) for wholesale/retail sale of goods and/or services (B2B/B2C)	
5.	Professional services provider	
6.	Healthcare	
7.	Travel and hospitality	
8.	Content and media services	
9.	Any other goods and service provider platform	

(refer para _____ of the main note)

RECOMMENDATIONS OF PARLIAMENTARY STANDING COMMITTEE ON LABOUR ON CODE ON SOCIAL SECURITY BILL, 2019 & MINISTRY'S RESPONSE

	Code	RECOMMENDATIONS OF PARLIAMENTARY STANDING COMMITTEE	REPLY OF MINISTRY OF LABOUR AND EMPLOYMENT
1	Chapter XIII	<p>2.8 The Committee find that the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 is one of the nine Acts proposed to be amalgamated with the Social Security Code, 2019. Justifying the proposed amalgamation, the Ministry have deposed that the labour market information collected under the provisions of the said Act and Rules made thereunder facilitates connecting the employers with the workers and fresh job seekers and moreover such amalgamation would help achieve the objective of having minimum number of Acts/ Legislations. The Committee are not impressed with the logic adduced firstly because the said Act provides for reporting of vacancies to the Employment Exchanges which act as labour market facilitation institutions and do not in any way connect with the theme and thrust of Social Security. Moreover, just to reduce the number of Acts/Legislations, any Act not connected with the subject matter of the Code should not be illogically subsumed in it. The Committee would, therefore, like to urge the Ministry to revisit the proposed amalgamation of the said Act with the Code and rather contemplate examining the compliance aspect to the provisions contained in the Act during more than six decades of its existence.</p>	<p>Partly-Accepted.</p> <p>The stand-alone Act of 1959 had become redundant and ineffective due to the fact that the Employment Exchanges in brick and mortar ceases to exist. As recommended by the Committee to examine the compliance aspect of the Act, it is submitted that inclusion of Act in the Social Security Code will not only modernize the Act, as the definition of "career center" envisages a portal which will be a one-stop shop for converging job-seekers and job providers. Non-compliance of intimation of vacancy, etc. would attract penalty. Therefore, integrating Employment Exchanges Act would strengthen the compliance.</p>
2	.	<p>2.9 The Committee note that while the Cine Workers Welfare Fund Act, 1981; the Building and Other Construction Workers (BOCW) Cess Act, 1996; and the Unorganised Workers Social Security Act, 2008 are being subsumed with the Code,</p>	<p>The various Acts which have been repealed including the collection of cess under the Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labor Welfare Cess Act,</p>

	<p>a number of similar Labour Welfare Fund Laws like the Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976; the Beedi Workers Welfare Fund Act, 1976; the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972, etc. have been left out of the Code on the contention that the first three Acts were in force at the time of introduction of the Code and hence they are being subsumed. The Committee are not convinced with the Ministry's reasoning as it appears inconsistent with the primary purpose to facilitate the implementation of various labour laws without compromising the basic concepts of welfare and benefits to workers. The Committee are of the considered opinion that when welfare of workers is the noble intent, it should universally be extended to workers from all Social strata. Needless to say, it becomes imperative on the part of the Ministry to have a relook at those Labour Welfare Laws which have been left out of the amalgamation process irrespective of the abolition, so as to ensure that the merited and principled provisions as contained in such laws are duly incorporated in the Code for the overall benefit of the sector specific labour force without Discrimination.</p>	<p>1976 and corresponding Welfare Fund had not been found to be collecting adequate cess. It is not the intention of the Government not to provide welfare measures to the workers engaged in iron ore mines, chrome ore mines, limestone and dolomite mines, etc. The Government has correspondingly increased budget allocation. The schemes, i.e., for providing financial assistance for education, housing and dispensaries have been continued or modified keeping in view the emerging situation. Further, the Government has launched the mega scheme of Aayushman Bharat for health coverage. Under Pradhan Mantri Shram Yogi Maandhan Yojana where annual outgo is envisaged to be more than Rs. 500 crore.</p>
3	<p>2.10 The Committee are apprehensive that the codification exercise is full of stipulations like "as may be specified"; "as may be prescribed"; "as may be framed"; etc. in respect of almost all substantive provisions pertaining to entitlement, contributions, benefits, etc. The Ministry have explained that it is a conscious decision of the Government as it provides for dynamism and flexibility to those provisions which are amenable to change as per the needs of time, without undermining the powers of Parliament. The Ministry have also narrated in detail the effect of the notification, regulation etc. once they come before Parliament after being made or framed, in terms of Section 159 of the Code. The Committee are well aware of the procedure detailed by the Ministry. The moot point is whether so many substantive provisions ought to be left to the Executive Orders when an important legislation is being framed by subsuming with it as many as nine extant Labour Laws. The Committee take into</p>	<p>Accepted "The words specified does not only mean delegation but also it envisages nominating an authority for various functions. For example, the word 'specified' has been used <i>inter-alia</i> in the context of following:</p> <ol style="list-style-type: none"> I. Items which are in Schedule which relate to modification of applicability. II. In case of ESIC, the rate of contribution was part of the rule making only in existing act. III. In case of EPFO, it is proposed code, rates of contribution continues to be the part of the act, except in case of employees who has been given flexibility with the aim to carry more cash at home. IV. Authority specified in section 2(27) - as to who shall be responsible on behalf of employer to comply various provision of this code. It does not mean delegation of power. V. Occupational diseases specified (sec 2 (48))

		<p>cognisance the Ministry's submission that to make the legislation dynamic and attuned to the emerging scenario, it is necessary to provide the Executive certain powers of modifications, but they do not agree with the sweeping powers intended to be conferred upon the Central Government on the plea of dynamism and flexibility and at the cost of duplicity and ambiguity in the law making process. The Committee, therefore, exhort the Ministry to review all such equivocal and cryptic provisions and endeavour to have a course correction so as to determine a transparent and inclusive legislation with due regard to the powers and privileges of Parliament.</p>	<p>VI. Injuries to be specified under employees' compensation (sec (2)(52))</p> <p>VII. Dates of operation specified</p> <p>VIII. Composition of Committees specified</p> <p>IX. Functions specified</p> <p>Further, as provided under section 159 of the Code; every rule, regulation, notification and scheme made or framed by the Central Government or the Corporation, under the Code shall be laid, as soon as may be after it is made or framed, before each House of Parliament, and if, both Houses agree in making any modification in the rule, regulation, notification or scheme or both Houses agree that the rule, regulation, notification or scheme should not be made, such rule, regulation, notification or scheme shall thereafter have effect only in such modified Form or be of no effect."</p>
4		<p>2.11 The Committee would like to emphasize that while proposing to amalgamate the nine extant Acts by simplifying and rationalising them, the Code ought to assume value addition over the said Acts so as to provide a firm legal and institutional framework for a universal right based social security with a secure financial commitment and within a definite time frame.</p>	<p>Not Accepted. The effort has be made to increase coverage of ESIC, EPFO, gig worker and platform workers, self-employed workers, agricultural workers, plantation workers, and other unorganised workers.</p>
5		<p>3.8 As it is expected that the Preamble to the Code should explicitly express its commitment for provision of social security benefits to all types of workers, the Committee desire that it should highlight the importance of social security in the lives of workers and emphasize it as a right, as also agreed to by the Ministry. Keeping in view the larger socio-economic interests of the Workforce and ensure their dues in terms of Social Security benefits, the Committee also recommend that there is an imperative need to clearly spell out, either in the Preamble or at any other appropriate place, the principles to be followed for provision of Social Security benefits to all workers in accordance with the provisions stipulated in the Constitution of India, ILO Conventions and other International Instruments which espouse and guarantee various labour</p>	<p>Accepted. The Code aims at universalizing the social security whether through contribution from employer and employees both or through formulation of schemes for the workers in the unorganised sector. Therefore, attempt has been made to cover the new and emerging form of workers and also to relax minimum threshold of workers in special circumstances. The long line has been changed as under-</p> <p>to amend and consolidate the laws relating to social security with ultimate goal to extend social security to all of the employees, self-employed and other</p>

		rights.	persons and the matters connected therewith or incidental thereto.
6		3.9 On a suggestion to rechristen the short title of the Code as 'The Code on the Labour Welfare and Social Security', the Ministry have submitted that the title 'Code on Social Security' has been put in place in line with the classification of labour laws as recommended by the Second National Commission on Labour. Moreover, 'Social Security' includes labour welfare. The Committee find merit in the reasoning advanced by the Ministry and desire that status quo of the title of the Code be maintained, albeit with the expansion in the definition of 'Social Security' which has been highlighted at the appropriate place in this Report	No comments required.
7		3.10 The Committee are concerned to note that there is no provision of a specific time frame within which the stipulation of the Code would be given effect. Keeping in view the heightened expectation and aspirations of the labour force on a comprehensive law on Social Security which is being brought in after 73 years of the Country's Independence, the Committee desire that a clear and specific enforcement date need to be stipulated in the Code itself so as to ensure effective provision of Social Security to all the workers within a definite timeline.	Accepted. In the Code, it has been proposed to continue the existing Regulation and Scheme for a period of one year formulated by ESIC and EPFO respectively. The Government's endeavour would be to bring into force maximum provisions in the earliest possible time.
8		4.5 The Committee appreciate that pursuant to their recommendations in the OSHWC Code and Industrial Relations Code to foster more clarity in the definition of 'Appropriate Government', the Ministry have come up with a new proposed definition of 'Appropriate Government' in the revised Industrial Relations Code, 2019 which includes 'controlled industry' and also contains provisions clearly stipulating that the appropriate authority would be the Central Government where not less than fifty-one per cent of the paid up share capital is held by the Central Government in any establishment, corporation, other authority, public sector undertaking or any company. In view of the fact that clear demarcation of responsibility between the Central Government and the State Governments would remove confusion and facilitate smooth implementation of the enactments,	Accepted. Clause 2 (3) has been accordingly amended to include that if in any company having more than 51% paid-up share capital if held by Central Government, then the appropriate Government shall be the Central Government.

		the Committee urge the Ministry to have a uniform and unambiguous definition of 'Appropriate Government' in all the Codes.	
9		<p>4.9 The Committee find that the definition of 'Building and Other Construction Work' and 'Building Workers' have been taken from the Code on wages and the Occupational Safety, Health and Working Conditions Code to maintain uniformity in consonance with the objective of the codification process. On the suggestions made by some State Governments for a provision for removal of threshold applicability in the definition of 'Building Workers' in Clause 2(7) itself, the Ministry have clarified that the First Schedule has been added to the Code specifying the applicability of thresholds which can be easily increased or decreased through notifications without the requirement of amending the respective Acts. Though Committee find merit in the reasoning adduced by the Ministry, they, however, are of the opinion that instead of leaving things to be taken care of by the notification process, it would be appropriate to lower the threshold limit in the Code itself to address the concerns of the State Governments and for the benefit of the BOCWs.</p>	<p>Not Accepted. The First Schedule fixes threshold for applicability of different Chapters of the Code. In case of Building and Other Construction Work, threshold of 10 has been provided in section 2(6) of the Code. This limit has been fixed with a view to include only those BOC work employing more than 10 workers as this category seems to capable to bearing the burden of cess. Moreover, in most of the legislations, there is a threshold of ten workers for coverage under them.</p>
10		<p>4.14 The Committee note that the Code defines various types of workers differently under different clauses on the premise that certain provisions are exclusively related to certain types of workers. In this context, the Committee note that while Clause 45 of the Code contemplates bringing the Gig Workers and Platform Workers under the ESI scheme which is basically meant for the Organised Sector, they are also included under the Chapter on 'Social Security for the Unorganised Workers' wherein Clause 114 provides for framing of exclusive Schemes for Gig Workers and Platform Workers. Keeping in view the fact that specific welfare schemes are envisaged in the Code for 'Unorganised Workers' as distinguished from the ones available for those in the 'Organised Sector', the Committee feel that there is a need for more clarity in the definitions indicating unambiguously whether a particular worker belongs to the Unorganised Sector or Organised Sector or both. While appreciating the desirability of having different definitions for different workers for effecting worker specific provisions, the Committee are, however, of the firm opinion that adequate</p>	<p>Not Accepted. The worker's definition is only one which is not in this Code. In this Code, different types of workers include, gig workers, platform workers, unorganised worker, motor transport worker, self-employed worker, and home-based worker. It is necessary to define all these workers for the purpose of formulation of schemes and to identify them as a separate and distinct category. The worker normally is defined where traditional employer-employee relation exist in traditional setting in organised sector. Gig worker and platform worker have been included as they are distinct category and do not have traditional employer-employee relation and can work with more than one employer and in case of platform worker, the Central aspect is digital platform. Self-employed worker do not have employer at all. Home-based worker who are generally women is separate category so as wage worker who can be working for more than one employer would be temporary or casual worker. Putting them into one category will also mean ignoring their</p>

		safeguards have to be built in to ensure that such multiplicity in definitions do not in anyway impede extension of social security benefits to any type of worker.	<p>rights.</p> <p>The class of gig worker and platform worker have characteristics of both organised as well as unorganised workforce. Therefore, it is not practical to categorise them in any particular category. Home-based worker because of its definition falls under unorganised sector.</p> <p>The description of definition clearly distinguishes a worker for extension of social security benefits due to him under different schemes whether organised or unorganised.</p>
1 1		4.19 The Committee note that the definition of 'contractor' does not include terms like 'concessionaire or licensee' which are largely used in Railways, Airports and other Infrastructural Sectors on the justification that the definition of 'contractor' is in line with the existing definition in the Contract Labour (Regulation & Abolition) Act, 1970 which had worked well over the years and retained in 'The Code of Wages, 2019' to maintain uniformity and this had been done in consultation with Stakeholders. Notwithstanding the stand taken by the Ministry and keeping in view the need to incorporate new and evolving terms in the labour market, the Committee recommend that a proviso may be added in Clause 2(19) stating that 'the contractor includes the agencies engaged by any establishment in the name of concessionaire/Licensee'.	<p>Not Accepted. License is a basic requirement for doing any contract work, thereby meaning a contractor needs to have a licence for doing any work. The term "concessionaire" is beyond the term contractor.</p> <p>Therefore, adding these terms will complicate the definition of contractor in relation to an establishment.</p>
1 2		4.20 As regards the definition of 'Contract Labour', though the Ministry have deposed that it has been done as per the Code on Wages, 2019 after consultations with the Stakeholders, the Committee feel that some terms used in the definition viz., 'regularly employed', 'employment governed by mutually accepted standards of conditions of employment'; engagement on permanent basis'; 'periodical increment;' and 'other welfare benefits' seem to be ambiguously worded which are liable to be interpreted differently and may be a major source of litigation detrimental to the interests of contract labour. The Committee, therefore, desire that these terms need a review for appropriate interpretation.	<p>Not Accepted. These terms have been introduced for a better differentiation of a contract worker from a regular worker who is covered under regular social security coverage and other welfare benefits. Removing them will create confusion and ambiguity towards their social security which may get compromised.</p>
1 3		4.23 In terms of the provisions made in Clause 109 of the Code, contributions to the Social Security Fund for provision of Social Security to the Unorganised	<p>Partly Accepted. The term contribution has been used only to the extent of sum collected from beneficiaries of the scheme or</p>

		Workers, includes contributions from Central Government, State Government, beneficiary workers, Corporate Social Responsibility funds or any other source as may be specified in the Schemes. Keeping in view the various types of contribution envisaged in the Code, the Committee recommend that the definition of 'contribution' be modified to make it inclusive of the other types of contribution intended from other sources too. The Committee would also like the Ministry to specifically pay attention towards making contribution by the Appropriate Government in cases where a clear employer-employee relationship does not exist or cannot be established and where the employee is not able to contribute, especially those who do not come under the threshold limit.	employers and not any fund collected from other sources. The revised Code envisages a provision for Welfare Fund for the Unorganised Workers which will be credited with the amount received from the composition of offences under the Code.
1 4		4.29 The Committee find that the definition of 'employee' in Clause 2(26) has left out many types of workers from its ambit though the earlier drafts included Anganwadi and ASHA workers etc. Further, the first proviso to the clause stipulating that 'the wage ceiling for employees for the purpose of applicability of Chapters III & IV to be notified by the Government' appears to be restrictive in nature in terms of coverage. Moreover the prescribed low wage ceiling of Rs.15,000/- for EPF and Rs.21,000/- for ESIC, would exclude many informal workers in the formal sector from the ambit of EPF and ESIC benefits. The Committee are not convinced with the Ministry's clarification that provisions for determining wage thresholds by Central Government for EPFO/ESIC through subordinate legislation is as per the existing practice. Just because a practice has been going on since ages, it does not any way obstruct the Government to initiate improvements in the existing system. The Committee, therefore, impress upon the Ministry to expand the definition of 'employee' so as to encompass all sorts of workers such as Anganwadi and Asha workers as found place in earlier drafts of the Code. Further efforts ought to be made to determine wage thresholds through an automatic process of wages indexation with Consumer Price Index (CPI) periodically which would obviate dependence on notifications/subordinate legislation.	Partly Accepted. The definition of employee has been elaborated to cover all kinds of employees including employees employed either directly or through a contractor and in any occupation. Since Social Security Code is employee-centric, this definition of employee will universalize the benefits under this Code. Wage ceiling has been kept to be fixed through subordinate legislation to take care of social security of workers with the changing economic situations and various price indexes thereupon and to accommodate such changes in prescribing the wage ceiling.
1 5		4.33 The Committee find that the definition of 'employment injury' in Clause 2(28) is based on the definition contained in the	Accepted. The definition has been revised as under: "employment injury" means a personal injury to an

		ESI Act, 1948 and it includes only the types of accidents and occupational diseases as defined for the purposes of Chapter IV on 'Employees' State Insurance Corporation' (ESIC) in relation to insurable employment. The Committee are of the considered opinion that the definition needs to be standardized and made more inclusive so that the unorganized sector is also given due coverage for availing benefits due to 'employment injury'.	employee, caused by accident or an occupational disease, as the case may be, arising out of, and in the course of his employment, being an insurable employment only for the purposes of Chapter IV and in respect of Chapter VII and the schedule attached thereto, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;
1 6		4.38 According to the Ministry the definition of 'Establishment' is based on the one contained in the Occupational Safety, Health and Working Conditions Code and does not cover agricultural holdings and households. The Ministry have also submitted that a common definition of 'Establishment' is being attempted across all the Codes. The Committee desire that with a view to extending social security benefits to all the workers without discrimination or differentiation, the definition of Establishment should also include 'exchange of services' with a provision of less than ten workers alongwith trade, business, manufacturer or occupation, etc. is carried on etc. as mentioned in Clause 2(23)(a).	Partly-Accepted. It has been provided in the Code that Chapter IV (ESIC) shall also be applicable to an establishment which carries on such hazardous or life threatening occupation as notified by the Government in which even a single employee is employed.
1 7		4.42 The issue of 'Fixed Term Employment' has been extensively dealt with by the Committee in their Report on 'The Industrial Relations Code, 2019'. A critical analysis of the concept of Fixed Term Employment has revealed that its biggest advantage is that it accords all the benefits to a worker which is available to a permanent employee and there is no distinction between a fixed term employee and a regular employee. However, what concerns the Committee is the flexibility envisaged for the employer, without coherence in the definition, which might result in exploitation of the employees and promotion of 'hire and fire' policy by the employer. The Committee, would therefore, like the Ministry to ensure incorporation of more protective and pre-emptive provisions in the definition, explicitly mentioning the conditions under which and the areas where the employers can secure Fixed Term Employments from a Designated Authority strictly based on an objective situation. The Committee also desire that the other suggestions relating to various issues of fixed term employment, as highlighted in the Report on Industrial Relations Code, 2019, be	Partly accepted. The FTE will also be part of standing order on the establishments which falls under the threshold for having standing order in the Industrial Relations Code. Further the definition of FTE in the IR Code unambiguously mentioned that the hours of work, wages, allowances and other benefits shall not be less than permanent worker, doing the same or similar nature of work and he shall also be eligible for benefit of gratuity if the contract period is for one year.

		taken into consideration for appropriate implementation.	
1 8		<p>4.50 The Committee find that the provisions for Gig and Platform Workers are a new and emerging concept and have been drafted keeping in view flexibility to frame suitable Social Security Schemes for them in future. The Committee also note that Gig workers and platform workers are likely to form a separate class with separate nature of work involving characteristics of both organised as well as unorganised workers. Thus, there is no clarity as to whether Gig and Platform workers belong to the organized sector or the unorganized sector. It, therefore, becomes imperative to clearly mention the status of the Gig workers and platform workers in the Code itself so as to effectively extend the social security provision as per specific categorisation. Further, since the definition of 'Gig Workers', given in terms of all activities outside the traditional employer-employee relationship, appears too broad, the Committee desire that the definition of 'Gig Workers' needs to be made more specific and unambiguous to obviate any scope for any confusion and misinterpretation.</p>	<p>Accepted. A separate section and detailed provisions have been built in the Social Security Code including the following:</p> <ul style="list-style-type: none"> i. Provision for collection of contribution ii. Provision for welfare board iii. Provision for separate fund iv. Inclusion of schedule to provide flexibility <p>The gig workers are flexi- workers who can have more than one employer and do not exhibit characteristic of either unorganised or organised sector. For example, a delivery boy working for an aggregator is called with different names including micro-entrepreneurs. The delivery boy although working with organised sector, but still he himself remains part of unorganised sector. The definition of platform worker necessarily would involve a portal.</p> <p>Further, in the definition of "platform worker" the power has been vested with the Central Government to notify additional activities which would fall within the domain of platform worker.</p>
1 9		<p>4.51 On the definition of 'Platform work', the Committee are of the considered opinion that the definition needs to be expanded to include work, employment, service and other activities and an enabling provision should be incorporated in the Code to empower the Government to accommodate new emerging forms of labour market activities that may conform to the future work model.</p>	<p>Accepted. The definition has been amended to include in the definition of platform work "or such activities which are notified by the Central Government".</p>
2 0		<p>4.54 The Committee note that the term 'Inspector-cum-Facilitator' as defined in Clause 2 (37) has been introduced to supply information and impart advice to employers and workers concerning the most effective means of complying with the provisions of the Code, in addition to enforcement functions. A number of Stakeholders have suggested that the word 'Facilitator' should be deleted since facilitation work is not part of the work of 'Inspector' or they should be divided into 'Inspector' and 'Facilitator' separately. The matter has extensively been dealt with by the Committee while examining the OSHWC Code, 2019 and in that Report,</p>	<p>Accepted. The Inspector-cum-Facilitator" will be mandated to impart advice to workers and employers both.</p>

		the Committee had agreed to the Ministry's justification that the Inspector should facilitate giving guidance to both the employer and the employee for better working relationship. The Committee reiterate their stance and desire the Government to ensure that the purpose and intent of entrusting the role of facilitator to the inspector are well served in the effective implementation of social security to the workers.	
2 1		4.60 The Committee note that 'Social Security' as defined in Clause 2(70) covers essential elements of Social Security viz access to health care, Income security particularly in case of old age, unemployment schemes, coverage during inability to work due to injury, maternity or loss of breadwinner. However, the definition does not appear to be all encompassing as Superannuation and Insurance Schemes like Life Insurance, Medical Insurance, Accidental Insurance and Occupational Insurance do not find mention therein. Further, the provisions made for Social Security benefits are proposed to be extended through 'Schemes' framed under the Code and not through 'relevant provisions' of the Code on the plea of giving flexibility to the Government to frame Social Security Schemes. Keeping in mind the fact that the whole fulcrum of the Social Security Code would lie on the very definition of 'Social Security', the Committee are of the firm opinion that the definition be appropriately modified to make it all encompassing with specific mention of all the nine components contained in the International Labour rganisation (ILO) Convention on Social Security (minimum standards) 1952 viz, medical care, sickness benefits, unemployment benefits; old age benefit; employment injury benefit, family benefit, maternity benefit; invalidity benefit and survivors' benefits. The Committee also desire that requisite housing facility to the workers be added in the components of Social Security.	<p>Partly-Accepted. ESIC covers the various benefits. The coverage of ESIC has been made pan India under the Code. At present, ESIC is restricted to only 545 districts/district headquarters in the country. The benefits provided are as under :</p> <ol style="list-style-type: none"> I. medical care, II. sickness benefits, III. unemployment benefits; IV. employment V. injury benefit, VI. family benefit, VII. maternity benefit; VIII. Invalidity benefit and survivors' benefits. <p>As regards old age benefit, the same is provided by EPFO.</p> <p>It is not desirable to provide for housing facility in the Code as it is an onerous responsibility to put on employer.</p>
2 2		4.61 Since concrete Schemes for provision of social security benefits to the workers have to be framed as per the flexibility accorded to the Government in line with the provisions under the Code, the Committee feel that it would be appropriate to replace the words 'schemes formed under the Code' with 'under the relevant provisions of the Code'.	Not Accepted. Having a provision for formulation of schemes imparts flexibility to the Government to develop scheme(s) depending upon resources, emerging social-economic trend, forms of employment (for example, structural changes that have taken place during Covid-19 pandemic) and other factors.
2		4.66 The main contention in the definition of 'Unorganised Sector' as given in Clause	Not accepted. This is as per existing definition. The word has been used

3		<p>2(77) is the usage of the word 'enterprise' without a clear definition of the term anywhere in the Code making it unclear as to whether other forms of ownership such as cooperatives have been excluded. The Committee find merit in the general apprehension expressed that if 'unorganised sector' is not identified and defined properly, categories of workers such as domestic workers, home-based workers on a piece rate or commission basis and some other categories of workers might get excluded. The Committee further observe that the concept of enterprise is generally being used in India only in the context of the non-agriculture sector and use of such a restrictive meaning of enterprise would lead to exclusion of large number of workers in the agriculture sector. The Committee, therefore, recommend that the word 'enterprise' used in the definition of 'unorganised sector' be defined specifically within the definition or separately to remove any ambiguity in the interpretation of the provision.</p>	<p>in the context of entrepreneurship and carries a dictionary meaning.</p>
2 4		<p>4.71 The Committee are not convinced with the Ministry's contention that that the definition of 'Unorganised Worker' in Clause 2(78) of the Code is as per the definition given in 'The Unorganized Workers Social Security Act, 2008'. When the UWSS Act, 2008 is being proposed to be subsumed with the Code, it becomes incumbent upon the Ministry to iron out the grey areas existed in the earlier Act and bring in improvement in the new legislation. The Committee, therefore, impress upon the Ministry to modify the definition of 'Unorganised Worker' and include in it gig workers, platform workers, freelance workers, agricultural workers, self-employed workers etc. so as to ensure access to social security and welfare benefits by every single kind of unorganised worker. The Committee are confident that an unequivocal and conclusive definition of Unorganised Workers would facilitate creation of a national database of such workers as envisaged under Clause 113 of the Code and prevent unnecessary litigations.</p>	<p>Partly Accepted. The definition of unorganised workers has been extended and "agriculture workers" have been included. However, the gig worker and platform worker, exhibit characteristics of both organised as well as unorganised workforce.</p>
25	Clause 2(82)	<p>4.75 According to the Ministry, the definition of 'Wage Worker' is based on the one contained in 'The Unorganized Workers' Social Security Act, 2008'. The Committee, however, feel that the scope of wage workers may stand limited in the unorganized sector in terms of the extant</p>	<p>Not Accepted. It is important to mention that for any kind of social security benefit there must be a distinction criteria so as to enable workers who are drawing wages below a certain limit only get most benefitted from the social security measures of the Government. Moreover, there is no</p>

		definition which stipulates that monthly wage amount to be notified by the Central Government or the State Government as the case may be. As it would be impractical for any Government to notify that monthly wage of a domestic worker employed by a single employer, the Committee recommend that the definition of wage worker be appropriately modified so as to remove artificial restrictions in the implementation of the social security provision.	formal relationship between the employee and employer in this case and applicability criteria does not apply to this class of workers. Therefore, it is imperative to have a wage threshold.
26	Clause 3	5.6 The Committee find that though mandatory registration of establishment has been stipulated in Clause 3, there are some lacunae in the registration process especially with respect to registration of the unorganized sectors since the definition of the word establishment in the Code has been restricted without a clear inclusion of agricultural holdings and households. The Committee are of the considered opinion that a robust registration process of each and every establishment is an integral step towards a real time database of all Establishment and Workers employed therein including the Unorganised Workers. The Committee, therefore, desire that the registration process be made more comprehensive and inclusive to extend it to all establishments in the agricultural, non-agricultural as well as self-employed or own-account workers so as to create a real-time database of registered enterprises alongwith types of employment viz. permanent, temporary, part-time, contract, etc. which has to be maintained online and updated periodically. In other words, all establishments, without exception, should be required to be registered on mandatory basis with one body, instead of with multiple organisations and that sole body should remain responsible for provision of social security for all types of workers in the Country. Needless to say, the definition of 'Establishment' has to be accordingly revised in a more conceptually clear and definite manner.	Partly accepted. The words electronically or otherwise have been added in the section 3 relating to registration of establishment. However, it is not desirable to register the unorganized workers as establishment in social Security Code. Registration under the Code entails responsibilities of maintenance of registers, filing of returns and also attracts periodical inspections. However, the definition of unorganized sector has been modified to include agriculture workers.
27	Clause 4	6.20 Clause 4 of the Code provides for constitution of the Central Board of Trustees for Social Security Organisations. Stakeholders have expressed apprehension over the possible dilution and undermining of the tripartite Character of the Standing Committee of ESI when it is left to the Government to decide the constitution of Board of Trustees. The Ministry has assured	Accepted. There is a categorical mention of 10 persons representing employer and 10 person representing employee in section 4(EPFO) & 5(ESIC) of the code. To bring clarity linkage is with section 15 has been built in the code.

		that there is no change in the constitution of the Central Board of Trustees and ESIC and no Regional/State Boards have been abolished. While taking note of the Ministry's statement, the Committee desire that the tripartite character of the composition of CBT and ESIC should not be diluted or undermined so as to justly address the apprehensions raised at many quarters.	
28	Clause 4	6.21 The Committee's attention has been drawn to the fact that no Country in the World including large and populous federal Countries, has multiple organisations governing social security whereas the provisions of the Code have multiple social security organisations viz. National Social Security Board (NSSB), State Social Security Boards (SSBs), State Building Workers Welfare Boards, EPFO, ESIC etc. The Committee feels that such an arrangement in the new legislation would be a mere continuation of the extant fragmented structure of social security. The Committee would, therefore, like the Ministry to look into the matter and explore the feasibility of putting in place a more compact system of governance of social security, without of course diluting the basic federal character.	Partly Accepted. The representatives of State Governments have been ensured in all the committees like CBT of EPFO, standing committee of ESIC, unorganized national social security board and state building and other construction workers board etc.
29	Clause 4	6.22 According to the Ministry, the proposed composition of various Social Security Organisations under the Code is as per the existing Acts which is functioning well and therefore it is not envisaged to disturb the system. The Committee are not convinced with the argument because bringing in improvements does not tantamount to disturb the system. Since there is no restriction on representation of members based on caste or gender, as admitted by the Ministry, the Committee desire that a framework of a model composite scheme should be put in place to ensure greater uniformity and sectional representation like inclusion of members belonging to SC/ST/Minority/OBC communities in the organisations/Boards so as to address the labour related issues besetting the deprived sections of the workers. Equal attention needs to be paid towards representation of women members not only to maintain gender balance but also to effectively extend the intended social security benefits to the women workers. Most importantly, sectoral representation in the Boards should not be lost sight of and accordingly the number of members representing the unorganised	Not accepted. The Committee's recommendation to provide for sectional representation like inclusion of members belonging to SC/ST/Minority/OBC communities in the organisations/Boards is not practicable and workable. For example, in case of Trade Union or employers association, there is no guarantee that such sectoral members would be there who send their members to the board of EPFO and ESIC. Further the representatives of state governments are by designation.

		sector be suitably enhanced in view of the whopping percentage of workers employed in such sector whose interest and welfare have to be effectively safeguarded.	
30	Clause 4	6.23 The Committee is concerned to note that at present inter- State portability of benefits for Building and Other Construction Workers is infeasible across State Boundaries as benefits differ across States. On the suggestion for a 'Model Composite Scheme' to bring greater uniformity amongst States as a better alternative laying down 'minimum mandatory entitlement' across the States with inter-State portability, the Ministry have submitted that the Occupational Safety, Health and Working Conditions Code, 2019 envisages formulation of a Scheme for portability of benefits for Building and Other Construction Workers. In view of the imperatives involved, the Committee desire that the Scheme as envisaged in the OSHWC Code be appropriately reflected in and synchronized with the Code on Social Security.	Accepted. The Committee had advised this Ministry while taking Oral Evidence on various occasions on various subjects including Inter-State Migrant Workers. Therefore, a Chapter under OSH Code has been carved out for Inter-State Migrant Workers and also a provision has been made for the appropriate Government to formulate scheme for portability of benefits for BoC Workers under section 62.
31	Clauses 14-23	7.20 Concerns have been raised at many quarters that the threshold limit of 20 or more employees for EPFO registration can be used by the employers to exclude themselves from EPFO coverage. Further, the Government has been empowered to further restrict the coverage of EPF to any class of employees/establishments through delegated legislation/notification post enactment of the Code and not in congruence with Clause 4 and the First Schedule as per which Chapter III would be applicable to every establishment in which 20 or more employees are employed. The Committee also note that the EFP has an existing threshold limit of Rs. 15,000/- p.m. for applicability which restricts the coverage of EPF even to the informal workers in the organised sector as minimum wages in Class A cities are more than Rs. 15,000/-. The Ministry have clarified that the Schedule which was earlier attached to the EPFO has been removed in the Code which would make applicability universal besides facilitating enforcement as the dispute regarding applicability itself will disappear. While taking note of the self-acclaimed pro-worker and pro-establishment intent of the Government, the Committee feels that certain infirmities and just apprehensions regarding the threshold limit in terms of employees and income are to be	Accepted. The definition of employee has been suitably amended to make specific provision for chapter III (EPFO). The term 'employee' shall include such persons or class of persons as may be notified by central Government.

		appropriately addressed.	
32		7.21 The Committee desire that possibilities be explored to make the EPF&MP Act applicable to all the workers including self-employed ones to become the part of EPF, notwithstanding the additional liability for deposit in EPF, EPS and EDLI Funds. As economic development takes place, the wage levels increase and therefore both the thresholds and rates of contributions should be hiked proportionately as determined by law. Since the matter affects labour welfare and employers' pay-roll tax burden, it should be determined by Parliament and not through notification route.	Partly accepted. The rate of contribution for EPF have been retained as a part of the Act as can be seen from section 16 which provide that contribution paid by the employer to the fund shall be 10% of wages which can be increased up to 12%. In case of employees, the rate of contribution can be reduced through notification. A provision regarding extension of EPF&MP Act to self-employed has also been added in section-15.
33	Clause s 14-23	7.22 However, provisions be made empowering the Central Government to reduce the contribution rates in exceptional circumstances like areas affected by disasters in terms of the Disaster Management Act including pandemics because this would enable the Government to provide relief to the affected persons in Covid-19 like pandemics.	Accepted. The provision has been made empowering Central Government to defer or reduce rate of contribution for EPFO and ESIC.
34	Clause s 14-23	7.23 The Committee feel that the provisions made under Clause 19 appear to be fully misconceived as Section 36(4) of the Insolvency and Bankruptcy Code itself stipulates that the PF and Pension dues are excluded from liquidation estate of a corporate debtor and therefore outside the prioritization scheme of Section 53. In other words, the provisions of Clause 19 may have the effect of severe de prioritization of PF dues resulting in recovery of the workers dues. The Committee, therefore, recommends that the first charge of the PF dues as mentioned in Section 11 of the existing Act be retained to protect the interest of the workers.	Accepted .it will be ensured that workers' rights are protected under waterfall arrangement
35	Clause s 14-23	7.24 The Committee note that the Central Government shall set up funds for Provident Fund, Pension and Insurance Schemes which shall vest in and be administered by the Central Board in such manner as may be specified in the respective Schemes. The Committee also finds that the parent EPF&MP Act has four Schedules which are well connected with the coverage, scheming and scheduling of social security benefits. The Code proposes to remove the Schedules on the reasoning that all establishments in the Country having 20 employees or more will fall under EPF and there would be no dispute whether an establishment is now under the social	Accepted. It is assured that no provision of EPF&MP Act with respect to coverage has been diluted. Removal of schedule which provided the list of industries is worker friendly as without any restriction on category of workers, the Code would apply on any establishment having 20 or more employees.

		security coverage of EPF or otherwise. The Committee would like to caution the Ministry that while amalgamating the EPF&MP Act with the Code it should be ensured that the enabling provisions contained in it for effective coverage of workers and prudent administration and management Schemes and Funds are not diluted or compromised.		
	36	Clause 14-23	7.25 On the aspect of inordinate delays taking place in voluntary coverage under the EPF Scheme under section 1(4) of the existing EPF Act, the Ministry here admitted that there are some delays in the notification in many cases of voluntary coverage and assured that the provision for registration of establishment as provided under Clause 3 of the Code shall remove any ambiguity and will expedite the process of notification. The Committee trusts that the new provisions and the assurance of the Ministry would pave way for wider coverage and better fund management of the EPF.	Accepted. The coverage of EPFO is sought to be extended on voluntary basis as well as for self-employed persons.
	37	Clause 14-23	7.26 The Committee appreciates to note that the Government has launched the PM Gareeb Kalyan Yojana (PMGKY) on 26th March, 2020 to help the poor fight the lockdown effects arising out of the Covid-19 Pandemic. Under PMGKY, withdrawal from EPF account has been allowed to the extent of three months' salary and 75 percent of the outstanding balance, whichever is less, on the ground of the pandemic? As a result, online claims of more than 4.5 lakh members have been processed and Rs. 1,416.5 crore has been disbursed from the EPF accounts as on 17th April, 2020. The programme has also incentivized the employers which has prevented disruption in the employment of low wage earners. In view of the stress, duress and hardships that the low wage earners are going through during the ongoing lockdown, the PMKGY appears to be a timely scheme to come to the rescue of both employers and employees. The Committee desire that the monitoring aspect of the Scheme be given due priority so as to ensure that the twin objectives viz. preventing disruption in the employment of EPF members and extending support to the eligible EPF covered establishments are truly achieved.	Accepted. Daily monitoring is done through a management information system. Report is generated and shared with all concerned.
38		Clause 14-23	7.27 The Committee note that Clause 17 provides for contribution in respect of employers and contractors and recovery of such contributions. The Committee however, find that no stringent penalty for	Accepted. The violation of clause 17 with attract s fine of Rupees. 50,000 on each occasion. If offence is repeated after first conviction, then it will attract imprisonment for a period of 2 years or

		non-contribution from the contractor or the Principal employer has been stipulated. The Committee feels that as an effective deterrent and to ensure appropriate and timely contribution by the Principal Employer or by the contractor, requisite penal provisions be incorporated in the clause.	fine up to 2 lakhs.
39	Clause 24 to 52	8.34 The Committee note that the threshold limit for ESIC coverage starts with all establishments employing 10 or more employees, yet the total number of workers/ employees covered under the Scheme is even less than half of that covered by EPF when actually the threshold limit for EPF is twice than that of ESIC. The Ministry have reasoned that the coverage of ESIC is less due to the fact that the Scheme does not operate at an all India level and through the Social Security Code, the coverage of ESIC will extend to the entire Country which will enhance coverage for the existing 3.49 crore families to 10 crore families with total number of beneficiaries expected to be around 30 crore. As the hitherto low coverage of ESIC speaks volumes of the lacunae existing earlier, the Committee impress upon the Ministry to ensure that substantial improvements are built in the Code to enhance coverage as envisaged within a stipulated time line. The Committee, simultaneously, desire that the apparent restriction that is being caused due to the 'threshold' stipulations for ESIC coverage be also looked into holistically with a view to ensure universal coverage of ESIC benefits.	Accepted. The coverage of ESIC will be extended as follows: <ol style="list-style-type: none"> 1. To extend the coverage of persons/employees below the threshold of 10 workers, the following improvements have been made in the Code:- <ul style="list-style-type: none"> ✓ As on today, the ESIC Act envisages notification by coverage for each district or part of the district. So far, ESIC scheme has been implemented partially or fully in 566 districts. The Code envisages pan India extension of ESIC from the existing all the districts in the country. The only condition is that the charging of contribution would be notified through notification. ✓ An enabling provision has been made that there shall be no threshold of workers for forego/extension of ESIC coverage on an establishment which carries on hazardous or life threatening occupation. ✓ The coverage has been extended to plantation workers if the employer desires to opt for ESIC's medical facilities and other benefits. ✓ The provision of voluntary coverage under ESIC is provided in section 1(6) which enables that in the event employer and majority of employees in that establishment have agreed, then DG of ESIC may by notification extend the coverage to such employees and there will be no insistence of threshold. ✓ The provision has been made to frame scheme for other

			<p>beneficiaries and member of their family for providing medical facilities in any area which is under-utilized in a hospital on payment of user charges. The definition of other beneficiary here has been extended to cover employees who are insured otherwise.</p> <ul style="list-style-type: none"> ✓ Specific provision has been built for unorganized workers, gig workers and platform workers providing that Central Government may in consultation with the Corporation and by notification frame scheme for them and other family members. Contribution, the user charges, scale of benefits, qualifying and eligibility conditions shall be specified in the scheme. ✓ A separate dedicated provision has been made in section 1(14) for gig workers and platform workers for formulation of schemes for life and disability coverage, accident insurance, health and maternity benefits, old age protection and crèche. The emerging new form of employment where traditional employer-employee relations does not exist is intended to be covered through formulation of schemes. ✓ The definition of unorganized workers also specifically covers home-based worker, self-employed worker or wage worker and all other works who are not covered by Industrial Dispute Act.
40	Clause 24 to 52	8.35 The Committee notes that the Ministry are proposing to strengthen the enforcement mechanism through unified inspections conducted through the Centralized inspections conducted through the Centralized Shram Suvidha Portal and use of digital technologies. It is also encouraging to find that the power of search and seizure which was hitherto available to only few enactments earlier has been now uniformly extended to all	Accepted.

		social security organisations through Clause 122(6)(c). The Committee believes that one of the primary causes for low ESIC coverage has been tardy enforcement mechanism. Now that the Ministry proposes to strengthen it, the Committee trusts that earlier shortcomings are removed in the right earnest without diluting and weakening the ESI Act so that the provisions duly safeguard the interest of the workers besides enhancing substantial coverage.	
41	Clause 24 to 52	8.36 The Committee find that an enabling provision has been incorporated for voluntary membership in ESIC in respect of establishment having less than 10 employees i.e. below the normal threshold for ESIC. According to the provision, in case an employer and employees of an establishment enters into agreement to join ESIC, the Director General of ESIC can allow those employees to avail ESIC benefits. The Committee feel that the provision seems to be open ended which may not fetch the desired outcome. Therefore, the provision needs to be more enabling to ensure that the employees of such establishments including Plantation which do engage less than 10 workers are not left at the mercy of the employer when they voluntarily evince interest to join ESIC which would guarantee them social security in terms of medical services, sickness and maternity benefits, dependent's pension, employees compensation etc.	Partly Accepted. In the First schedule, an enabling provision has been made that employer of a plantation may opt for application of chapter IV (ESIC) in respect of plantation, by giving willingness to the corporation. The location of 'plantation' is such that ESIC facilities may not be available there. Then, it will be against worker. Further, plantation act, as on today, provides for medical by owners of plantation who have set up hospitals accordingly.
42	Clause 24 to 52	8.37 The Committee note the Ministry's assurance that the formula for compensation to the accident affected would be prescribed which would benefit the workers. The Committee desire that the procedure be prescribed in such a manner so as to calculate the enhanced compensation amount from time to time depending on the wages of the workers, the prevailing circumstances and imperatives involved.	Accepted. The idea of prescribing through the rules to provide dynamism to the compensation amount.
43	Clause 24 to 52	8.38 Taking note of the existing ambiguity in Clause 41 which prescribes details of conditions for availing sickness benefits, medical benefits etc. without spelling out the rate as well as the duration thereof, the Committee impress upon the Ministry to accordingly modify the Clause to allay apprehensions raised at many quarters as well as to assure that all such benefits	Accepted. The Existing rules and regulation of ESIC have been protected for a period of one year under section (Repeal and saving). Further there is no intention of government to reduce any benefits which are now given. In the existing Act also, rate and quantum of all the benefits to be given are part of the rules

		as detailed in Clause 41 would remain the same as prescribed and given under the existing provisions of the ESI Act.	
44	Clause 24 to 52	8.39 The Committee also recommends that there should be a system of health assessment on the basis of epidemiological studies of the geographical region/work environment in line with the principle of public health system so as to extend appropriate health care and insurance facilities to the persons working in hostile conditions.	Accepted. Central Government would advise ESIC about having a system of health assessment on the basis of epidemiological studies of the geographical region/work environment in line with the principle of public health system. A letter has been issued to ESIC .
45	Clause 24 to 52	8.40 In view of the imperative need for a centralized data maintenance of the Insured Persons (IPs), the Committee recommend that the MIS system should be developed in such a way that all the records of the IPs are made available to all the officials at any location in line with a Bank Account System so as to facilitate the requisite and timely benefits to the workers in the event of their changing jobs or locations.	Accepted. At present, it is possible that the payment to IP can be through any branch anywhere in the country. The record of IP can be accessed from anywhere even today. A letter has been issued to ESIC .
46	Clause 24 to 52	8.41 The Committee also desire that it should be made amply clear in Clause 39 that the first medical board assessment of a worker would always be provisional and the time limit and procedure for the final assessment be prescribed in no uncertain terms.	Not accepted. Perhaps the reference is to clause 37. It would be against the interest of IP to assign all first medical assessment board as provisional.
47	Clause s 24 to 52	8.42 The Committee note that under the provisions for "proceedings of Employees' Insurance Court", the time limit for filing claims, fee and procedure have been left to the discretion of the State Governments. The Committee feel that while it is prudent to empower the State Governments to prescribe/decide the manner of filing of claims and fees relating thereto, it would be advisable to statutorily mandate the time limit period for filing claims under the Central Legislation without delegating it to the States as the time limit prescription may differ from State to State which would hinder the effective implementation of the intended provisions.	Accepted. The limitation for initiating the proceedings by aggrieved person in ESI Court shall be three years from the date on which cause of action arises (section 51)
48	Clause 24 to 52	8.43 The Committee note that the provisions of clause 39(4) and (5) provides for ESIC Hospitals which have been in existence since 1952. On the obligation for ESIC to establish medical colleges, nursing colleges and dental colleges and run them by ESIC itself, flexibility has been provided that these ESIC colleges may be run by the	Not accepted. As regards medical education, it is essential that the existing medical colleges, which are already established, should be run effectively. ESIC has not established any new medical college during the last several years and there is no further planning to do so. Having such provisions, will help ESIC to manage these educational institutions in a better

		corporation itself or on the request of the corporation by the Central Government and State Government; any Public Sector Undertaking of the Central or State Government or any other body notified by the Central Government. According to the Ministry, the provisions relating to establishing colleges of medical and para- medical education as contained in Clause 39(4) and 39(5) of the Code are parallel provisions to Section 59B of the ESI Act. The Committee are seriously apprehensive of involving ESI Corporation with the responsibility of medical education as that is not the original mandate conferred upon it. In view of the fact that the core activity of the Corporation i.e. to protect the interest of the Insured Persons (IPs) and provide them with all health related and other welfare benefits might be undermined because of the additional responsibility, the Committee desire that the Corporation be absolved of the duty of medical education related aspects.	manner.
49	Clause 24 to 52	8.44 The Committee appreciate that working in coordination with the Ministry of Health and Family Welfare and respective State/ District health authorities in the demanding time of Covid-19 pandemic, ESIC has taken a number of measures to ease out provision of health services for existing ESI beneficiaries. Since the Covid-19 pandemic has demonstrated that India has to spend a much larger sum of money on health services, the Committee recommends that the infrastructure available with ESIC be utilised to enable requisite expansion of health services for the general population too, at the time of natural calamities and unprecedented exigencies. To that end, it is imperative that capacity augmentation of EISC infrastructure be accorded top priority.	Accepted. As on today, the ESIC Act envisages notification by coverage for each district or part of the district. So far, ESIC scheme has been implemented partially or fully in 566 districts The Code envisages pan India extension of ESIC from the existing all the districts in the country. The only condition is that the charging of contribution would be notified through notification. The extension to pan India of ESIC would require setting up of corresponding infrastructure. The ESIC has also tied up with PMJAY (Ayushman Bharat) to provide facilities to IPs where ESIC facilities are not available.
50	Clause 24 to 52	8.45 Having said that, the Committee are of the firm opinion that utmost care be taken and robust safeguards put in place to ensure that ESIC funds/corpus accumulated for the provision of facilities/ benefits to the workers are not diverted for any other purpose.	Accepted. The investment of funds is to be done as per section 27 (2) which provide that investment shall be made as per rules to be prescribed by the Central Government. The rules framed by M/o Finance in this regard are followed. The purposes for which the funds of ESIC can be defrayed is also given in sec 26.
51	Clause 53 to	9.10 The Committee note that according to the provisions contained in Clause 53, Gratuity shall be payable to an employee	Partly Accepted. The period of 5 years is not applicable in following cases. I. Employee workers of fixed

58	on the termination of his employment after he has rendered continuous service for not less than five years. The Committee had dealt with the issue of gratuity payment in their Report on the Industrial Relations Code, 2019 and given their considered opinion. In line with their earlier recommendation and keeping in view the nature of India's Labour Market where most employees are employed for a short duration period only, making them ineligible for gratuity as per extant norms, the Committee desire that the time limit of five years as provided for in the Code for payment of gratuity be reduced to continuous service of one year. Such provision be extended to all kinds of employees including Contract Labours, Seasonal workers, piece rate workers and Fixed Term Employees and daily/monthly wage workers.	<p>term employment.(minimum requirement is one year)</p> <p>II. Termination of employment due to death & disablement(no minimum requirement)</p> <p>III. For working journalists, period is 3 years</p> <p>Enabling provision has been made that minimum requirement of five years' may be reduced or modified, on happening of such events as may be notified by the central government.</p>
52 Clause 53 to 58	9.11 As regards the provision for a single claim application for gratuity, retrenchment, reskilling and other retirement benefits, the Ministry have clarified that for retrenchment compensation, an employee is not required to submit any claim application and even for gratuity, the employer shall, whether an application has been made or not, determine the amount of gratuity for payment thereof. For re-skilling benefits, the modalities of payment shall be prescribed through rules. While taking note of the Ministry's assurance, the Committee desire that the procedure for making gratuity, retrenchment and reskilling payments should be so streamlined and simplified that the beneficiaries are not inconvenienced and their genuine claims are settled with a reasonable timeline.	Accepted. This shall be taken care of at the time of rules making. A letter has been sent DIR RB, member secretary to the rule making committee of the social security code with an endorsement to CLC.
53 Clause 53 to 58	9.12 The Committee are not satisfied with the reply of the Ministry that in case of non-payment of gratuity by the contractor/ employer, the employee should approach the Competent Authority. The Committee are of the considered opinion that such a provision is against the interest of the affected employees/workers who may have to run from pillar to post to get their legitimate dues. The Committee, therefore, exhort the Ministry to incorporate an enabling provision so as to ensure that the Principal employer is held liable for the payment of gratuity to the	Not accepted. It pre-supposes that there is contract between Principal employer and contractor for a period in excess of 5 years. There is no difference about the jurisdiction of competent authority on the basis of regular or contract labour.

		employees, should the Contractors fail to do so within a stipulated time frame.	
54	Clause 53 to 58	9.13 The Committee note that the concept of gratuity payment on pro-rate basis has been introduced in the Code in the case of Fixed Term Employment. In view of the fact that most of the times the Contract labours etc work under the same Principal Employer for more than the gratuity eligibility period even when contractors go on changing, the Committee, desire that a clear provision extending the benefit of the pro rata gratuity to contract labourers, piece rate and time rate workers alongwith the FTE needs to be specifically provided for in the proviso to clause 53 of the Code.	<p>Not Accepted. The period of 5 years is not applicable in following cases.</p> <ol style="list-style-type: none"> Employee workers of fixed term employment.(minimum requirement is one year) Termination of employment due to death & disablement (no minimum requirement) For working journalists, period is 3 years <p>Enabling provision has been made that minimum requirement of five years' may be reduced or modified, on happening of such events as may be notified by the central government.</p>
55	Clause 53 to 58	9.14 The Committee further note that the Code does not contain any provision to enable transfer of claim from one jurisdiction to another. The Ministry have reasoned that clear and specific provision to enable transfer of claim from one jurisdiction to another may not be feasible due to increase in cost of litigation, administrative constraints of the Controlling Authority etc. While taking note of the practical limitations as cited by the Ministry, the Committee are however of the definite opinion that transfer of claim from one jurisdiction to another, especially when sufficient reasons are adduced by the claimant employee and endorsed by the employer concerned, would lead to ease of settlement pertaining to those employees who retire at one place and settle elsewhere. The Ministry should therefore re-examine the matter and put in place some enabling provisions appropriately in the Code for the benefit of the gratuity claimants.	Not accepted. The matter has been re-examined in consultation with Chief Labor Commissioner/Advisor. In general, the cause of occurrence/ action determines the jurisdiction of authority to entertain the claim. If the entire process becomes online transfer of amounts from one region to another can be examined. However, the issues of authority pass the order, appellate authority and the jurisdiction of High Court, etc will have to be resolved. The matter would be administratively addressed.
56	Clause 53 to 58	9.15 The Committee do not agree with the Ministry's general, imprecise and inexact statement that 'in case of economic offences it is desirable that the offences are decriminalised'. However, drawing contextual inferences, the Committee feel that provision of imprisonment in the penalty clause for violation or default by the employer in the gratuity payment has to be judiciously invoked. In other words, such a provision may be made applicable in case of habitual offenders/defaulters. So far as imposition of fines is concerned, the	Accepted. In case of first offence, the fine is Rs. 50,000 and imprisonment up to one year. For any second and subsequent offence in case of gratuity the imprisonment is upto 3 years and which shall not be less than be 2 years and shall also be liable to fine of Rs. 3 lacs

		Committee desire that there should not be any leniency as strong deterrent provisions would reduce willful default and delinquent negligence on the part of employers in timely payment of gratuity to the needy and deserving employees.	
57	Clause 59 – 72	10.10 The Committee note that Clause 59(1) of the Code provides for prohibition of employment or work by women during six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy; Clause 59(2) provides that no woman shall work during this period and Clause 59(3) prohibits work of arduous nature to be done by any woman during the period as prescribed before the date of expected delivery. The Committee are in agreement with the suggestions given by a number of Stakeholders that a specific and unambiguous definition of 'work of arduous nature' needs to be defined to establish 'arduousness' so that employers can be held accountable as women workers especially in the informal sector are often engaged in hazardous and risky forms of work. The Committee, therefore, desire that a specific and unambiguous definition of 'work of arduous nature' be given in the Code so as to ensure its proper and uniform interpretation.	Accepted. In Clause 59 (4) after words "arduous nature", following can be added in brackets : "work which involves or requires strenuous effort and is difficult and tiring"
58	Clause 59 – 72	10.11 The Committee further note that while Clause 60(1) of the Code provides for Right to payment of maternity benefits at the rate of average daily wage for the period of her actual absence, Clause 60(2) provides for maternity benefits to women if she has actually worked in an establishment of the employer for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery. The Committee find that suggestions for amendment of Clause 60(2) have been given for entitlement of maternity benefits from an establishment other than her employer immediately preceding the date of her delivery on the grounds that it would be difficult to establish continuity of work for women especially in the informal sector for even a relatively short period of eighty days. The Committee are of the view that unless maternity benefits are universalized by way of appropriate provision in the Code, a majority of	Not accepted. If Central/State government is made responsible, it would have huge financial implications. It is also difficult to implement in respect of unorganised/informal sector

		women who work in the informal sector would be excluded from its purview. The Committee, therefore, recommend that requisite amendments be made to give universal coverage of maternity benefits to all women workers including those working in the unorganised/informal sector.	
59	Clause 59 – 72	10.12 Taking into cognisance the suggestions received from many quarters, the Committee are of the considered opinion that the contractor, being the entity with whom the contract workers have an employer-employee relationship, should be made responsible for provision of maternity benefits just as they are responsible for paying wages and providing benefits under other components of social security. Therefore, it is crucial that specific provision on the lines of those already provided for in the case of EPF and ESIC contribution be incorporated in the Code to make the Principal Employer liable to recover from the contractors the contribution towards maternity benefits.	Not accepted. Maternity benefits cannot be compared with that of ESIC and EPFO. This benefit is linked to the women bearing children.
60	Clause 59 – 72	10.13 The Committee note that Clause 67(1) provides for crèche facility in which fifty employees or such number of employees as may be prescribed are employed. The Committee feel that the requisite cost of providing such facility to the employees may be very high especially in situations wherein only a few employee would intend to avail the services or if the industry/establishment is located in a remote or isolated place. The Committee, therefore, recommend that a proviso to Clause 67(1) be added that an establishment may avail common creche facility established by the Central Government or a State Government or a near-by located private facility. The Committee also desire the incorporation of an enabling provision to encourage a cluster of MSMEs to pool their resources for setting up of common creches for the benefit of the desirous employees.	Accepted. The necessary modifications in Section 67 have been made.
61	Clause 59 – 72	10.14 The Committee note that for filing a complaint for claiming maternity benefits by a woman worker different authorities have been provided. For example, in Clause 72(1) the Inspector-cum-Facilitator may render a decision on a complaint made to him whereas in Clause 68(2), provision for appeal to a	Not accepted. Under 68(2), there is a provision for appeal to the competent authority only in case of order of employer of dismissal/discharge or non-payment of maternity benefit whereas under section 72(1), the provision of appeal is against the order of inspector-cum-facilitator.

		Competent Authority has been given. The Committee feel that such overlapping provisions may lead to jurisdictional issues in settling of claim of woman workers causing avoidable delays and unwarranted harassments to them. The Committee, therefore, recommend that the competent Authorities to examine complaints on claims for Maternity Benefits by women workers be clearly defined so as to remove the existing ambiguities.	
62	Clause 59 – 72	10.15 The Committee also find that while a clear mechanism for appeal and also condition of deposit of the admitted amount before filing of appeal has been provided for 'claim for gratuity' in term of Clauses 56(5) and 56(6) of the Code, no such provision has been made for Maternity Benefits. The Committee are of the opinion that similar provision for Maternity Benefits claim would not only ensure clarity and uniformity in the provision of appeal besides facilitating expeditious disposal of claims. The Committee, therefore, desire that provisions on the lines of Clause 56(5) and 56(6) for filing of appeal be provided for Maternity Benefits claims also so that the adjudication mechanism does comply with the principles of timely natural justice.	Not accepted. The maternity benefit act besides payment of wages during pregnancy, also involves matters of dismissal and discharge. The prior assessment of wages in case of dismissal and discharge cannot be ascertained.
63	Clause 73 to 99	11.5 The Committee note that the liability for reimbursement of the actual medical expenditure incurred by an employee for treatment of injuries caused during the course of employment is that of the employer. However, the provision remains vague to the extent that it does not provide a mechanism to enable a domestic employer or small entrepreneur to meet such expenses of their employees. Similarly, there is no clarity on the enforceability aspect. The Committee, therefore, recommend that the plight of both the domestic employers/ small entrepreneurs and their employees have to be taken into consideration and addressed appropriately so that such expenses do not become a burden on either party.	Accepted. The employees' compensation is not applicable to domestic workers as they do not form part of employer-employee relation. As regards small entrepreneurs, the employees' compensation depends whether that small enterprise is part of ESIC or covered under employees' compensation chapter. The enforcement provisions apply on the small entrepreneurs under the code. Schedule also governs to whom employees compensation applies.
64	Clause 73 to 99	11.6 According to the Ministry, if an establishment is covered under ESIC, treatment can be done at the ESI institution. This is precisely why the Committee are insistent that the threshold	Accepted. The coverage of ESIC will be extended as follows: 2. To extend the coverage of persons/employees below the

	<p>limit of 10 or more workers to be eligible for ESIC coverage needs serious reconsideration. As it would be very unwieldy to ensure payment of medical compensation to an employee for treatment of injuries caused during the course of employment in the informal / unorganised sector, it becomes imperative on the part of the Ministry to focus on universal coverage of ESI Scheme, the threshold limit notwithstanding, so as to ensure provision of medical treatments to all kinds of employees during distress and exigencies.</p>	<p>threshold of 10 workers, the following improvements have been made in the Code:-</p> <ul style="list-style-type: none"> ✓ As on today, the ESIC Act envisages notification by coverage for each district or part of the district. So far, ESIC scheme has been implemented partially or fully in 566 districts. The Code envisages pan India extension of ESIC from the existing all the districts in the country. The only condition is that the charging of contribution would be notified through notification. ✓ An enabling provision has been made that there shall be no threshold of workers for forego/ extension of ESIC coverage on an establishment which carries on hazardous or life threatening occupation. ✓ The coverage has been extended to plantation workers if the employer desires to opt for ESIC's medical facilities and other benefits. ✓ The provision of voluntary coverage under ESIC is provided in section 1(6) which enables that in the event employer and majority of employees in that establishment have agreed, then DG of ESIC may by notification extend the coverage to such employees and there will be no insistence of threshold. ✓ The provision has been made to frame scheme for other beneficiaries and member of their family for providing medical facilities in any area which is under-utilized in a hospital on payment of user charges. The definition of other beneficiary here has been extended to cover employees who are insured otherwise. ✓ Specific provision has been built for unorganized workers, gig workers and platform workers
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			<p>providing that Central Government may in consultation with the Corporation and by notification frame scheme for them and other family members. Contribution, the user charges, scale of benefits, qualifying and eligibility conditions shall be specified in the scheme.</p> <p>✓ A separate dedicated provision has been made in section 1(14) for gig workers and platform workers for formulation of schemes for life and disability coverage, accident insurance, health and maternity benefits, old age protection and crèche. The emerging new form of employment where traditional employer-employee relations does not exist is intended to be covered through formulation of schemes.</p> <p>The definition of unorganized workers also specifically covers home-based worker, self-employed worker or wage worker and all other works who are not covered by Industrial Dispute Act.</p>
65	Clause 73 to 99	<p>11.7 The Committee agree with the usage of the word 'Competent Authority' in Clause 73(1) as it seems more appropriate than 'Commission', as suggested by some Stakeholders. The Committee, however, desire that the word 'State Government as appears in the proviso to Clause 73(1) and 73(2) be replaced with the word 'Appropriate Government' as it would facilitate the workers approaching the same Authority, instead of multiple Authorities. The Committee further desire that funeral expenses as provided for in Clause 76(7) of the Code be prescribed in terms of a certain percentage of the last drawn salary of the worker or Rs.15,000, whichever is higher, so as to adequately support the employees for funeral expenses.</p>	<p>Partly accepted. At present employees compensation Act is exclusively dealt by the State Government. The Central Government has no machinery. Changing it appropriate Government would mean creation of additional machinery at the level of Central Government and upsetting the structure of machinery at the level of the state Government. For funeral expenses, the flexibility has been provided.</p>
66	Clause 100 to 108	<p>12.20 The Committee are deeply concerned to note that though certain social security benefits have been mentioned in the Code for the Building and Other Construction Workers (BOCW), the details of benefits,</p>	<p>Not Accepted. It is stated that in case benefits, entitlement calculation etc are spelt out in law itself, then flexibility provided to the State Government will be lost. The Fund is maintained by the respective State Governments and not</p>

		entitlement calculation, mode of delivery, etc. have not been clearly spelt out. What is more worrisome is the fact that no procedure/guidelines have been prescribed for the management of funds collected out of the Cess. The Ministry has clarified that though it is the requirement of law to spell out the benefits, entitlement calculation etc. in the law itself, flexibility has been provided so that this can be changed under the Scheme to be formulated in future. The Committee are not convinced with the Ministry's reasoning in view of the fact that BOCWs are exposed to different and extreme kind of hazards pertaining to their service conditions affecting their health and longevity which necessitates special kind of treatment in respect of health, occupational diseases, social security benefits including pension and insurance. The Committee, therefore, exhorts the Ministry to clearly spell out in the law itself the details of benefits etc. intended to be accorded to the BOCWs including the precise enforcement mechanism to ensure effective deliverance.	by the Central Government. Had there not been flexibility, then it would not have been possible to give cash benefit to BoC Workers during pandemic.
67	Clause 100 to 108	12.21 Since there is little recognition in the Code of the real problem underlying the accumulation of Cess Funds leaving the BOCWs at the mercy of the State Level Boards which are generally not constituted or do not function effectively, the Committee urge the Ministry to issue specific guidelines and hold periodical meetings with such Boards at the appropriate level to ensure better monitoring and potent management of funds collected out of Cess. The Committee specifically desires that a representative of the Central Government be associated with the State BOCW Boards for effective functioning of such boards in discharge of their assigned mandates.	Accepted. Sec. 7(p) of the Code introduced provides that there shall be one member nominated by the Central Government. Further, necessary action will be taken to hold regular meetings at the level of Central Government.
68	Clause 100 to 108	12.22 Clause 103 provides for self-assessment of Cess in respect of Building and Other Construction Workers. The Committee are of the view that such self-assessment may be subject to abuse by the building contractors because building workers are usually migrant labours from rural areas of the same State or other States who often work in one or many States where the Cess contribution is	Not accepted. Self- assessment of cess has been introduced which would be subject to certain criteria spelt out in Rules, as assessment of cess on case to case basis is not considered to be in the interest of impartial assessment. The Clause 103(2) envisages for an enquiry into a case where discrepancy creeps up vis-à-vis the Self-Assessment and in payment to be made. Moreover,

		<p>collected, but require benefits in another State. But the States' Unorganised Construction Workers Boards do not provide the benefits to workers who come to the State for a short period. According to the Ministry, self- assessment of cess has been introduced which would be subject to certain criteria spelt out in Rules, as assessment of cess on case to case basis is not considered to be in the interest of impartial assessment. The Ministry have further clarified that specific provision has been provided in Clause 103(2) for enquiry into a case where discrepancy creeps up vis-à-vis the Self-Assessment and in payment required. Moreover, Clause 104 of the Code provides for penalty for non-payment of Cess within the specified time including provision for imprisonment as deterrence.</p> <p>As the implementation of BOCW Welfare Scheme reflects widespread evasion of payment of Cess adversely affecting generation of funds, the Committee desire that the method of self-assessment as introduced in the Code be revisited so as to ensure that the building contractors do not abuse the provision.</p>	<p>Clause 104 of the Code provides for penalty for non-payment of Cess within the specified time including provision for imprisonment as deterrence.</p>
69	Clause 100 to 108	<p>12.23 The Committee further recommend that an enabling mechanism be incorporated in the Code itself for portability of BOCW funds among States so that funds that are due to the beneficiaries can be paid in any State irrespective of where the Cess is collected.</p>	<p>Accepted. The OSH Code has provided that appropriate Government shall make schemes to provide for portability of benefits to the BOC workers.</p>
70	Clause 100 to 108	<p>12.24 The Committee are perturbed to note the latest Audit findings on under utilisation of BOCW funds by as many as 24 States and misutilisation of such funds by one State. It is a matter of serious concern that States are sitting on thousands of crores of rupees collected towards the welfare of construction workers, even as labours have been left to fend for themselves amid the prolonged lockdown period arising out of the Covid-19 Pandemic. It is equally deplorable that the Cess collected is being diverted elsewhere contrary to the purpose, as per the C&AG Report relating to a particular State. It, therefore, becomes imperative on the part of the Government to clearly specify and frame regulations on the items on which the Cess Fund should be spent, the violations</p>	<p>Partly-Accepted. Provisions have been made in the Code in section 7(6) (Performance of Functions of the Board), 108 (Application of Fund) regarding utilization of BoCW Funds. These clauses restrict the misutilization of BoCW Funds and restrict the spending of such Fund for certain purposes and percentage.</p>

		of which shall attract stringent penalty and criminal liability. In other words, there must be legislative checks in the law itself on the reported under utilisation and misutilisation of BOCW funds for fixing accountability for poor implementation or non-implementation of the Directives regarding spending of Cess Fund.	
71	Clause 100 to 108	12.25 The Committee further recommend that the Code should provide for regular internal audit and periodic CAG audit by the CAG of the BOCW Cess Funds collected by the States so that corrective measures can be initiated, as and when warranted, to prevent under utilisation or misutilisation of such Funds accumulated for the purpose of the Welfare of construction workers.	
72	Clause 100 to 108	12.26 The Committee's attention has been drawn to one most pertinent point that the Code does not provide for a framework for integrating the social security and welfare provisions for BOCWs with other unorganised workers. In view of the unquestionable significance of such a coordinated integration, the Committee exhort the Ministry to put in place a clear enabling framework incorporating organisational and institutional principles for a strong and seamless coordinating role by the Central Government so as to ensure the effective implementation of the mobility, portability and welfare schemes for the BOCWs across the Country.	Accepted. The portability of BOCW benefits have been provided in the OSH Code for migrant workers. A Central Government nominee is there on the State Building and other Construction Worker Board.
73	Clause 100 to 108	12.27 The Committee learn that there has been a major problem of fake and low registration including few renewals of the BOCWs by the Boards. As significant part of the construction workers are inter-state migrants and vulnerable too, the Committee desire that the power of getting the construction workers registered be given to the officers authorised by the Appropriate Government which would lead to uniformity of authority for the Central sphere workers, increase in registration and renewals besides eliminating the menace of fake registration. Accordingly, Clause 106 be modified detailing out the process of BOCWs' uninterrupted electronic registration/enrolment/renewals and issuance of workers identification numbers to facilitate portability and disbursal of social security benefits.	Accepted. A National Data for Unorganized Workers (NDUW) Project for capturing data for unorganised workers seeded with Aadhaar has been proposed. This portal will be used to extend social security benefits to unorganized sector workers.

74	Clause 100 to 108	12.28 The Committee would like to lay stress on the imperative needs of the creation of a central online portal and database of the registered establishments and migrant workers including the BOCWs which would significantly address the issues of identification and inter-state portability while extending welfare aids, especially at the time of distress and exigencies like Covid-19 pandemic.	Accepted. A National Data for Unorganized Workers (NDUW) Project for capturing data for unorganised workers seeded with Aadhaar has been proposed. This portal will be used to extend social security benefits to unorganized sector workers.
75	Clause 100 to 108	12.29 The Committee note that in the wake of the Covid-19 pandemic one of the issues that emerged is the conditions of the Inter-State Migrant Workers (ISMW), their retention in job, food and ration facilities for them etc. The Committee have dealt with the issues pertaining to the migrant workers in great detail and given considered recommendations in their Report on the OSHWC Code, 2019. The Ministry have submitted that the provisions for ISMW are being re-examined including taking into account this Committee's recommendations as contained in their Report on OSHWC Code. In line with their earlier recommendations the Committee would like to reiterate that the definition of ISMW be expanded to include such workers recruited through contractor, directly recruited by the Employer and self-employed worker coming from another State. The Committee also desire that a national database of the ISMW be maintained through which a migrant who might not have registered as an ISMW at his native State should have a facility to enter his data that he is an ISMW.	Accepted. The definition has been expanded as per Committee's recommendations in OSH Code. Further, a provision for portal has also been made in the same Code including facility for self-employed to register themselves on that portal.
76	Clause 100 to 108	12.30 The Committee further recommend that the novel initiatives adopted by some State Governments which inter-alia include health insurance scheme, Toll free Shramik Sahayata Helpline, Support Centres, Help Desk etc. in favour of the migrant workers deserve a mention in the Code so as to replicate them in other States where a sizeable migrant workers are deployed/engaged for varied activities.	Accepted. The DGLW has been advised to bring out a booklet on the best practices during Covid-19. (OM to be written to DGLW by Dir (RB).
77	Clause 100 to 108	12.31 The Committee further recommend that in the wake of the Covid-19 experience, the inter- State migrant workers should be mentioned as separate category in the Code with special	Accepted. Two Funds, i.e., Social Security Fund and Welfare Fund have been created under the Code for providing social security protection to unorganised sector.

		emphasis on the creation of a Welfare Fund for them which ought to be financed proportionately by six agencies/ entities viz. the sending States, the receiving States, the Contractors, the Principal Employers and the registered migrant workers (with limited and minimal contribution). The Funds so created should exclusively be used for workers/employees not covered under other Welfare Funds.	
78	Clause 109 to 114	<p>13.58 The Committee find that Clause 109 deals with framing of scheme for unorganized workers and constitution of social security fund for gig workers, platform workers etc. Similarly, clause 114 stipulates Schemes for gig workers and platform workers. The Committee feel that there is overlapping of provisions as contained in Clause 109(4) and clause 114 so far as gig workers and platform workers are concerned. The Committee, therefore, recommend that either Clause 114 be appropriately merged with Clause 109 or Sub Clause (4) of Clause 109 be shifted to Clause 114 so that provisions for framing of schemes and constitution of social security fund for gig workers and platform workers coexist at one place.</p> <p>The Committee further desire that the words 'platform workers or gig workers' as mentioned in Clause 104(4) should read as 'platform workers and gig workers' because they are different from each other and defined separately in the Code.</p>	Accepted. The necessary changes have been made and provisions relating to gig worker and platform workers have been separated.
79	Clause 109 to 114	<p>13.59 Chapter IX of the Code is applicable to the unorganized workers, gig workers and platform workers as per the definitions in Clause 2 and Sub-Clause 78, 35 and 56 respectively. But the Committee are surprised to note that at the beginning of Clause 109, three categories of workers viz. audio visual workers, beedi workers and non-coal workers have been stressed which gives an impression that these three category of workers may get more prominence over other types of unorganized workers.</p> <p>So, in order to avoid any misgivings and in view of the fact that for the first time gig workers and platform workers have been recognized in the Code, the Committee desire that adequate thrust given to category of workers in Clause 109(10) be expanded suitably.</p>	Accepted. The mention of "Specific categories" has been deleted from Section 109. A separate and dedicated section for gig and platform workers has been included that is Section 114.

80	Clause 109 to 114	13.60 The Committee note that Clause 109(1) and 109(2) merely lists the Welfare Schemes as also contained in the Unorganised Worker Social Security Act (UWSSA), 2008 which is being amalgamated with the Code. The Central and State Governments may make available such welfare schemes to the unorganized workers. The Committee, however, find that no concrete procedure/measure has been spelt out to extend such schemes to the unorganized workers. Moreover, there are some overlapping of the welfare schemes to be notified between the Central Government and the State Governments on areas pertaining to old age protection, education and housing. The Ministry's clarification that the provisions have been continued from the existing UWSSA, 2008 does not impress the Committee because merely retaining the usual administrative Clauses of the UWSSA, 2008 in the Social Security Code without any legal framework will not bring the intended benefits for the unorganized workers nor widen the social security coverage in the near future. The Committee, therefore, impress upon the Ministry to make suitable modifications in the appropriate Clauses so as to ensure a legally binding universal social protection for all the workers in the unorganized sector within a definite time frame.	Not accepted. The coverage of ESIC and EPFO is proposed to be extended manifold covering the workers/employees below the threshold, gig and platform workers, self-employed workers. The goal of universalisation of Social security is to be achieved keeping in view the health of the employer, availability of budgetary resources and general economic conditions.
81	Clause 109 to 114	13.61 The Committee are of the considered opinion that clear demarcation of areas for notification of schemes by the Central Government and the State Governments is absolutely required to avoid overlapping and duplication. Therefore, it is imperative to provide for a framework of a model composite scheme, to bring a greater uniformity among States, which should include issues and concerns of education, health, social security, old age, disability pension and other benefits that are necessary for living a life of dignity as postulated by the Constitution of India. This model Scheme should be made 'minimum mandatory entitlement' across the States so as to facilitate inter-State portability.	Not accepted. Labor is in concurrent list. Center and State Government are competent to formulate the Scheme as per their resources and requirement. Further, the needs and aspirations of states are different depending upon their geographical and level of economic development.
82	Clause 109 to 114	13.62 Some Stakeholders have submitted that the provisions contained in Clause 109 appear to have been framed in a recommendatory manner instead of in a	Partly Accepted.

		mandatory way. The Committee, however, appreciate that in Clause 109(2), the Ministry already incorporated the word 'shall' instead of 'may' so as to make it mandatory when it comes to formulation and notification of suitable welfare schemes for the unorganized workers.	
83	Clause 109 to 114	13.63 In view of the Central Government's thrust on large scale programmes to ensure housing for all and skilling of millions of workers both in formal and informal sectors who are dependent on such central schemes for their social security, the Committee recommend that Clause 109(1) be amended to add suitable schemes on matters relating to Housing, skilling and skill upgradation and any other benefits as may be determined by the Central Government since such benefits form an integral part of workers' rights and entitlements.	Accepted. The schemes for housing are covered under Section 109. Further, the provision enables inclusion of any other benefit as may be determined by Central Government.
84	Clause 109 to 114	13.64 The Ministry have admitted that no comparative study of the welfare schemes run by the Central Government on one hand and various State Governments on the other for the benefit of unorganized workers has been done. The Committee are of the considered opinion that such a study is necessary and should be carried out to find out the best practices followed by different Governments so that they can be centrally codified to facilitate universal social security coverage of every worker in the unorganized sector, irrespective of category or region.	Partly Accepted. There is already a provision in Section 6 which says that National Social Security Board can undertake such other functions as assigned to it by the Central Government. Such matters may be considered under this provision. A letter is written to DGLW to carry out a study on the lines recommended by the Committee.
85	Clause 109 to 114	13.65 The Code envisages to empower the Central Government to frame schemes for providing social security to the gig workers and platform workers who do not fall under the traditional employer-employee relation. But the Committee find that the Code is silent on the mechanism contemplated to potentially extend the benefits of various social security schemes to the gig workers and platform workers, especially when they are a unique and distinct class of workers. It, therefore, becomes vital on the part of the Ministry to clearly spell out and frame a scheme in the Code itself under which the benefits of Employees Compensation Act, medical facilities and other social protections can be credibly	Partly Accepted. A separate and dedicated section for gig and platform workers have been included that is Section 114. This will take care of all social security benefits to gig and platform workers. It is envisaged in the scheme so as to give dynamism to this emerging class of workers with the changing need.

		and convincingly extended to the gig workers and platform workers.	
86	Clause 109 to 114	13.66 The Committee note that the detailed funding pattern for the Schemes for the unorganised workers would be spelt out in the schemes so formulated under the Code. Though the Ministry have claimed that sources of funding for schemes have been expanded too include funds from corporate social responsibility or any other such source, the Committee feel that there is a lack of firm commitment on the part of the Government to fund schemes meant for the unorganised sector. The Committee, therefore, recommends that the funding pattern for the schemes meant for the unorganised sector workers be clearly spelt out in the law so as to ensure adequate accrual of funds for potent implementation of various Schemes.	Not accepted. It is not possible to bind future budgets to provide for contribution from central and state Government
87	Clause 109 to 114	13.67 The Committee further desire that a Social Security Fund for the unorganised sector workers and others be set up and clearly defined in the Code stipulating contributions from the employees, employers (where identifiable), Central Government, State Governments alongwith diversion of funds from CSR, donations and other sources. The Committee specifically desires that the amount collected from compounding of fines for offences committed under the provisions of the Code be made another source of funding the welfare schemes intended for the unorganised sector workers. For better focus and efficiency the Social Security Fund for the unorganised sector be spent on four important categories of social protection i.e. Hospitalisation, Health Insurance, Life Insurance and Old Age Pension.	Accepted. A social security fund is already envisaged. Further, a welfare fund has been created funded from the receipts from composition of fines in occupational safety code as well as in this code. (a DO to be written Secy DEA)
88	Clause 109 to 114	13.68 Clause 111 of the Code seeks to provide for keeping the records electronically or otherwise relating to the schemes for the workers in the unorganised sector. The Committee desire that the Central Government should upkeep the database at the national level for all the unorganised sector workers and the schemes they are registered in so as to ensure that in case of migration of such workers from one State to another, the projected benefits are actually extended to them. Further, this data base should be technologically	Accepted. Data collection through portal for migrant workers has been part of OSH code. Also a proposal to set up for a National Database for the Unorganized Workers (NDUW) seeded with the Aadhaar is at advance stage of formulation in consultation with NIC. It will also include data for GIG workers and platform workers. These Data set proposed would be centrally maintained.

		linked with the data base for the migrant workers including construction workers and self-employed people like street vendors so that if any such worker updates his location, his details in this database also gets automatically updated and portability benefits truly achieved. The Committee further desire that promotion of a single point of contact for the beneficiaries to avail all the entitled social security services as near to their place of work/residence should be looked into by the Central Government.	
89	Clause 109 to 114	13.69 As regards grievance redressal mechanism put in place for the workers in the unorganized sector, the Ministry have submitted that an electronic grievance redressal portal i.e. CPGRAMS is already functional by the Government of India. The Committee desire that along with this online grievance redressal mechanism, a central helpline number should also be set up to receive grievances from the unorganized sector workers for being taken up with the State Governments concerned for appropriate redressal.	Accepted. This Ministry has already provision for setting up of a helpline under PM-SYM (1800 267 6888). The National Career Service Portal which caters to the requirement of jobseekers also has a helpline number. Under OSH Code, a helpline number has also been proposed for migrant workers. The National Database for the Unorganized Workers (NDUW) portal also envisages a helpline. The government is alive to setting up of helpline to facilitate redressal of grievances.
90	Clause 109 to 114	13.70 While appreciating the provision contained in Clause 112 regarding the intent of the Government to set up the Workers Facilitation Centres by the Government or the State Governments, the Committee are of the firm opinion that the provision should be made binding, given the vulnerability of the unorganised sector, so that dissemination of information on available social security schemes, facilitation of filing, processing and forwarding of application forms for registration and enrolment of the registered unorganised workers in the schemes are assured to a greater extent.	Partly Accepted. In addition to reply to recommendations of 13.69 above, the Government intends to provide facility of kiosks or Facilitation Centre to unorganized sector workers for dissemination of information on various schemes and accessing benefits through them. More than 3.5 lakh Common Service Centers (CSCs), run by an SPV of the Ministry of Electronics and Information Technology, have been enrolled under the PMSYM and the payment is made by Central Government @ Rs. 30 per enrolment.
91	Clause 109 to 114	13.71 The Committee appreciate that the Pradhan Mantri Shram Yogi Mandhan (PMSYM) seeks to provide a minimum pension of Rs. 3,000/- p.m. on attaining the age of 60 years as a social security measure for the unorganised sector and envisages a contribution between Rs. 55 and Rs. 200 per month by a worker in the age bracket of 18 to 40 years. According to the Ministry, if a subscriber fails to pay his monthly contribution in a particular month, flexibility has been provided to the subscriber to pay the due amount within three months. The Committee feels that this arrangement does not lessen the	Partly Accepted. Central Government, under the Scheme contributes the matching amount of premium which is payable by a member. Further, under BoCW Fund, many State Governments have committed payment of workers' share for a period of one year to five years. For example, State Governments of Haryana, UP, Bihar, Karnataka, Chandigarh, J&K, Punjab, Maharashtra Rajasthan, Arunachal Pradesh have already committed payment of workers' share. Further, under PMSYM during pandemic of Covid-19, the

		burden of the worker who may have defaulted due to situations beyond his control like in the case of nationwide lockdown. In such exigent crisis, the Committee desire that the Central Government should step in and contribute on behalf of the defaulting worker for that limited period of unforeseen circumstances.	Government has extended interest-free default period from three months to six months.
92	Clause 109 to 114	13.72 The Committee are deeply concerned to observe that absence of a provision for unemployment insurance for the unorganised sector workers seems to be the biggest gap in the arrangements for social security schemes. It, therefore, becomes imperative on the part of the Government to incorporate 'Unemployment Insurance, in the Code, as also recommended by the Second National Commission on Labour (SNCL), for the unorganised sector workers including BOCWs, Plantation workers and self-employed workers so that unprecedented labour market situations can be well taken care of.	<p>Partly Accepted. Section 45 of the Code provides for framing of scheme for unorganised workers, gig workers and platform workers and the members of their families for providing benefits under Chapter IV. The contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions subject of which the scheme may be operated shall be such as may be prescribed in the scheme</p> <p>Further, The Code under, Section 44 also provides for framing scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilised on payment of user charges,</p>
93	Clause 122 to 134	14.12 The Committee find that Clause 122 (6) seems to give sweeping powers to the Inspector-cum- Facilitator in terms of seeking information; search, seizure or taking copies of registers/ records, etc. The Committee feel that the powers endowed upon the Inspector-cum-Facilitator appears to be too wide and intrusive which may create friction and destroy the conducive atmosphere between the employer and employees. The Committee are of the considered opinion that a more robust and establishment friendly inspection with the aid of modern technology and gadgets is desirable rather than such arbitrary provisions bordering on intimidation. It is equally advisable that adequate opportunity of being heard needs to be given to the employer first before the Inspector-cum- Facilitator impounds, search or seize any establishment in exercise of powers conferred upon him. Needless to say, Clause 122(6) needs to be modified/amended appropriately so as	14.12 And 14.13 Accepted. It is proposed to have a single unified portal for allocating inspector-cum-facilitator for inspection of an establishment through randomized digital selection, in accordance with these provisions of the Law. Selection of an establishment for inspection is not to be decided by the Inspector or any authority but would be randomly allocated by the web-based inspection system.

		to dispel apprehensions, misinterpretation and abuse of power.	
94	Clause 122 to 134	14.13 While appreciating the introduction of a web-based inspection scheme assigning a unique number to Inspector-cum-Facilitator and each Establishment and each Inspection and uploading of report in a time bound manner, the Committee desire that a robust and uniform mechanism be also put in place so as to ensure transparency and accountability in effective implementation of the Inspection Scheme.	Accepted. It is proposed to have a single unified portal for allocating inspector-cum-facilitator for inspection of an establishment through randomized digital selection, in accordance with these provisions of the Law.
95	Clause 122 to 134	14.14 The Committee find that the extant labour laws envisage multiple registrations for various purposes thereby posing challenges not only to Stakeholders involved such as workers and employers but also to the Government. To illustrate, while the workers grapple to deal with multiple authorities to get their due entitled benefits, employers are required to file multiple reports, returns with repeated renewal of registrations. Similarly, for the Governments involved, the cost of enforcement tends to be higher due to the multiplicity of authorities often resulting in delays in enforcement of compliance due to lack of cohesive data. Keeping in view the difficulties and challenges faced by all the stakeholders involved due to the multiple registration regime, the Committee are of the considered opinion that the Codification process put in for ease of compliance would remain incomplete lest it moves to a single registration and Compliance Platform. It is therefore crucial that requisite amendments be incorporated in the relevant provisions of the Code to herald a new regime of unified registration process.	<p>14.14 and 14.15-Accepted. The following clauses addresses the issue of introduction of technology :</p> <p>Further, clause 3 envisages registration across the Labour Codes. Further, the registration has been mandated electronically also. The modified clause is reproduced below :-</p> <p>Every establishment to which this Code applies shall be electronically or otherwise registered within such time and in such manner as may be prescribed by the Central Government: Provided that the establishment which is already registered under any other labour law of the appropriate Government for the time being in force shall not be required to obtain registration again under this Code and such registration shall be deemed to be registration for the purposes of this Code.</p> <p>Provided further that an establishment to which the Chapter III or Chapter IV applies may on cessation of business activities may seek in such form and manner as may prescribed the cancellation of registration. After the application of an establishment to seek cancellation of registration has been made and no response of the Social Security Organisation concerned has been received, it shall be deemed after 180 days of the filing of application electronically.</p> <p>Provided also, cancellation shall not be permitted on account of number of employees falling below coverage threshold prescribed in Schedule I.</p> <p>Provided further that the Social Security Organisation may also after such enquiry as it deem necessary cancel</p>

			<p>registration.</p> <p>(i) Notice for seeking information can be sent electronically by EPFO and ESIC;</p> <p>(ii) It has been envisaged to provide for generation of a web-based inspection and calling of information relating to inspection under this Code electronically.</p>
96	Clause 122 to 134	<p>14.15 The Committee learn that the successful implementation under GST Reform (Goods and Services Tax) has been largely technology driven with interface amongst the Stakeholders through the Common Portal Goods and Services Tax Network (GSTN) which offers simplified and automated procedures for various processes such as registration, returns, refunds, tax payments, etc. The Committee desire that as part of the new labour registration framework, a single application enabling all registrations under a Common Labour Registration Number (CLRN) in line with GSTN be contemplated which would definitely result in a more simplified, convenient, easy and accessible claim of benefits to the workers, ease of doing business for employers and better enforcement at a lower cost for the Government too.</p>	As in para 14.14 above
97	Clause 122 to 134	<p>14.16 The Committee are concerned to note that Clause 125(1) provides that no proceedings shall be initiated after the expiry of the period of five years. The Ministry have clarified that the provision is on the lines of the existing ESI Act and has been retained to promote ease of doing business and a predictable policy regime. In view of the fact that putting a five year limitation period may lead to actual financial losses for the workers and destroy their rights in many genuine cases and moreover since technology based assessments are being envisaged with timely uploading of reports, the Committee call upon the Ministry to consider reducing the five years limitation period to a reasonable extent in the overall interest of the workers.</p>	Not accepted. This provision has been introduced to provide limitation period for EPFO officers to assess cases at the earliest. Limitation period is part of all acts that is ESIC act or income tax act. Further EPFO has launch a new scene where in any individual can apply for UAN. Further introduction of technology enable a worker to look at his passbook on real time basis.
98	Clause 122 to 134	<p>14.17 The Committee notes that Clause 127 provides for an appeal to an Appellate Authority by an employer if he is not satisfied with the order made under Section 125. Thus it implies that under the extant provisions, the employer has</p>	Accepted. Clause 127 has been modified and now, in case of ESIC, If an employer is not satisfied with the order referred to in section 125, he may prefer an appeal to an appellate authority as may be provided by

		been given an opportunity to file appeal. The Committee desire that the conditions of appeal be made more clear ensuring that they are in conformity with other laws.	regulation, within sixty days of the date of such order after depositing twenty five percent, of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the corporation. Provided that the appellate authority shall decide the appeal within a period of six months from the date of preferring the appeal.
99	Clause 122 to 134	14.18 Clause 128 inter-alia provides that the Authorized Officer may within a period of five years from the date of communication of the order passed under Section 125 or Section 126, reopen the case. The Committee are of the firm opinion that the time limit conferred on the Authorized Officer to reopen the cases seems to be inordinately long and therefore it should be reduced to one year.	Accepted. In order to provide predicable policy the discretion of reopening the case within five years by the Authorised Officer has been removed altogether.
100	Clause 122 to 134	14.19 Since no rate of simple interest has been specified in Clause 129 and it would be appropriate to change the rate through notification by the Central Government, the Committee concurs with the provisions contained in the said Clause.	Accepted. No comments required.
101	Clause 135 to 140	15.6 The Committee find that exorbitant fine and stiff penalties have been proposed in clauses 135 and 136 which may extend to three lakh rupees and imprisonment extending upto five years for violation of the provisions or offences committed. The Ministry have clarified that the penalty provisions in the Code have been rationalized, graded and their amount have also been rationalized. Further, the provisions of compounding have also been introduced to encourage compliance. The Committee though find merits in the Ministry's submissions, however desire that the penalty provisions be reviewed so as to further rationalize them, wherever warranted.	Accepted. As per Government policy and in order to decriminalizing the violations in various acts, the provisions relating to imprisonment and penalties were reviewed and following changes have been made;- --Imprisonment has been reduced from 3 years to 2 years, if an employer fails to pay any contribution for EPFO/ESIC. --Two additional offences have been added under section 135 which include - (a) fails or makes default in complying with any condition subject to which exemption from EPFO was granted and (b) fails to pay any administrative or inspection charges payable under the schemes framed under Chapter III (EPFO) --Imprisonment has been removed in respect of (a) Deduction of wages of an employee or any part of from employee's contribution; (b) reduces the wages/ benefit admissible to an employee (c) Exempted establishment makes default in complying with conditions of grant of exemption. Now, only penalty of 50,000 remains for

			<p>violation.</p> <p>--Generally, the imprisonment has been reduced.</p> <p>--Maximum imprisonment for subsequent and repeat offences for various cases including for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation has been reduced from five years to three years. (Section 136)</p>
102	Clause 135 to 140	<p>15.7 The Committee opine that the apprehensions raised at some quarters regarding the Court's discretion to lessen the sentence of imprisonment have been duly addressed under Clause 135(o)(i)(b) which stipulates that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term. The Committee, however, recommend that Clause 138 be suitably modified to stipulate that in case the aggrieved is not satisfied with the action/decision taken by the Appellate Authority as per the different chapters of the Code, they should have the option to approach the Court on their own and solely not on the basis of a complaint made by the same Appellate Authority.</p>	<p>Accepted. There is no section 135 (o) (i) (b). The proviso to reduction of sentence of imprisonment only relatable to clause (a) of section 135. This is only in the context of the power of the court to lower the imprisonment in the context of employers' failure to pay his own contribution and employee's contribution. Further, section 138 is sought to be modified to restrict cognizance by court by 'or an aggrieved person' in place of 'other person'.</p>
103	FINANCIAL MEMORANDUM	<p>16.4 The Committee find that the Financial Memorandum to the Code remains vague to the extent that neither estimated expenditure has been quantified nor source of revenue clearly indicated as was done in other Codes such as the 'Industrial Relations Code, 2019'. The Ministry have reasoned that the exact terms have not been estimated in the Financial Memorandum as the recurring and non-recurring expenditure of the Schemes and their other specifics such as administrative expenses, Government's share of contribution, etc are yet to be finalized. As regards non-indication of any expenditure from the Consolidated Fund of India (CFI) vis-à-vis provisions made in Clause 113(2) making it mandatory for Aadhaar linkage which as per the Supreme Court verdict could be done only for subsidy/ benefits serviced from the CFI, the Ministry have assured that the implementation of</p>	<p>Accepted. Under the Code for EPFO there are two Schemes in which Government subsidy is given (i) Employees' Pension Scheme – the Central Government contributes 1.16% of the wage to supplement the contribution of 8.33% made by the employer. (ii) Further, since 2014, the central Government has assured minimum pension to each EPS pensioner of Rs. 1000/- per month. In order to bridge the gap between minimum pension calculated for each member which is less than Rs. 1000/- per month and Rs. 1000/-, difference is paid from the budgetary resources.</p>

	<p>provisions related to the application of Aadhaar would be made as per the law of the land and in consultation with UIDAI and within the scope of the Supreme Court Judgment. While taking note of the Ministry's assurance those necessary provisions would be incorporated in the proposed Code after examining the legality, the Committee urge the Ministry to harmonies the relevant provisions in the Code with the Supreme Court Judgment so as to make it legally tenable. The Committee also desire some tentative approximate estimated financial commitments be reflected in the Financial Memorandum which may be modified according to the need of time so as to demonstrate authenticity and inspire confidence among all the Stakeholders involved.</p>	
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(Refer Para--- at page --- of the main Note)

Salient feature of the Code on Social Security, 2020

The salient features of the CoSS, 2020 have been divided into four headings/paras viz, (I) features of the Code (which have not been changed) and were part of Code which was introduced in Lok Sabha; (II) Modifications made in pursuance to the Report of the Parliamentary Standing Committee on Labour; (III) modifications made by the Ministry on its own; and (IV) modifications made in the wake of pandemic Covid-19 pandemic in chapter related to Inter-State migrant worker and other matter including to bring definition etc. at par with other Codes

I. Features of the CoSS, 2019 (which have not been changed) and were part of Code which was introduced in Lok Sabha.

- i. At present, the ESIC issues notification for extending coverage of ESIC to a district or part thereof. In the Code, the coverage of ESIC was extended to pan-India and to all establishments employing 10 or more employees subject to the condition that the contribution from employers and employees will be collected only after the benefits are provided.
- ii. The Central Government could extend the coverage under the ESIC to the establishments engaged in hazardous or life threatening activities, even if the number of workers is below the threshold of 10 workers in these establishments.
- iii. Plantation owner were provided with the option to be member of the ESIC or provide medical facilities of their own.
- iv. Voluntary membership based on an agreement between employer and employees in an establishment having less than 10 workers, was permitted.
- v. These measures will go a long way in extending social security for medical services, sickness benefits, and maternity benefits, dependent's pension and employees compensation benefits etc. to all workers.

(Section 1(4), 1(6) and schedule -I).

- vi. First Schedule was added to the CoSS, 2019 specifying the applicability thresholds for various chapters governing the provisions relating to employees' provident fund, ESIC, gratuity, maternity benefit, employees' compensation, building and other construction workers' welfare cess and unorganized sector for facilitating their modification through notification. Most of these thresholds were earlier required amendment of respective Acts. The schedule attached to the Employees Provident Fund and Miscellaneous Provisions Act, 1952 was removed which restricted applicability to the specified industries (which are about 190). **(First Schedule)**
- vii. Some of the new definitions were included to cater to emerging new forms of employment like aggregator, gig worker, platform worker to enable formulation of schemes for their welfare. The definition of Fixed Term Employment has also been included as in Industrial Relations Code. The definition of wage, as in the Code on Wages included all remuneration including basic pay, dearness allowance, and retaining allowance, if any, with a cap of 50% of all remuneration to be provided for allowances. If allowances exceed 50%, then it will be added back to the wages. The gap of 50% can be modified by the Central Government through notification. This has implication of reducing ESIC contribution. **(Section 2 and 114).**
- viii. Definition of "Career Centre", "executive officer" and "Vacancy" were included for the purposes of employment information, employment exchange and monitoring by the appropriate government to provide career related services. **[Section 2(8,30& 79)].**
- ix. Keeping in view the increased life expectancy, definition of "dependent" has been extended to include maternal grandparents also. **(Section 2 (24)).**
- x. A provision was made to entrust administration of an Act, Scheme and programme by any of the Social Security Organisations like EPFO and ESIC. For example, this Ministry would be allotting the administration of provident fund Act 1925 to EPFO. Similarly, the scheme called Pradhan Mantri Shram Yogi Mandhan Yojana for pension to the workers in the unorganised sector has been launched which can be entrusted to EPFO, if required. **(section13).**

- xi. An enabling provision was incorporated in the Code to specify differential rates of employees' contribution for EPF for various classes of employees as the Central Government may notify, for a specified period. This was also for implementation of budget announcements. **(Section 16).**
- xii. In case of ESIC, consultation with UPSC for appointment to the post of Group B officers, relating to nursing and para-medical was done away with **(Section 24).**
- xiii. The provisions, as under the Insolvency and Bankruptcy Code, relating to waterfall arrangement were extended to the workers under the CoSS. **(Section 19 and 47).**
- xiv. A provision that ESIC's medical, nursing, dental colleges and training institutes could be managed by Central or State Government, or PSU or "any other body to be notified by Central Government", on the request of the Corporation, was included. **{Section 39(5)}.**
- xv. In cases of employer's failure to register the employee with ESIC or failure to pay contribution (employer's and employee's), and ESIC releasing the benefits to the worker. Such benefits now have to be recovered from the employer as employer did not fulfill his commitment. Therefore, ESIC has been empowered to recover the capitalized value of such benefits from the employer. This is a new provision **(Section 42).**
- xvi. For emerging new forms of employment/workers viz., gig and platform workers (like food delivery boy), an enabling provision was made for formulation of schemes by ESIC to extend benefits to these workers and also to unorganized workers and their family members. **(Section 45)**
- xvii. An enabling provision was made for payment of gratuity in case of Fixed Term Employment on pro-rata basis even if the period of fixed term contract is less than 5 years. **(Section 53)**
- xviii. Presently, section 4A of the Payment of Gratuity Act, 1972 provides for procuring Compulsory Insurance for the fund for payment of gratuity from Life Insurance Corporation of India (LIC). Flexibility was provided in the CoSS, for procuring Compulsory Insurance for the fund for payment of gratuity from any IRDA regulated Insurance Company. **(Section 57).**

- xix.** No change in the right of women with regard to maternity benefit under the Maternity Benefit Act, 1961 which has been amended in 2017, has been made **(Chapter VI)**.
- xx.** Under the Chapter relating to Employees Compensation, an employee who meets with an accident while commuting from residence to place of work and vice-versa, was included on the lines of such benefits being available for compensation under ESI Act, 1948. Further, provisions relating to personal injuries under ECA Act have been consolidated to include injuries arising out of accident and occupational diseases, with enabling provision to modify lists. Further, instead of different time period for determining eligibility under Employees Compensation due to occupational diseases, uniform period of six months has been proposed. (section 74)
- xxi.** In the Code introduced, it was provided that the cess under the Building and Other Construction Workers Cess Act, 1996, could be collected electronically by a local authority or such other authority as may be notified by the State Government. **(section 100)**
- xxii.** At present, assessment of cess to be paid by the employer under The Building and Other Construction Workers Welfare Cess Act, 1996 is done by authorized officers on case to case basis. The present system has many shortcomings including absence of common guidelines, no prescribed qualification for authorized officer, discretion in assessment to authorized officers etc. The existing system gives the scope for arbitrariness, lack of transparency and accountability. Therefore, it was proposed in the Code introduced that the employer shall, within sixty days or such period as may be notified by the appropriate Government, pay cess on the basis of his self-assessment. The rules regarding the manner of assessment and requirement of documents shall be formulated by Central Government. **(Section 100 & 103)**
- xxiii.** Under EPF and MP Act, at present, no limitation period exists in commencing inquiry to decide on applicability of the Act and to recover amount due towards Employees Provident Fund, Employees' Pension Scheme and Employees Deposit Linked Insurance Scheme. It was proposed to introduce limitation period of 5 years for eligibility and issuance

of an order. This will promote ease of doing business, and predictable policy regime. ESI Act also has a limitation period of 5 years. **(Section 125)**

- xxiv.** Sources of the fund for schemes for unorganized workers have been expanded to include funds from corporate social responsibility or any other such source as may be specified in the scheme. Further, enabling provision introduced to provide for the constituting of a special purpose vehicle for the purpose of implementation of schemes for unorganised workers. A provision has also been introduced to create Social Security Fund to cater to social security of all types of workers under this code. **(Section 109 and 110).**
- xxv.** At present, under Unorganised Workers Social Security Act, 2008, there is no provision of electronic registration of worker and the Act mandates submission of application to District Administration who would issue a smart card. It was proposed in the Code introduced that an unorganised worker will submit a self-declaration electronically or otherwise in the manner and form as prescribed by the appropriate Government. Every registered unorganized worker will be assigned a unique number based on Aadhar. **(Section 113)**
- xxvi.** The word Inspector-cum-Facilitator was introduced in the Code in place of Enforcement Officer, Inspector, Social Security Officer, etc. Now, in addition to enforcement functions, an Inspector-cum-Facilitator would supply information and impart advice to employers and workers. The appropriate Government will notify an inspection scheme which will be web-based and establishments will be allocated randomly by centralized computer system. The inspection scheme envisages assigning of unique number to inspector cum facilitator, for each Establishment, each Inspection and uploading of report in time bound manner. In the scheme, it should be ensured that the allotment of inspection has some geographical restriction. **(Section.122).**
- xxvii.** The Code envisaged filing of a single return by the employer under the Code which may be electronically or otherwise. **(Section 123).**
- xxviii.** For ESIC and EPFO, a time limit of 2 years was introduced for completion of the inquiry which may be extendable for further period of one year with

the approval of Central Provident Fund Commissioner or Director General, as the case may be. It will increase compliance and bring discipline in disposal of cases. **(Section 125).**

xxix. At present, the rate of interest on delayed payment is 12%. It was decided that the rate of interest chargeable on delayed payment to be specified in the notification to be issued by the Central Government. **(Section 129).**

xxx. In the Code introduced, Aadhaar was made mandatory for seeding at the time of registration of member or beneficiary or any other person to register or for receiving benefit under this Code **(Section 143).**

1. Changes made in pursuance of report of the Parliamentary Standing Committee on Labour received on ... August, 2020.

- i. The Central Government shall be “appropriate Government” in respect of central PSUs in which the Central Government holds not less than 51% of paid-up share capital.
- ii. The definition of “employee” has been expanded to enhance the coverage as under:
 - a. Workers who are “employed on wages by an establishment either directly or through a contractor” have been included.
 - b. the term "employee" shall mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government and includes such other persons or class of persons as the Central Government may, by notification, specify to be employee for the purposes of that Chapter; Provided further that for the purposes of counting the employees for coverage of establishment under Chapter IV, the employees whose wages are more than the wage ceiling so notified by the Central Government shall also be counted; Provided also that for the purposes of Chapter III, the term "employee" shall include such persons or class of persons as notified by the Central Government.
 - c. For the purposes of the Employees’ Pension Scheme (EPS) the membership of the member whose wages exceed the notified wage ceiling shall continue to be member, however certain terms and conditions for continuation in the scheme under EPS shall be as may be notified by Central Government in the scheme. Provided also that for the purposes of Chapter VII, the term "employee" shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government, or as the case

may be, the State Government may add to the said Schedule, by notification, for the purposes of that Government;”

- d. Self- employed persons can also join EPFO. (**Para 4.29, 7.20, 7.25 of the report**)
- iii. The definition of “employment injury” has been extended to for its applicability from existing in the Code to Chapter IV (ESIC) to Chapter VII (Employees’ Compensation) and the schedule attached thereto in cases of the accidents occur or the occupational disease is contracted. (**Para 4.33 of the report**)
- iv. The definition of unorganised workers has been extended and “agriculture workers” have been included. However, the gig worker and platform worker, exhibit characteristics of both organised as well as unorganised workforce. (**Para 4.71**)
- v. In case of registration of establishment, it has been provided that the registration shall be electronically or otherwise. Further, if an establishment is already registered under any other **central** labour law there shall not be any requirement to obtain registration again. A new provision has been built to provide for cancellation of establishment on cessation of business activities and a deemed provision after expiry of 90 days has also been added. However, cancellation of registration shall not be permitted solely on account of number of employees have fallen in a registered establishment below coverage threshold. The Social Security Organisation may also after such enquiry as it deem necessary, cancel registration of an establishment in respect of ESIC and EPFO. (**Para 5.6**)
- vi. A general provision has been added to provide for undertaking studies including epidemiological studies to extend appropriate health care and insurance facilities for ESIC and other social security organisations. (**to be drafted Para 8.39**)
- vii. Limitation period of 3 years for initiating proceedings by aggrieved persons in ESIC Code has been introduced. (**Para 8.42**)
- viii. Period of 3 years has been prescribed for working journalist for becoming eligible for receipt of gratuity. (**Para 9.10**)
- ix. The words “arduous nature” for the purposes of maternity benefit has been clarified. (**Para 10.10**)

- x. Crèche facilities can be used from the common pool of establishments or facilities established by NGO, State or Central Government. **(Para 10.13)**
- xi. A portal to capture and maintain national database for unorganized workers including gig and platform workers seeded with Aadhaar has been provided. The portal will have facility for self-employed to register themselves. The ministry has provided setting up of helplines for unorganized workers. **(Para 12.27,12.28, 12.29, 13.68 and 13.69)**
- xii. Two funds i.e., Social Security Fund and Welfare fund have been created. The amount collected from compounding of fines for offences committed under the code shall become the part of Welfare fund which will cater to welfare schemes for unorganized sector. **(Para 13.67)**
- xiii. Similarly, the definition of gig workers and platform worker has been elaborated. A Schedule for contribution by aggregators has also been added. Further, in the definition of “platform work” the power has been vested with the Central Government to notify additional activities which would fall within the domain of platform worker. As regards gig and platform workers (section 114), the following changes have been made:
 - a. The Central Government may formulate social security schemes for gig workers and platform workers on matters relating to (a) life and disability cover; (b) accident insurance;(c) health and maternity benefits; (d) old age protection; (e) crèche: and (f) any other benefit as may be determined by the Central Government.
 - b. Constitution of a Gig and Platform Workers’ Social Security Fund to be administered by the Central Government for the purposes of social security and welfare of these workers.
 - c. Setting up of a Gig and Platform Workers’ Social Security Fund. The contribution to the Fund will primarily come from the ‘aggregators’ as they have been mandated to pay contribution at such rate not exceeding two percent, of the annual turnover from operations of an aggregator, as may be specified in the Schedule attached to the Code. Provided that the contribution by an aggregator shall not exceed five percent of the amount paid or payable by an aggregator to gig workers and platform workers. It has been provided that different rates may be specified for different aggregators in the Schedule. For the purposes of levy of contribution, the annual turnover from operations of an aggregator shall not include-(i) any tax, levy, cess, paid or payable to the Government. The date of commencement of contribution from aggregator shall be notified by the Central Government.
 - d. Constitution of a Board for welfare of gig workers and platform workers headed by the Minister in-charge of the Ministry of Labour and Employment of the Government of India and other members of Central Government, State Government (by rotation), representatives of the gig worker and platform workers, DG of ESIC; Central Provident Fund

Commissioner of the EPFO; and other experts as the Central Government may consider appropriate with Joint Secretary to the Government of India in the Ministry of Labour and Employment, as member secretary to the Board.

- e. The Central Government may formulate rules for (i) the authority to collect and to expend the proceeds of contribution collected (ii) the rate of interest to be paid by an aggregator in case of delayed payment, less payment or non-payment of contribution which shall not exceed ten percent per annum, (iii) the exemption of contribution by notification by Central Government to an aggregator or class of aggregators and the conditions of such exemption, (iv) self-assessment of contribution by aggregators, (v) conditions for cessation of a gig worker or a platform worker and (vi) any other matter relating to smooth functioning of the social security scheme notified under this section **(Para 4.50, 4.51, 12.31, 13.58, 13.59 and 13.65)**

Xiv For dissemination of information on social security, for filing, processing and for facilitation, it is proposed to have helplines and facilitation centers **(Para 13.70)**

Xv For setting up of robust and establishment friendly inspection with the aid of modern technology and gadgets, it has been proposed to have a single unified portal for allocating inspector-cum-facilitator for inspection of an establishment through randomized digital selection. **(Para 14.12, 14.13)**

Xvi To provide for unified and single registration it has been mandated that registration can be done electronically also. Further, an establishment which is already registered under any other Labour law of the appropriate Government for the time being in force shall not be required to obtain registration again under this Code and such registration shall be deemed to be registration for the purposes of this Code. Technology has also been introduced for issue of notice for seeking information electronically by EPFO and ESIC; and generation of a web-based inspection. **(Para 14.14 and 14.15)**

Xvii In case of ESIC, provision for an appeal to an appellate authority has been incorporated on deposit of twenty five percent, of the contribution so ordered. (Para 14.17)

Xviii Discretion to re-open within 5 years of passing the orders by the authorized officer of EPFO has been abolished. **(Para 14.18)**

Xix. An enabling provision has been made in section 15(1) (d) of the Code for formulation of schemes including for EPF, EPS and EDLI for providing social security to self-employed worker or any class of persons.

Xix Fines and penalties have been reviewed and rationalized. (Para 15.6)

Xx It has been proposed to restrict taking of cognizance by the court on the complaint of the authorized officer and of the aggrieved person to be notified by the Central

Government. Earlier in the Code introduced, a complaint could have been made by any other persons to be prescribed by the Central Government. (Para 15.7)

Xxi Financial memorandum has been suitably modified. (Para 16.4)

II. Changes made by the Ministry on its own:-

- i. In the definition of “building or other construction work” after factory or mine or any building or other construction work employing less than ten workers, the words “in the preceding twelve months” have been added.
- ii. The definition of ‘dependent’ has been changed in respect of ESIC and a proviso has been added, that ‘an legitimate or adopted son who has not attained the age of **twenty one** years shall be dependent of the diseased employee.(Section 2(24))
- iii. The definitions of Maternity benefits and retrenchment have been added.
- iv. The electronic registration of employees/establishments has been included. Further, all employees in establishments to which this chapter applies shall be called insured persons. (Section 2(28)).
- v. In the definition of establishment ‘shop’ has been added. The definition of “establishment” would be different in Social Security Code vis-a-vis other Codes. (section 2(29))
- vi. The exempted employee has been defined to include the person “who is not liable to pay employee’s contribution”. This is in line with the existing notification issued on 6th September, 2019 providing for non-payment of contribution by employee who is drawing wages less than Rs. 176/- per day. (Section 2(31))
- vii. In the definition of “social Security”, gig workers and platform workers” has been added in include extending benefits of social security to these new emerging class of workers. (Section 2(70)).
- viii. In the definition of Social Security Organisation, the Gig and Platform Workers’ Board constituted under Section 114 and any other organisation or special purpose vehicle declared to be the social security Organisation by the Central Government have been added. 2(71).
- ix. The definition of “State” has been deleted as it is governed by the General Clauses Act, 1897.
- x. The definition of “superannuation” has been modified to include age of “58 years” for the purpose of pension scheme as in the existing EPF & MP Act. (Section 2(74))
- xi. The definition of “wage Ceiling” has been clarified to be applicable on Chapter III and Chapter IV. (Section 2(81))

- xii.** Insured woman has been included for the purpose of Chapter IV which means who is or was an employee in respect of whom contribution is or were payable under the said chapter. Further, definition of “commissioning mother” and a woman who has legally adopted a child of the age up to 3 months, for the purpose of extending benefit of maternity leave have been extended. This is to bring in conformity with the Rule 2 (6A) and was inserted in 2017 by ESIC. (Clause 2(83))
- xiii.** The number of members to be nominated by Central Government on National Social Security Board for Unorganised Workers representing various Central Government Departments has been increased from 5 to 10 and thus increasing the total number on the Board from 35 to 40. Similarly, in respect of State Social Security Board also, the number of members representing State Government Departments has been increased from 7 to 10. Further, a nominee of Central Government on the State Social Security Board has also been added for better central state coordination and this would increase the total number of State Unorganized Workers Social Security Board members to --- (Section 6)
- xiv.** Powers have been delegated to ESIC to appoint regional boards and local committees instead of “Central Government after consultation with the Corporation”. This is as per Section 25 of the ESIC Act.(Section12)
- xv.** The provision regarding “Waterfall arrangement” has been slightly modified and reference to the particular section 53 of the Insolvency and Bankruptcy Code, 2016 for the recovery proceedings has been deleted. (Section 19)
- xvi.** At present there are no rules in EPFO and there are schemes for EPF, EPS and Employees’ Deposit linked Insurance scheme which have been formulated under the Employees’ Provident Fund and miscellaneous provision act. The old position has been restored and the rule making clauses for EPFO have been converted to scheme making, wherever possible. (Section 22)
- xvii.** In the code introduced, it was provided that an appellant will pre- deposit 25% of the amount before going to appeal in CGIT. This has been increased to 40 %(which is still lower than the limit of 75% under the EPF and MP Act). Further, it has been provided that the Tribunal shall endeavor to decide the appeal within a period of one year from the date on which the appeal has been preferred. **(Section 23)**
- xviii.** In the code introduced, it was provided that Central Government shall appoint DG ESIC and FA and CAO in consultation with Corporation. The words “In consultation with” have been deleted. Further, a new sub-section has been added to provide for exercise of powers and duties for DG, ESIC and Financial Commissioner as may be prescribed in the Rules. (Section 24)
- xix.** **In case of ESIC, it has been provided that the investment of funds can be made as per the guidelines approved by the Central Government and the requirement of consultation with ESIC has been removed. The guidelines issued by Ministry of Finance are followed. (Section 25).**
- xx.** **In the ESIC’s Fund besides contribution user charges have been added. The user charges collected from other beneficiaries shall be deemed to be contribution and form part of ESIC Fund. (Section 25 and its proviso)**

- xxi.** This relates to insurance of all employees. This may be modified as under: “Subject to the provision of this Code all employees in the establishments to which this chapter applies shall be insured in such manner whether electronically or otherwise as may be prescribed by the Central Government and an employee in respect of whom contributions are or were payable under this code and who is by reason thereof entitled to any of the benefits provided by chapter IV of the code shall be called as Insured Person”. Existing provision is in Section 2 (14) of ESI Act. **(Section 28) to be done.**
- xxii.** In the code introduced, the medical benefits and the conditions for such benefits, the scale and period of benefits were to be prescribed by the Central Government in consultation with the Corporation. It has now been proposed that “consultation with the corporation” to be deleted. {Section 39(3)}
- xxiii.** A provision regarding students to furnish bond for serving corporation for such time and manner has been incorporated. (Section 39 (4))
- xxiv.** A provision has been made in the draft Code that ESIC’s medical, nursing, dental colleges and training institutes could be run by Central or State Government, PSU or any other body notified by Central Government, on the request of the Corporation. Anybody could include private entities. {Section 39(5)}.
- xxv.** In cases of dispute between the corporation and the State Government with regard to sharing of cost between them and nature and extent of the medical treatment to be provided by State Government, it has been provided that a judge of the High Court will be appointed by CJI. (The ESI Act, 1948). It is proposed to change to “that of an arbitrator to be appointed by Central Government in consultation with State Government”. (Section 40(4)).
- xxvi.** In the code introduced, it was provided that State Government in addition to “ESIC” with the previous approval of Central government, establish organizations for providing benefits in case of sickness, maternity and employment Injury. The structure, functions, powers were to be prescribed by the State Government. The words “by the State Government” have been replaced with the Central Government. (Section 40(6))
- xxvii.** In the Code introduced, it had been envisaged that the “Central Government” in consultation with corporation may establish and maintain in a state hospitals, dispensaries and other medical and surgical services. This has now been delegated to ESIC alone and consultation with State Government has been done away to prevent delays. (Section 40 (7))
- xxviii.** The central Government has been given power to amend, vary or rescind the scheme besides framing of scheme for the other beneficiaries and as well as for gig and platform workers. The earlier provision mandating consultation with corporation has been deleted. (Section 44 and Section 45)

- xxix.** To bring uniformity among the States for filing the appeal in the court for ESIC matters, the limitation period of three years has been provided. Regulations can be made by appropriate government instead of State Government. **(Section 51(1))**.
- xxx.** In clause (1), after the words “competent authority” the words “in such manner as may be prescribed by of the appropriate Government.” may be deleted. Further, in clause (5) the manner of prescribing panel of advocates may be deleted. **(Section 88)**
- xxxi.** The words “from the date of passing of order” have been added after “sixty days”. **(Section 99(2))**
- xxxii.** As regards gig and platform workers (section 114), the following changes have been made:
- a.** The Central Government may formulate social security schemes for gig workers and platform workers on matters relating to (a) life and disability cover; (b) accident insurance; (c) health and maternity benefits; (d) old age protection; (e) crèche; and (f) any other benefit as may be determined by the Central Government.
 - b.** Constitution of a Gig and Platform Workers’ Social Security Fund to be administered by the Central Government for the purposes of social security and welfare of these workers.
 - c.** Setting up of a Gig and Platform Workers’ Social Security Fund. The contribution to the Fund will primarily come from the ‘aggregators’ as they have been mandated to pay contribution at such rate not exceeding two percent, of the annual turnover from operations of an aggregator, as may be specified in the Schedule attached to the Code. Provided that the contribution by an aggregator shall not exceed five percent of the amount paid or payable by an aggregator to gig workers and platform workers. It has been provided that different rates may be specified for different aggregators in the Schedule. For the purposes of levy of contribution, the annual turnover from operations of an aggregator shall not include-(i) any tax, levy, cess, paid or payable to the Government. The date of commencement of contribution from aggregator shall be notified by the Central Government.
 - d.** Constitution of a Board for welfare of gig workers and platform workers headed by the Minister in-charge of the Ministry of Labour and Employment of the Government of India and other members of Central Government, State Government (by rotation), representatives of the gig worker and platform workers, DG of ESIC; Central Provident Fund Commissioner of the EPFO; and other experts as the Central Government may consider appropriate with Joint Secretary to the Government of India in the Ministry of Labour and Employment, as member secretary to the Board.
 - e.** The Central Government may formulate rules for (i) the authority to collect and to expend the proceeds of contribution collected (ii) the rate of interest to be paid by an aggregator in case of delayed payment, less payment or non-payment of contribution which shall not exceed ten percent per annum, (iii) the exemption of contribution by notification by Central Government to an aggregator or class of

aggregators and the conditions of such exemption, (iv) self-assessment of contribution by aggregators, (v) conditions for cessation of a gig worker or a platform worker and (vi) any other matter relating to smooth functioning of the social security scheme notified under this section.

- xxxiii.** In case of EPFO, instead of rules making, various provisions regarding investment, re-investment or realization will be specified in detail “in the Schemes” viz. Provident Fund Scheme, Pension Scheme and Insurance Scheme under Chapter III. **(Section 120)**
- xxxiv.** The detailed provisions regarding “writing of losses” in case of EPFO shall be provided “in the Schemes” viz. Provident Fund Scheme, Pension Scheme and Insurance Scheme under Chapter III. The manner of maintenance of records, registers and returns by EPFO, shall be specified “in the Schemes” viz., Provident Fund Scheme, Pension Scheme and Insurance Scheme, instead of rules. **(Sections 121 and 123).**
- xxxv.** The extension of inquiries beyond 2 years can be done at the level of CPFC/DGESIC for a period “up to 1 year” “instead of 1 year”. **Section 125(2)).**
- xxxvi.** The existing EPF and MP Act and in the Code introduced, there was a provision for review of orders passed the assessing officer on discovery of new matter or evidence. This has been deleted to do away with subjectivity and discretion in reviewing of the decision. **(Section 126).**
- xxxvii.** The provision of appellate authority for ESIC matters has been introduced in conformity with existing ESIC act. **(Section 127)**
- xxxviii.** The existing EPF and MP Act and in the Code introduced provided about “determination of escaped amount”. It enables the authorized officer to reopen the case and pass orders re-determining the assessed amount, within a period of 5 years, if inter-alia, he has reason to believe that by reason of the omission or failure on providing certain information by the employer or the officer has some information in his possession to reopen the case. It was inserted from 1st July 1997. Vesting of such powers in the officers is against predictable policy regime of the Government as the order remains unsettled for five years from the date of communication. Therefor it has been decided to remove this power with EPFO officers altogether **(Section 128).**
- xxxix.** In the code introduced, for rate of interest chargeable on delayed payment, it was provided to be notified by the Central Government. This is desirable keeping in view changing rates in the economy and to charge reasonable and prevalent rate of interest. **(Section 129).**
- xl.** As regards power to recover damages, the details will be provided “in the Schemes” of Provident Fund, Pension or Insurance instead of rules. **(Section 130)**
- xli.** As per Government policy and in order to decriminalizing the violations in various acts, the provisions relating to imprisonment and penalties were reviewed and following changes have been made;-
 - a.** Imprisonment has been reduced from 3 years to 2 years, if an employer fails to pay any contribution for EPFO/ESIC.
 - b.** Two additional offences have been added i.e., (a) fails or makes default in complying with any condition subject to which exemption from EPFO was granted and (b) fails to pay any administrative or

inspection charges payable under the schemes framed under Chapter III (EPFO)

- c. Imprisonment has been removed in respect of (a) Deduction of wages of an employee or any part of from employee's contribution; (b) reduces the wages/ benefit admissible to an employee (c) Exempted establishment makes default in complying with conditions of grant of exemption. Now, only penalty of 50,000 remains for violation.
 - d. Generally, the imprisonment has been reduced.
 - e. Maximum imprisonment for repeat offences including for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation, has been reduced from five years to three years. **(Section 135 & 136)**
- xlii. With reference to the Code introduced in Parliament which provided that no court shall take cognizance of an offence punishable under this Code, except on a complaint made by such officer and 'other persons' as may be notified by the Central Government. The words 'other persons' have been with "aggrieved person". **(Section 138).**
- xliii. As regards to compounding of offences, changes have been made vis-à-vis Code introduced include (a) in the case of an offence punishable with fine only, the half of the maximum fine provided for that offence; (b) in the case of an offence punishable with imprisonment for a term which is not more than one year and also with fine, the three-fourth of the maximum fine provided for that offence. Further, period for compounding five years has **now been reduced to 3 years for a repeat offence. (Section 140).**
- xliv. **A proviso to address the foreign employee for obtaining "Aaadhar" by them has been added. (Section 143).**
- xlvi. **Exemption is granted to an establishment subject to certain conditions from EPFO and ESIC which permit them to maintain account of members, collect contribution from them and make investment in accordance with the guidelines of the Government. The establishments through trust provide similar or better services to that of EPFO and ESIC. In the code introduced, in case of EPFO, period of exemption granted was increased from one year to three years on the lines of ESIC. Now, certain changes are being made with respect to providing for details in scheme/ regulation instead of rules, formation of a trust, etc. (Section 144)**
- xlvii. The provision relating to "misuse of benefits" relating to Chapter III (EPFO) shall be provided "in the scheme" rather than in the "rules" **(148).**
- xlviii. Protection has been provided to governing bodies of EPFO, ESIC, BOCW Boards, and Medical Benefit Council to avoid sudden disruption in the work till their tenure comes to an end. **(152A)**
- xlviii. Protection has been provided to the existing schemes of EPFO and regulations, rules and scheme of ESIC for a period of 1 year to the extent they are not inconsistent with the Code. **(Section-163(2)(b)).**
- xlix. A welfare fund has been set up wherein the amount of compounding of offences shall be deposited. This Fund shall be used for the welfare of unorganized workers. The contribution for the fund may also include such other sources as may be prescribed by the appropriate government. **(Section (142A))**

- I. To facilitate ease of doing business, the Code may envisage a provision of exit on account of closure from ESIC, EPFO subject to the conditions to be provided in the Scheme or regulations as the case may be. In case EPFO/ ESIC do not grant permission of exit then after a particular period say 180 days it shall be deemed to have been granted. The whole process would be electronic/online.
- II. To facilitate surrender by an exempted establishment from the Pension Scheme of EPFO a provision may be made in the Act.

III. Changes made in the wake of Covid-19 pandemic

- I. Post-covid, the Central Government may, by order, “defer” employer’s contribution, or employee’s contribution, or both for a period up to three months at a time, in respect of establishments under EPFO and ESIC for whole of India or part thereof in the event of pandemic, endemic or national disaster.” **(Section- 144A)**.
- II. For this purpose of formulation of rules, the pre-publication period for stakeholder consultation required to be waived in the circumstances of epidemic, pandemic or disaster.
- III. To provide additional benefit to the dependents on account of an employment injury sustained to an employee on account of illness or injury in pandemic or national disaster during the course of his employment a provision has been incorporated. (Section 38).

Annexure IV
(Refer para 5.0 of the main note)

Comments received from various Ministries / Departments under Inter-ministerial consultation along with the views MoLE thereon.

Sr. No.	Comments received from various Ministries / Departments	Views of MoLE thereon
1.		
2.		
3		
4		
5		
6		