

THE CODE ON SOCIAL SECURITY, 2019

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THE FIRST SCHEDULE.

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Bill No. 375 of 2019

THE CODE ON SOCIAL SECURITY, 2019

A

BILL

to amend and consolidate the laws relating to social security of the employees and the matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Code on Social Security, 2019.

5 (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.

Short title,
extent,
commencement
and
application.

(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.

Definitions.

2. In this Code, unless the context otherwise requires,—

(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 or user of a service to connect with the seller or the service provider;

(3) "appropriate Government" means—

(a) in relation to, an establishment carried on by or under the authority of the Central Government or the establishment of 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 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, 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

(b) in relation to any other establishment, the State Government;

(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;

(5) "Authorised Officer" means such officer of the Central Board, or as the case may be, of the Corporation notified by the Central Government;

(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
 5 construction work of any factory or mine or any building or other construction work employing less than ten workers 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;

(7) "building worker" means a person who is employed to do any skilled, semi-skilled
 10 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;

(8) "career centre" means any office (including employment exchange, place or portal)
 15 established and maintained in the manner prescribed by the Central Government for providing such career services (including 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—

20 (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;

25 (9) "Central Board" means the Board of Trustees of the Employees' Provident Fund constituted under section 4;

(10) "Central Provident Fund Commissioner" means the Central Provident Fund Commissioner of the Central Board appointed under sub-section (1) of 14;

(11) "child", for the purposes of Chapter VI, includes a stillborn child;

30 (12) "Commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;

18 of 2013. (13) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;

(14) "compensation" means compensation as provided under Chapter VII;

35 (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;

(16) "completed year of service" means continuous service for twelve months;

40 (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;

(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)
 45 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;

(19) "contractor", in relation to an establishment means a person, who—

(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 and includes a sub-contractor;

(20) "contribution" means the sum of money payable by the employer, 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;

(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;

(22) "Corporation" means the Employees' State Insurance Corporation constituted under section 5;

(23) "delivery" means the birth of a child;

(24) "dependant" means any of the following relatives of deceased employee, namely:—

(a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother;

(b) if wholly dependant on the earnings of the employee at the time of his death, a 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-five";

(c) if wholly or in part dependant on the earnings of the employee at the time of his death,—

(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;

(v) a minor brother or an unmarried sister or a widowed sister if a minor;

(vi) a widowed daughter-in-law;

(vii) a minor child of a pre-deceased son;

(viii) a minor child of a pre-deceased daughter where no parent of the child is alive, or;

(ix) a grandparent if no parent of the employee is alive.

Explanation.—For the purposes of sub-clause (b) and items (vii) and (viii) of sub-clause (c), references to a son, daughter or child include an adopted son, daughter or child respectively;

(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—

5 (i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;

(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

10 (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;

52 of 1961. (26) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, 15 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:

Provided that for the purposes for Chapter III and Chapter IV, the term "employee" shall mean only such employee drawing wages less than or equal to the wage ceiling notified by the Central Government, respectively, for said Chapters and such other persons or class 20 of persons as the Central Government may, by notification specify to be employee for the purposes of either of such Chapters, or both:

Provided 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 25 the said Schedule, by notification, for the purposes of that Government;

(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, 30 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,—

(a) in relation to an establishment which is a factory, the occupier of the factory;

35 (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;

(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 40 director;

(d) contractor; and

(e) legal representative of a deceased employer;

(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 45 employment, being an insurable employment only for the purposes of Chapter IV, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;

(29) "establishment" means—

(a) a place where any industry, trade, business, manufacture or occupation is carried on; or

(b) a factory, motor transport undertaking, newspaper establishment, audio-visual production, building and other construction work or plantation; 5

(c) a mine or dock work;

(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;

(31) "exempted employee" for the purpose of Chapter III, means an employee to whom 10 any of the schemes, referred to in section 15, but for the exemption granted under this Code, would have applied;

(32) "factory" means any premises including the precincts thereof—

(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 15 being carried on with the aid of power, or is ordinarily so carried on, or

(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, 20 railways running shed or a hotel, restaurant or eating place.

Explanation I.—For computing the number of employees for the purposes of this clause, all the employees in (different groups and relays) a day shall be taken into account;

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 25 construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(33) "family " means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:—

(a) a spouse ; 30

(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—

(i) receiving education, till he attains the age of twenty-one years; and 35

(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 40 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; 45

(34) "fixed term employment" means the engagement of an employee on the basis of a written contract of employment for a fixed period:

Provided that—

5 (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;

10 (35) "gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship;

15 (36) "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;

(37) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under section 122;

(38) "Inter-State migrant worker" means any person who is recruited by—

20 (i) an employer in one State for employment in his establishment situated in another State; or

(ii) through a contractor in one State for employment in an establishment in another State,

25 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;

15 of 1908. (39) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908;

(40) "manufacturing process" means any process for—

30 (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

(ii) pumping oil, water, sewage or any other substance; or

(iii) generating, transforming or transmitting power; or

35 (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

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(vi) preserving or storing any article in cold storage; or

40 (vii) such other processes as the Central Government may notify;

(41) "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:

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;

(42) "medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of the Medical Termination of Pregnancy Act, 1971; 5 34 of 1971.

(43) "mine" has the meaning assigned to it in clause (j) of sub-section (I) of section 2 of the Mines Act, 1952; 35 of 1952.

(44) "minor" means a person who has not attained the age of eighteen years;

(45) "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; 10 45 of 1860.

(46) "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 — 15

(i) who is employed in a factory;

(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; 20

(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;

(48) "occupational disease" means a disease specified in the Third Schedule as a disease peculiar to the employment of the employee; 25

(49) "occupier" in respect of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

(a) in the case of a firm or other association of individuals, any one of the individual partners or members thereof; 30

(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; 18 of 2013.

(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, 35

shall be deemed to be the occupier:

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; 40

(50) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948; 45 53 of 1948.

(51) "organised sector" means an enterprise which is not an unorganised sector;

(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:

5 Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement;

(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:

10 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.;

(54) "plantation" means—

15 (a) any land used or intended to be used for—

(i) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;

(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 approval of the Central Government, the State Government, by notification, so directs.

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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;

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(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:

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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

(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;

35

(55) "platform work" means a form of employment 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;

40 (56) "platform worker" means a person engaged in or undertaking platform work;

(57) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908;

15 of 1908.

(58) "prescribed" means prescribed by rules made under this Code;

(59) "railway" has the meaning assigned to it in clause (31) of section 2 of the Railways Act, 1989;

24 of 1989. 45

(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;

(61) "Recovery Officer" means any officer of the Central Government, State Government, Central Board or the Corporation, who may be authorised by the Central
5 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;

(62) "regulations" means regulations made by the Corporation under this Code;

(63) "retirement" means termination of the service of an employee otherwise than on superannuation;

10 (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;

11 of 1976.

(65) "Schedule" means a Schedule to this Code;

(66) "seamen" means any person forming part of the crew of any ship, but does not include the master of the ship;

15 (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
20 in a manufacturing process as the Central Government may, by notification, specify;

(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
25 be notified by the State Government;

(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;

(70) "social security" means the measures of protection afforded to employees to ensure access to health care and to provide income security, particularly in cases of old age,
30 unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights enshrined and schemes framed under the Code;

(71) "Social Security Organisation" means any of the following organisations established under this Code, namely:—

35 (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;

40 (d) the State Unorganised Workers' Social Security Board constituted under section 6; and

(e) the State Building Workers' Welfare Boards constituted under section 7;

(72) "State" includes a Union territory;

(73) "State Government" includes—

45 (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;

(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;

(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;

(76) "Tribunal" means the Industrial Tribunal constituted by the appropriate Government under section 7A of the Industrial Disputes Act, 1947;

(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;

(78) "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised 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;

(79) "vacancy", for the purposes of Chapter XIII, means an unoccupied post (including newly created post, post of trainee, post 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;

(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,—

(a) basic pay;

(b) dearness allowance; and

(c) retaining allowance, if any,

but does not include—

(a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(d) any conveyance allowance or the value of any travelling concession;

(e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(f) house rent allowance;

(g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(h) any overtime allowance;

(i) any commission payable to the employee;

(j) any gratuity payable on the termination of employment;

(k) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment:

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:

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.

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;

(81) "wage ceiling" means such amount of wages or income as may be notified by the Central Government, from time to time for the purposes of this Code;

(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;

(83) "woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

Registration
of
establishment.

3. Every establishment to which this Code applies shall be 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 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.

CHAPTER II

SOCIAL SECURITY ORGANISATIONS

Constitution
of Central
Board of
Trustees.

4. (1) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Board of Trustees for the purposes of Chapter III and the provisions of this Code relating to that Chapter, for the territories to which this Chapter extends 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:—

(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 Scheme 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;

5 (e) ten persons representing employees in the establishments to which scheme framed under Chapter III applies, who shall be appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf; and

(f) the Central Provident Fund Commissioner, *ex-officio*.

(2) 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.

10 (3) 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.

15 (4) 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.

(5) 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:

20 Provided that a member of the Central Board shall, notwithstanding the expiry of the tenure of his office, continue to hold office until his successor is appointed.

(6) The Central Board, apart from the functions specified in this Code, shall also perform such other functions in such manner as may be prescribed by the Central Government.

25 **5.** (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:—

Constitution
of Employees'
State
Insurance
Corporation.

30 (a) a Chairperson to be appointed by the Central Government;

(b) a Vice-Chairperson to be appointed by the Central Government;

(c) not more than five persons to be appointed by the Central Government from amongst its officials;

(d) one person representing each of such States in such manner, as may be prescribed by the Central Government;

35 (e) one person to be appointed by the Central Government to represent the Union territories;

(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;

40 (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;

45 (h) two persons representing the medical profession to be appointed by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government;

(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

(j) the Director General of the Corporation, *ex officio*.

(2) The corporation shall be a body corporate, having perpetual succession and a common seal and shall by the said name sue and be sued. 5

(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.

(4) Subject to the general superintendence and control of the Corporation, the Standing Committee— 10

(a) 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;

(b) 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 15

(c) may, in its discretion, submit any other case or matter for the decision of the Corporation.

(5) 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, to assist the Corporation in performance of its functions relating to administration of medical benefits. 20

(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 the discharge of its functions.

(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: 25

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.

6. (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. 30

(2) The National Social Security Board shall consist of the following members, namely:—

(a) Union Minister for Labour and Employment as Chairperson;

(b) Secretary, Ministry of Labour and Employment as Vice-Chairperson; 35

(c) thirty-five members to be nominated by the Central Government, out of whom—

(i) seven members representing unorganised sector workers;

(ii) seven members representing employers of unorganised sector;

(iii) seven members representing eminent persons from civil society; 40

(iv) two members representing the Lok Sabha and one from the Rajya Sabha;

(v) five 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*.

(3) The Chairperson and other members of the National Social Security Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law
5 and administration.

(4) The 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
10 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.

(5) The term of the National Social Security Board shall be three years.

(6) The National Social Security Board shall meet at least thrice a year, at such time and
15 place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.

(7) The National Social Security Board shall perform the following functions, namely:—

(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
20 administration of this Code as may be referred to it;

(c) monitor such social welfare schemes for unorganised workers as are administered by the Central Government;

(d) review the record keeping functions performed at the State level;

(e) review the expenditure from the funds under various schemes; and
25

(f) undertake such other functions as are assigned to it by the Central Government from time to time.

(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
30 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.

(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,
35 and to perform the functions assigned to it under this Code, in such manner as may be prescribed by the State Government.

(10) Every State Unorganised Workers' Board shall consist of the following members, namely:—

(a) Minister of Labour and Employment of the concerned State—Chairperson,
40 *ex officio*;

(b) Principal Secretary or Secretary (Labour) as Vice-Chairperson;

(c) twenty-eight members to be nominated by the State Government, out of whom—

(i) seven representing the unorganised workers;

(ii) seven representing employers of unorganised workers;
45

(iii) two members representing the Legislative Assembly of the concerned State;

(iv) five members representing eminent persons from civil society;

(v) seven members representing State Government Departments concerned; and 5

(d) Member Secretary as notified by the State Government.

(11) The Chairperson and other members of the State Unorganised Workers' Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(12) The 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: 10

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women. 15

(13) The term of the State Unorganised Workers' Board shall be three years.

(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. 20

(15) The State Board shall perform the following functions, namely:—

(a) recommend the State Government in formulating suitable schemes for different sections of the unorganised sector workers;

(b) advise the State Government on such matters arising out of the administration of this Code as may be referred to it; 25

(c) monitor such social welfare schemes for unorganised workers as are administered by the State Government;

(d) review the record keeping functions performed at the district level;

(e) review the progress of registration and issue of cards to unorganised sector workers; 30

(f) review the expenditure from the funds under various schemes; and

(g) undertake such other functions as are assigned to it by the State Government from time to time.

(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. 35

Constitution
of State
Building
Workers
Welfare
Boards.

7. (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. 40

(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. 45

(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:

5 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.

(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.

(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.

15 (b) The Secretary of the Building Workers' Welfare Board shall be its chief executive officer.

(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.

20 (6) The Building Workers' Welfare Board shall perform the following functions, namely:—

(a) provide death and disability benefits to a beneficiary or his dependants;

(b) make payment of pension to the beneficiaries who have completed the age of sixty years;

25 (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;

30 (e) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, 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;

35 (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.

(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.

8. (1) No person shall be chosen as, or continue to be, a member of a Social Security Organisation, or any Committee thereof who,—

(a) is or at any time has been adjudged an insolvent; or

45 (b) is found to be a lunatic or becomes of unsound mind; or

Disqualification and removal of a member of any Social Security Organisation.

(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 5

(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—

(i) Minister of Central or State Government; or

(ii) Speaker or Deputy Speaker of House of the People or a State Legislative Assembly; or 10

(iii) Deputy Chairman of the Council of States.

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. 15

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.

(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,— 20

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or

(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; 25

(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: 30

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:

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. 35

(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.

(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— 40

(a) any member thereof representing employers or the employees or the unorganised workers, as the case may be, ceases to adequately represent so; or

(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 45

(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:

5 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.

(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
10 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
15 Social Security Organisation, or a Committee thereof relating to that matter.

9. (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.

(2) All orders and decisions of the Social Security Organisation shall be authenticated
20 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 as may be prescribed by the appropriate Government and all other instruments issued by the Social Security Organisation shall be authenticated by the signature of such officer or member so prescribed.

(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.

(4) Such members of a Social Security Organisation or any Committee thereof shall be
30 entitled for such fee and allowances as may be prescribed by the Central Government.

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.

11. (1) If the Central Government in case of the Central Board, the Corporation or the
35 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
40 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-
45 constitute it in such manner as may be prescribed by the Central Government:

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,
50 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.

Procedure for transaction of business of Social Security Organisation, etc.

Executive Heads of Central Board and Corporation.

Supersession of Corporation, Central Board of Trustees, Unorganised Workers National Social Security Board or State Unorganised Workers Social Security Board.

(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. 5

(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 of the notification of supersession issued under sub-section (1). 10

State Board,
Regional
Boards, local
committees,
etc.

12. The Central Government may, by notification,—

(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; 15

(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

(iii) 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 notification. 20

Entrustment
of additional
functions to
Social Security
Organisations.

13. Notwithstanding anything contained in this Code, the Central Government may, by notification,—

(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: 25

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: 30

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; 35

(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; 40

(iv) specify the powers which the Social Security Organisation shall exercise while discharging the functions specified in clause (i); and

(v) provide that any expenditure referred to in clause (iii) shall be made by the Social Security Organisation after prior approval of the Central Government. 45

CHAPTER III

EMPLOYEES PROVIDENT FUND

5 **14. (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.

Appointment of officers of Central 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.

10 (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 consider necessary for the efficient administration of the Provident Fund Scheme, the Pension Scheme and the Insurance Scheme, respectively, referred to in section 15 or other responsibilities assigned to the Central Board from time to time by the Central Government.

15 (4) No appointment to the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Advisor 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:

20 Provided that no such consultation shall be necessary in regard to any such appointment—

(a) for a period not exceeding one year; or

(b) if the person to be appointed is at the time of his appointment—

(i) a member of the Indian Administrative Service, or

25 (ii) in the service of the Central Government or the Central Board in a Group 'A' or Group 'B' post.

30 (5) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner and the Financial Advisor 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.

35 (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:

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.

40 (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.

45 **15. (1)** The Central Government may, by notification:—

Schemes.

(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;

(b) frame a scheme to be called the Employees' Pension Scheme (hereinafter referred to as the Pension Scheme) for the purpose of providing for—

(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;

(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; and

(d) modify any scheme referred to in clauses (a), (b) and (c) by adding thereto, amending or varying therein, either prospectively or retrospectively.

(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.

(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.

Funds.

16. (1) The Central Government may, for the purposes of—

(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:

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:

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;

(b) the Pension Scheme, establish a pension fund (hereinafter referred to as the Pension Fund) in the manner prescribed 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 be notified by the Central Government;

(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;

(iii) such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify;

(c) the Insurance Scheme, establish a Deposit- Linked Insurance Fund (hereinafter referred to as the Insurance Fund) in the manner prescribed 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:

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.

(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.

17. (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.

Contribution in respect of employees and contractors.

(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.

(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.

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:

Fund to be recognised under Act 43 of 1961.

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.

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.

Priority of payment of contributions over other debts.

20. (1) This Chapter shall not apply—

(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

Chapter not to apply to certain establishment.

(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

(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.

(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.

Authorising certain employers to maintain provident fund accounts.

21. (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:

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.

(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.

(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:

Provided that before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard.

Transfer of accounts.

22. Where an employee,—

(a) employed in an establishment to which this Chapter applies, relinquishes his employment therefrom and obtains employment in any other establishment to which this Chapter applies or not; or

(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,

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 by the Central Government.

Appeal to Tribunal.

23. (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:—

(a) determination and assessment of dues under section 125;

(b) order of the appellate authority under section 127 in respect of Chapter III;

(c) determination of escaped amount under section 128 in respect of Chapter III;

and

(d) levy of damages under section 130.

(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.

CHAPTER IV

EMPLOYEES STATE INSURANCE CORPORATION

5 **24.** (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. Principal Officers and other staff.

(2) The Director General or the Financial Commissioner shall hold office for such period, not exceeding five years, as may be specified in the order appointing him:

10 Provided that outgoing Director General or Financial Commissioner shall be eligible for reappointment if he is otherwise qualified.

(3) The Director General or the Financial Commissioner shall receive such salary and allowances as may be prescribed by the Central Government.

15 (4) 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.

20 (5) 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.

(6) 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:

25 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.

30 (7) (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:

35 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:

Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis.

40 (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.

45 (8) 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:

Provided that the provisions of this sub-section shall not apply to an officiating or temporary appointment for a period not exceeding one year:

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.

(9) 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.

Employees'
State
Insurance
Fund.

25. (1) All contributions paid under this Chapter and all other 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.

(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.

(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.

(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 by the Central Government after consultation with the Corporation.

(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.

Purposes for
which
Employees'
State
Insurance
Fund may be
expanded.

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:—

(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;

(b) payment of fees and allowances to members of the Corporation, the Standing Committee, the Medical Benefit Committee or other Committees thereof;

(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 officers and staff and other services set up for the purpose of giving effect to the provisions of this Code relating to this Chapter;

(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;

(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;

(f) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;

(g) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Chapter;

5 (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;

10 (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;

(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;

15 (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

20 (l) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

25 **27.** (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.

Holding of property, etc.

(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.

30 (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.

(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.

35 **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.

All employees to be insured.

40 **29.** (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.

Contributions.

(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.

45 (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.

(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.

Administrative expenses.

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. 5

Provisions as to payment of contributions by employer, etc.

31. (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.

(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: 10

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. 15

(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. 20

(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.

(5) The employer shall bear the expenses of remitting the contributions to the Corporation. 25

(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. 30

(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).

(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. 35

(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. 40

Benefits.

32. (1) Subject to the provisions of this Code, the insured persons, their dependants or the persons hereinafter mentioned, as the case may be, shall be entitled to the following benefits, namely:—

(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); 45

(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);

5 (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);

10 (d) periodical payments to such dependants 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 dependants' benefit);

(e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit); and

15 (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):

20 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.

(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.

25 (3) The qualification of a person to claim sickness benefit, maternity benefit, disablement benefit and dependant 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.

30 (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.

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 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.

Corporation's power to promote measures for health, etc., of insured persons.

34. (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.

Presumption as to accident arising in course of employment.

40 (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, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(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.

(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—

(a) the accident would have been deemed so to have arisen had he been under such obligation; and

(b) at the time of the accident, the vehicle—

(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

(ii) is not being operated in the ordinary course of public transport service.

Explanation.—In this section, "vehicle" includes a vessel and an aircraft.

Accidents happening while acting in breach of law, etc.

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—

(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

(b) the act is done for the purpose of and in connection with the employer's trade or business.

Occupational disease.

36. (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 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.

(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.

References to medical board.

37. (1) Any question—

(a) whether the relevant accident has resulted in permanent disablement; or

(b) whether the extent of loss of earning capacity can be assessed provisionally or finally; or

(c) whether the assessment of the proportion of the loss of earning capacity is provisional or final; or

(d) 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".

(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.

(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.

(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:

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.

(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.

(6) Subject to the foregoing provisions of this section, a medical board may 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.

(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 or directly to the Employees' Insurance Courts constituted under section 48.

38. (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) dependants' 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.

Dependants'
benefit.

(2) In case the insured person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.

(3) Any decision awarding dependants' 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 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.

(4) Subject to the provisions of this Chapter, the Corporation may, on such review under sub-section (3), direct that the dependants' benefit be continued, increased, reduced or discontinued.

Medical benefit. **39.** (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. 5

(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.

(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: 10

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: 15

Provided further that an insured person who ceases to be in insurable employment on account of permanent disablement shall continue, 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. 20

(4) The Corporation may establish medical colleges, dental colleges, nursing colleges and training institutes for its officers and staff with a view to improve the quality of services provided under the Employees' State Insurance Scheme. 25

(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.

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). 30

Provision of medical treatment by State Government or by Corporation. **40.** (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: 35

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.

(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: 40

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.

(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. 45 50

(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 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).

(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:

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.

(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 Government.

(7) The Corporation may, with the approval of the Central 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.

(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.

(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 for providing medical treatment and attendance to insured persons and (where such medical benefit has been extended to their families), to their families.

(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.

(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.

(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.

41. (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.

General provisions as to benefits.

(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.

(3) A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement)—

(a) 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;

(b) shall not while under treatment do anything which might retard or prejudice his chances of recovery;

(c) 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 5

(d) shall allow himself to be examined by any duly appointed medical officer or other person authorised by the Corporation in this behalf.

(4) An insured person shall not be entitled to receive for the same period—

(a) both sickness benefit and maternity benefit; or

(b) both sickness benefit and disablement benefit for temporary disablement; or 10

(c) both maternity benefit and disablement benefit for temporary disablement.

(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.

(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 including the day of his death shall be 15 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.

(7) (a) Any person eligible for availing dependant or disablement benefit under this Chapter shall not be entitled to claim Employees Compensation from his employer under 20 Chapter VII.

(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.

(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 25 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.

(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 30 of such authority shall be final.

(10) The amount recoverable under this section may be recovered in the manner specified under sections 131 to 134.

Corporation's
rights when
an employer
fails to
register, etc.

42. (1) If any employer,—

(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 35 Government, as a result of which the employee becomes disentitled to any benefit under this Chapter; or

(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 dependant benefit or disablement benefit from the 40 Corporation; or

(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,

then, the Corporation may, on being satisfied in the manner prescribed by the Central 45 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:

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.

(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.

43. (1) Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of—

(a) insanitary working conditions in a factory or other establishment or the neglect of the owner or occupier of the factory or other establishment to observe any health regulations enjoined on him by or under any enactment for the time being in force, or

(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,

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.

(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).

(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.

(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.

(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.

44. Notwithstanding anything contained in this Chapter, the Central Government may, in consultation with the Corporation, and by notification, frame 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, and prescribe the terms and conditions subject to which the scheme may be operated.

Explanation.—For the purposes of this section,—

(a) "other beneficiaries" means persons other than employees insured under section 28;

Liability of owner or occupier of factories, etc., for excessive sickness benefit.

Scheme for other beneficiaries.

(b) "underutilised hospital" means any hospital not fully utilised by the employees insured under section 28; and

(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. 5

Schemes for unorganised workers, gig workers and platform workers.

45. (1) Notwithstanding anything contained in this Chapter, the Central Government may, in consultation with the Corporation, and by notification, frame scheme for unorganised workers, gig workers and platform workers and the members of their families for providing benefits admissible under this Chapter by the Corporation.

(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 in the scheme. 10

Exemption of factories or other establishments belonging to Government or any local authority.

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. 15

Contributions, etc., due to Corporation to have priority over other debts.

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. 20

31 of 2016.

Constitution of Employees' Insurance Court.

48. (1) The State Government shall, by notification, constitute an Employees' Insurance Court for such local area as may be specified in the notification.

(2) The Court shall consist of such number of Judges as the State Government may think fit. 25

(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.

(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.

(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. 30

Matters to be decided by Employees' Insurance Court.

49. (1) If any question or dispute or claim arises as to—

(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 35

(b) the rate of wages or average daily wages of an employee for the purposes of this Chapter; or

(c) the rate of contribution payable by an employer in respect of any employee under this Chapter; or

(d) the person who is or was the employer in respect of any employee for the purposes of this Chapter; or 40

(e) the right of any person to any benefit under this Chapter and as to the amount and duration thereof; or

(f) any direction issued by the Corporation on a review of any payment of dependants' benefit under this Chapter; or 45

(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;

(h) claim for the recovery of contributions from the employer under this Code relating to this Chapter;

(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.

(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:

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.

(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.

50. (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.

Powers of
Employees'
Insurance
Court.

2 of 1974.

(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 as if it were a decree passed in a suit by a Civil Court.

51. (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 Government.

Proceedings of
Employees'
Insurance
Courts.

(2) Any application, appearance or act required to be made or done by any person to or before an Employees' Insurance Court (other than 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.

(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.

Appeal to High Court.

52. (1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court. 5

(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.

(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.

(4) The provisions of sections 5 and 12 of the Limitation Act, 1963 shall apply to 10 36 of 1963. appeals under this section.

(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. 15

CHAPTER V

GRATUITY

Payment of gratuity.

53. (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,—

(a) on his superannuation; or 20

(b) on his retirement or resignation; or

(c) on his death or disablement due to accident or disease; or

(d) on termination of his contract period under fixed term employment; or

(e) on happening any such event as may be notified by the Central Government:

Provided that the completion of continuous service of five years shall not be 25 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:

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 30 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. 35

(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:

Provided that in the case of a piece-rated employee, daily wages shall be computed on 40 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:

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 45 gratuity at the rate of seven days' wages for each season:

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.

(3) The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government.

5 (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
10 of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),—

(a) the gratuity of an employee, whose services have been terminated for any act, wilful 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
15 loss so caused;

(b) the gratuity payable to an employee may be wholly or partially forfeited—

(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
20 which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

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.

25 *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.

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
30 rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

54. For the purposes of this Chapter,—

Continuous
service.

(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, absence from duty without leave
35 (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;

(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—

(a) for the said period of one year, if the employee during the period of
45 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—

(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

(ii) two hundred and forty days, in any other case;

(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—

(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

(ii) one hundred and twenty days, in any other case.

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—

(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; 20 of 1946.
15 14 of 1947.

(ii) he has been on leave with full wages, earned in the previous year;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(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; 20

(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. 25

Nomination.

55. (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. 30

(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Chapter amongst more than one nominee.

(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. 35

(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. 40

(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.

(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. 45

(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.

56. (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. Determination of amount of gratuity.

5 (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.

(3) The employer shall arrange to pay the amount of gratuity within thirty days from
10 the date it becomes payable to the person to whom the gratuity is payable.

(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
15 long term deposits:

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.

(5) (a) If there is any dispute as to the amount of gratuity payable to an employee
20 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.

(b) Where there is a dispute with regard to any matter or matters specified in clause (a),
25 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.

(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
30 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.

(d) The competent authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

(e) As soon as may be after a deposit is made under clause (a), the competent authority
35 shall pay the amount of the deposit—

(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
40 satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(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
5 of 1908. Code of Civil Procedure, 1908, in respect of the following matters, namely:—

45 (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.

(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. 45 of 1860.

(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: 5

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:

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. 10

(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. 15

Compulsory insurance.

57. (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: 41 of 1999. 20

Provided that different dates may be appointed for different establishments or class of establishments or for different areas. 25

(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). 30

(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). 35

(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. 40

(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. 45

43 of 1961. *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.

5 **58.** (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.

Competent Authority.

(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.

10 (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.

CHAPTER VI

MATERNITY BENEFIT

15 **59.** (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.

Employment of, or work by, women prohibited during certain period.

20 (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.

(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.

(4) The period referred to in sub-section (3) shall be—

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

30 (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.

60. (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.

Right to payment of maternity benefit.

29 of 2019. 40 *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.

(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.

45 *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.

(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:

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: 5

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:

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. 10

Explanation.—For the purposes of this sub-section, "child" includes a stillborn child. 15

(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.

(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. 20

Continuance of payment of maternity benefit in certain cases.

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. 25

Notice of claim for maternity benefit and payment thereof.

62. (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. 30

(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. 35

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

(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.

(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. 40 45

(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.

5 **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. Payment of maternity benefit in case of death of a woman.

10 **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. Payment of medical bonus.

15 **65.** (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. Leave for miscarriage, etc.

20 (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.

25 (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.

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. Nursing breaks.

30 **67.** (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: Creche facility.

35 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.

(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.

40 **68.** (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: Dismissal for absence during pregnancy.

45 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:

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 bonus, or both.

(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.

No deduction of wages in certain cases.

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—

(a) the nature of work assigned to her by virtue of the provisions contained in section 59; or

(b) breaks for nursing the child allowed to her under the provisions of section 66.

Forfeiture of maternity benefit.

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.

Duties of employer.

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.

Power of Inspector-cum-Facilitator to direct payments to be made.

72. (1) Any woman claiming that,—

(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;

(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.

(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—

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his order in writing;

(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.

(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.

(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.

CHAPTER VII

EMPLOYEE'S COMPENSATION

Reports of fatal accidents and serious bodily injuries.

73. (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, 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:

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.

Explanation.— For the purposes of this sub-section, "serious bodily injury" means
 5 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.

(2) The State Government may, by notification, extend the provisions of sub-section (1)
 10 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.

(3) Nothing in this section shall apply to establishments to which Chapter IV, relating to Employees' State Insurance Corporation, applies.

15 **74.** (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:

Employer's liability for compensation.

Provided that the employer shall not be so liable—

20 (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

(b) in respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to—

25 (i) the employee having been at the time thereof under the influence of drink or drugs, or

(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

30 (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.

(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
 35 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 —

40 (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

(b) the act is done for the purpose of and in connection with the employer's trade or business.

(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
 45 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 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.

(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. 5

(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. 10 15

(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.

(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— 20

(a) if he has instituted a claim to compensation in respect of the accident or injury before a competent authority; or 25

(b) 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.

Compensation in case of death of or injury in plantation.

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. 30

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— 35

(i) a medical officer employed in the plantation;

(ii) 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; 40

(iii) 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; 45

(iv) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges, drains or canals.

76. (1) Subject to the provisions of this Chapter, the amount of compensation shall be,—

Compensation
in case of
death of or
injury in
plantation.

(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;

(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:

Provided that the Central Government may, by notification from time to time, enhance the amount of compensation specified in clauses (a) and (b).

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;

(c) where permanent partial disablement results from the injury,—

(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

(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.

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.

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;

(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).

(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 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.

(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.

(4) The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day—

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more; or

(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:

Provided that—

(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;

(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.

(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.

(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.

(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 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:

Provided that the Central Government may, by notification from time to time, enhance the amount specified in this sub-section.

Compensation to be paid when due and damages for default.

77. (1) Compensation under section 74 shall be paid as soon as it falls due.

(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.

(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—

(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

(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:

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.

(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.

78. For the purposes of calculation of compensation under section 74, 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:—

Method of calculating monthly wages for purposes of compensation.

(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;

(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;

(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.

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.

79. (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.

Review.

(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 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.

81. (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:

Distribution of compensation.

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. 5

(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.

(3) The receipt of the competent authority shall be a sufficient discharge in respect of any compensation deposited with him. 10

(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. 15

(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.

(c) The competent authority shall, on an application by the employer, furnish a statement showing in detail all disbursements made. 20

(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: 25

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.

(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. 30

(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 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. 35 40

(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: 45

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.

5 (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).

10 (10) The competent authority may recover as an arrear of land revenue any amount 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.
1 of 1890.

15 **82.** (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:

Notice and claim.

20 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:

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:

25 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.

30 (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—

35 (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 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

40 (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:

45 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.

(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.

(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. 5

(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. 10

Special provisions relating to accidents occurring outside Indian territory.

83. (1) The provisions of this section shall, subject to the modifications specified in this section, apply in case of employees who are—

(a) masters of ships or seamen; or

(b) captain and other members of crew of aircraft; 15

(c) persons recruited by companies registered in India and working as such abroad;

(d) persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 as drivers, helpers, mechanics, cleaners or other employees. 59 of 1988.

(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— 20

(a) in case of accident where the person injured is a seamen, but not the master of the ship, on the master of the ship;

(b) 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; 25

(c) in case of persons recruited by companies registered in India and working as such abroad, on the local agent of the company;

(d) 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: 30

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.

(3) The claim of compensation shall be made—

(a) 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; 35

(b) 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:

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. 40

(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—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) 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

(c) 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.

(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.

(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.

84. (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 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:

Medical
examination.

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.

(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.

(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:

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.

(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.

(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.

(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.

Contracting.

85. (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 compensation shall be calculated with reference to the wages of the employee under the employer by whom he is immediately employed.

(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.

(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.

(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.

Remedies of employer against stranger.

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.

87. (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.

Insolvency of employer.

(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.

(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:

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.

(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.

31 of 2016.
18 of 2013.

(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.

(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).

(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.

88. (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,

Power to require from employers statements regarding fatal accidents.

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 the appropriate Government.

(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. 5

(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.

(4) Where the employer has so disclaimed liability, the competent authority, after such inquiry as he may think fit, may inform any of the dependants of the deceased employee, that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit. 10

(5) Where in the opinion of the competent authority, a dependant 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 dependant in such manner as may be prescribed from the panel of advocates maintained by the appropriate Government for such purpose. 15

Registration
of
agreements.

89. (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: 20

Provided that— 25

(a) no such memorandum shall be recorded before seven days after communication by the competent authority of notice to the parties concerned;

(b) the competent authority may at any time rectify the register;

(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. 30 35

(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. 40 9 of 1872.

(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. 45

5 **90.** (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.

Reference to competent authority.

(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.

10 **91.** (1) The State Government may, by notification, appoint any person who is or has 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 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.

Appointment of competent authority.

(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.

20 (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.

25 **92.** (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—

Venue of proceedings and transfer.

(a) the accident took place which resulted in the injury; or

(b) the employee or in case of his death, the dependant claiming the compensation ordinarily resides; or

30 (c) the employer has his registered office:

35 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:

40 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.

45 (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.

(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: 5

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.

(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 report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him. 10

(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. 15

(6) The State Government may transfer any matter from any competent authority appointed by it to any other competent authority appointed by it.

Form of application.

93. (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. 20

(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. 25

(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.

(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. 30

Power of competent authority to require further deposit in cases of fatal accident.

94. (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. 35

(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.

Powers and procedure of competent authority.

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. 40 5 of 1908. 45 2 of 1974.

Appearance of parties.

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.

5 **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: Method of recording evidence.

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:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

15 **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. Power to submit cases.

99. (1) An appeal shall lie to the High Court from the following orders of a competent authority under this Chapter, namely:— Appeal against order of competent authority.

20 (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;

(b) an order awarding interest or penalty by way of damages under section 77;

(c) an order refusing to allow redemption of a half-monthly payment;

25 (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;

(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

30 (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:

35 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:

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:

40 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.

(2) The period of limitation for an appeal under this section shall be sixty days.

36 of 1963. (3) The provisions of section 5 of the Limitation Act, 1963, shall be applicable to
45 appeal under this section.

CHAPTER VIII

SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS

Levy and
collection of
cess.

100. (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 notification, from time to time specify. 5

Explanation.— For the purposes of this sub-section, the cost of construction shall not include:—

(a) the cost of land; and

(b) any compensation paid or payable to an employee or his kin under Chapter VII. 10

(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. 15

(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. 20

Explanation.—For the purposes of this Chapter, the expression "Board" means the Building and other construction Workers' Welfare Board constituted under section 7.

(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. 25

Interest
payable on
delay in
payment of
cess.

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. 30

Power to
exempt from
cess.

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. 35

Self-
assessment of
cess.

103. (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. 40

(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. 45

(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.

104. If any amount of cess payable by any employer under section 103 is not 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:

Penalty for non-payment of cess within the specified time.

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.

105. (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.

Appeal to appellate authority.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed by the appropriate Government.

(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.

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

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.

Registration of building workers as beneficiaries.

107. (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:

Cessation as a beneficiary.

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.

(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.

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.

108. (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—

(a) the amount of any cess levied under sub-section (1) of section 100;
 (b) any grants and loans made to the Board by the Central Government;
 (c) all sums received by the Board from such other sources as may be decided by the Central Government.

Building and Other Construction Workers' Welfare Fund and its application.

(2) The Building and other Construction Worker Welfare Fund shall be applied for meeting—

(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; 5

(c) expenses on objects and for purposes authorised by this Code.

(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. 10

CHAPTER IX

SOCIAL SECURITY FOR UNORGANISED WORKERS

Framing of scheme for unorganised workers, and constitution of social security fund for gig workers, platform workers, etc.

109. (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— 15

(i) life and disability cover;

(ii) health and maternity benefits;

(iii) old age protection;

(iv) education; 20

(v) housing; and

(vi) any other benefit as may be determined by the Central Government.

(2) The State Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to— 25

(i) provident fund;

(ii) employment injury benefit;

(iii) housing;

(iv) educational schemes for children;

(v) skill upgradation of workers;

(vi) funeral assistance; and 30

(vii) old age homes.

(3) Any scheme notified by the Central Government may be—

(i) wholly funded by the Central Government; or

(ii) partly funded by the Central Government and partly funded by the State Government; or 35

(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 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. 40

(4) The Central Government may, by notification, constitute a Social Security Fund or funds for provision of social security to the unorganised workers, platform workers or gig 18 of 2013.

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.

(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.

(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:—

- (i) scope of the scheme;
- 10 (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
- 15 (vii) any other relevant matter,

and a special purpose vehicle may also be constituted by the Central Government for the purpose of implementation of such scheme.

110. (1) Any scheme notified by the State Government under sub-section (2) may be—

- (a) wholly funded by the State Government; or
- 20 (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.
- 25

Funding of State Government schemes.

(2) The State Government may seek financial assistance from the Central Government for the schemes formulated by it.

(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.

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:

Record keeping.

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.

112. The Central Government or the State Government may setup such workers facilitation centres as may be considered necessary from time to time to perform the following functions, namely:—

Workers facilitation centres.

- 40 (a) disseminate information on available social security schemes for the unorganised workers;
- (b) facilitate filling, processing and forwarding of application forms for registration of unorganised workers;
- (c) assist unorganised worker to obtain registration from the authority specified in the scheme; and
- 45 (d) facilitate the enrolment of the registered unorganised workers in social security schemes.

Registration of unorganised worker.

113. (1) Every unorganised worker shall be eligible for registration, for the purposes of this Chapter, subject to the fulfilment of the following conditions, namely:—

(a) he has completed sixteen years of age or such age as may be prescribed by the Central Government;

(b) he has submitted a self-declaration electronically or otherwise in such form, in such manner and to such authority containing such information as may be prescribed by the Central Government.

(2) Every eligible unorganised worker under sub-section (1) shall make an application for registration in such form along with such documents, to such registering authority as may be prescribed by the Central Government and such unorganised worker shall be registered by such registering authority by assigning a distinguishable number to his application or by linking the application to the Aadhaar number.

(3) A registered unorganised worker shall be eligible to avail the benefit of a scheme framed under this Chapter on making such contribution, if any, as may be specified in the scheme.

(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.

Schemes for gig workers and platform workers.

114. (1) The Central Government may formulate and notify, from time to time, suitable social security schemes for gig workers and platform worker on matters relating to—

(a) life and disability cover;

(b) health and maternity benefits;

(c) old age protection; and

(d) any other benefit as may be determined by the Central Government.

(2) Every scheme formulated and notified under sub-section (1) may provide for—

(a) the manner of administration of the scheme;

(b) the agency or agencies for implementing the scheme;

(c) the role of aggregators in the scheme;

(d) the sources of funding of the scheme; and

(e) any other matter as the Central Government may consider necessary for the efficient administration of the scheme.

CHAPTER X

FINANCE AND ACCOUNTS

Accounts.

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.

Audit.

116. (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 payable by the respective Social Security Organisation to the Comptroller and Auditor-General of India.

(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.

(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.

117. (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.

Budget estimates.

(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.

118. (1) Each of the Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities along with the budget finally adopted by the Social Security Organisation.

Annual report.

(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.

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:—

Valuation of assets and liabilities.

(a) in case of Central Board, annually;

(b) in case of Corporation, once in every three years;

(c) in case of any other Social Security Organisation or establishment, as specified by the appropriate Government, by order:

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.

120. (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.

Holding of property, etc.

(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.

(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.

(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.

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

Writing off of losses.

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.

CHAPTER XI

AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY

5

Appointment
of Inspector-
cum-
Facilitators
and their
powers.

122. (1) The Central Government for the purposes of Chapter III and Chapter IV and 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 exercise the powers conferred on them under sub-section (6) in accordance with the inspection scheme referred to in sub-section (2). 10

(2) The Central Government for the purposes of Chapter III and Chapter IV and 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 15 provisions to cater to special circumstances for assigning inspections and calling for information from the establishment or any other person.

(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, 20 may, by notification, confer such jurisdiction of randomised selection of inspection for the purposes of this Code, to the Inspector-cum-Facilitators as may be specified in such notification.

(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 25 taking into account, *inter alia*, the following factors, namely:—

(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 30 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, 35 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 40 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 45 this Code as aforesaid, by the appropriate Government.

(5) The Inspector-cum-Facilitator may—

(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.

5 (6) Subject to the provisions of sub-section (4), the Inspector-cum-Facilitator may,—

(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;

10 (b) require any person 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;

15 (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 appropriate Government.

20 (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) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

45 of 1860.

2 of 1974.

25 (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), as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.

123. An employer of an establishment shall—

Maintenance of records, registers, returns, etc.

30 (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—

(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;

35 (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;

40 (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;

45 (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.

(b) display notices at the work places of the employees in such manner and form as may be prescribed by appropriate Government;

(c) issue wage slips to the employees, in electronic forms or otherwise; and

(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.

Employer not to reduce wages, etc.

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 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.

Assessment and determination of dues from employer.

125. (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—

(a) 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

(b) 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

(c) for any of the purposes relating to clause (a) and clause (b), conduct such inquiry, as he may deem necessary for such purposes:

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.

(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:

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:

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 one year to conclude the said inquiry:

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.

5 of 1908. (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:—

- (a) enforcing the attendance of any person or examining him on oath;
- 5 (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit; and
- (d) issuing commissions for the examination of witnesses,

45 of 1860. 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.

10 (4) No order shall be made under sub-section (1), unless the employer concerned is given a reasonable opportunity of representing his case.

15 (5) Where the employer, employee or any other person required to attend 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.

20 (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
25 date for proceeding with the inquiry:

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.

30 *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.

35 (7) No order passed under this section shall be set aside on any application under sub-section (4) unless notice thereof has been served on the opposite party.

40 **126.** (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, 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:

Review of orders passed under section 125.

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.

45 (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.

(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.

(4) Where the Authorised Officer is of the opinion that such application for review may be granted, he shall grant the same:

Provided that no such application shall be granted,—

(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

(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.

Appeal against order of Authorised Officer.

127. If an employer is not satisfied with the order made under 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:

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 to prefer appeal:

Provided further that if the employer 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.

Determination of escaped amount.

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—

(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;

(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,

he 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 and pass appropriate orders redetermining the amount due from the employer in accordance with the provisions of this Chapter:

Provided that no order redetermining the amount due from the employer shall be passed under this section unless the employer is given a reasonable opportunity of representing his case.

Interest on amount due.

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 by the Central Government, from the date on which any amount has become due under this Code till the date of its actual payment.

Power to recover damages.

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 manner as may be prescribed by the Central Government:

Provided that before levying and recovering such damages, the employer shall be given an opportunity of being heard:

Provided further 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.

131. (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.

Recovery of amount due.

(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:—

(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:

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.

(3) The Authorised Officer or the competent authority, as the case may be, may issue a certificate under sub-section (2), notwithstanding that proceeding for recovery of the arrears by any other mode has been taken.

(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—

(a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or

(b) resides or any movable or immovable property of, the establishment or, the employer is situate.

(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—

(a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

(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,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified 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.

Validity of certificate and amendment thereof.

132. (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. 5

(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. 10

(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). 15

(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. 20

(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.

(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 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. 25 30

(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. 35

Other modes of recovery.

133. (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. 40

(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: 45 50

5 of 1908. 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.

5 (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 10 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 15 than that amount.

(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.

20 (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 all the joint holders at their last addresses so known.

25 (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 30 notwithstanding any rule, practice or requirement to the contrary.

(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.

35 (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 40 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.

45 (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.

50 (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.

(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. 5

(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. 10 15

(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 due. 20

(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. 25 43 of 1961.

Application of certain provisions of Income-tax Act.

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: 43 of 1961. 30

Provided that any reference in the said provisions and the rules to the "assessee" shall be construed as a reference to an employer as defined in this Code.

CHAPTER XII

35

OFFENCES AND PENALTIES

Penalty for failure to pay contributions, etc.

135. If any person,—

(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 40

(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 relating, respectively, to such Chapters, dismisses, discharges, reduces in rank or otherwise penalises a woman employee; or 45

(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

5 (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

10 (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

15 (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 this Code; or

20 (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

(n) obstructs executive officer in exercising his functions under Chapter XIII, or

25 (o) dishonestly makes a false return, report, statement or information to be submitted thereunder,

he shall be punishable—

(i) where he commits an offence under clause (a) with imprisonment for a term which may extend to three years but—

30 (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;

(b) which shall not be less than six months, in any other case and shall also be liable to fine of fifty thousand rupees:

35 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;

40 (ii) where he commits an offence under any of the clauses (b) to (g) [except clause (e)], clauses (i) and (k) to (m), with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both;

(iii) where he commits an offence under clauses (e), (h), (j) or clause (n) with a fine which may extend to fifty thousand rupees;

(iv) where he commits an offence under clause (o), with imprisonment for a term which may extend to six months.

45 **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:

Enhanced punishment in certain cases after previous conviction.

Provided that where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or 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 years but which shall not be less than two years and shall also be liable to fine of three lakh rupees. 5

Offences by companies.

137. (1) Where an offence under this Chapter has been committed by a 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: 10

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.

(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. 15

Explanation.—For the purposes of this section,— 20

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "Director", in relation to a firm, means a partner in the firm.

Cognizance of offences.

138. (1) No court shall take cognizance of an offence punishable under this Code except on a complaint made by such officer or other person as may be prescribed 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 appropriate Government. 25

(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 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, by the appropriate Government. 30 35

(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.

Prior opportunity before prosecution.

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 40 45

same nature of such provisions is repeated within a period of five years from the date on which 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.

140. (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 punishable with imprisonment only, or with imprisonment and also with fine, 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.

Compounding
of offences.

(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 years from the date —

(a) of commission of a similar offence which was earlier compounded; or

(b) of commission of similar offence for which such person was earlier convicted.

(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.

(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 Government.

(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.

(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.

(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 twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

CHAPTER XIII

40

EMPLOYMENT INFORMATION AND MONITORING

141. (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.

Reporting of
vacancies to
career centres.

(2) For the purposes of sub-section (1), the appropriate Government may prescribe the following, namely:—

- (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 5
- (iii) the manner and form of filing the return by the employer to the concerned career centre.

(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. 10

(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. 15

Exclusions
from
application of
this Chapter.

142. (1) The provisions of Section 141 shall not apply in relation to vacancies,—

- (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 20
- (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. 25

(2) Unless the Central Government, by notification direct, the provisions of this Chapter shall not apply in relation to—

- (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 30
- (b) vacancies in an employment which carries a monthly remuneration of less than an amount notified by the appropriate Government.

CHAPTER XIV 35

MISCELLANEOUS

Application of
Aadhaar.

143. (1) An employee or unorganised worker or any other person, as the case may be, for—

- (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 40
- (c) receiving any payment or medical attendance as insured person himself or for his dependants,

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 dependants 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.

(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.

144. (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 exemption and the conditions to be complied with after exemption, 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 employees or class of employees, from any or all of the provisions of this Code as may be specified in the notification and may renew for further period such exemption by like notification:

Power to exempt establishment.

Provided that no such exemption,—

(i) in respect of Chapter III, without prior consultation with the Central Board; and

(ii) in respect of Chapter IV, without prior consultation with the Corporation, 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:

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:

(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.

(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.

(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 Code to be so exempted.

(5) If the 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 conditions specified under that sub-section, then, the appropriate Government may on such failure cancel the exemption so granted.

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:

Liability in case of transfer of establishment.

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.

The members, officers and staff to be public servants.	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.	5 45 of 1860.
Protection of action taken in good faith.	147. No suit, prosecution or other legal proceeding shall lie against — (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, 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.	10 15
Misuse of benefits.	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: 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.	20
Power of Central Government to give directions.	149. The Central Government may give directions to the Social Security Organisations in respect of matters relating to the implementation of the provisions of this Code.	25
Power to frame schemes.	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.	
Protection against attachment, etc.	151. (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 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 not be liable to attachment under any decree or order of any court. (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.	30 35 40 45
		31 of 2016.

152. (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. Power to amend Schedule.

5 (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.

153. (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. Power of appropriate Government to make rules.

(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:—

15 (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;

20 (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;

(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;

25 (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;

(e) time and form of application under sub-section (1) of section 56;

30 (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;

(g) the qualifications and experience of Competent Authority under sub-section (1) of section 58;

(h) authority to whom an appeal may be preferred under sub-section (3) of section 72;

35 (i) class of employers and the form of notice-book under sub-section (4) of section 82;

(j) the interval for medical examination under proviso to sub-section (1) of section 84;

40 (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;

(l) manner of recording memorandum under sub-section (1) of section 89;

(m) such other experience and qualifications for appointment as a Competent Authority under sub-section (1) of section 91;

45 (n) time-limit to pay the amount of cess under section 101;

(o) fees for appeal under sub-section (2) of section 105;

(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-section (3), and terms to constitute provident or other benefit funds under sub-section (4), of section 120; 5

(q) conditions and manner of writing off losses under section 121;

(r) other powers of Inspector-cum-Facilitator under clause (e) of sub-section (6) of section 122;

(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; 10

(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;

(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; 15

(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; 20

(w) any other matter which is required to be, or may be, prescribed by the appropriate Government under the provisions of this Code.

Power of
Central
Government
to make rules.

154. (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. 25

(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:—

(a) manner of establishment and maintenance of career centre and the career services under clause (8) of section 2; 30

(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;

(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 (49) of section 2; 35

(d) the time and manner of registration of establishment under section 3;

(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 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; 40

(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, 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, 45

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;

5 (g) the manner of exercising the powers and performance of the functions by the National Social Security Board under sub-section (1) 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.

(h) welfare measures and facilities under clause (j) of sub-section (6) of section 7;

10 (i) meetings and procedure in regard to the transaction of business at meetings and the fee and allowances of members of Social Security Organisation or any Committee under sub-section (4), of section 9;

15 (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;

(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;

20 (l) the manner of maintenance of a provident fund account in relation to the establishment under sub-section (1) of section 21;

(m) the manner of transfer and dealing with accounts under section 22;

(n) form, manner, time-limits and fees for filing of appeal under sub-section (2) of section 23;

25 (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) limits for defraying expenditure under clause (k) of section 26;

30 (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;

(r) manner of insurance of employees under section 28;

35 (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;

(t) the percentage of income which may be spent on expenses and the limits for such expenses under section 30;

40 (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;

(v) the limits within which the Corporation may incur expenditure from the Employees' State Insurance Fund under section 33;

45 (w) the rates, periods and conditions for payment of dependants' benefit under sub-sections (1) and (2) of section 38;

(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;

(y) the terms and conditions subject to which the scheme may be operated under section 44; 5

(z) the contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions under sub-section (2) of section 45;

(za) the form of application to the Competent Authority under clause (b) of sub-section (5) of section 56;

(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; 10 15

(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;

(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; 20

(ze) the duration of breaks under section 66;

(zf) the number of employees and distance for creche facility under sub-section (1) of section 67;

(zg) gross misconduct under the second proviso to sub-section (1) of section 68; 25

(zh) rate of interest to be paid by the employer under clause (a) of sub-section (3) of section 77;

(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; 30

(zj) the form, manner and fee for application for claim or settlement under sub-section (3) of section 93;

(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; 35

(zl) the rate of interest in case of delayed payment of cess under section 101;

(zm) the manner of self-assessment of cess under sub-section (1) of section 103;

(zn) the authority to inquire and impose penalty under section 104;

(zo) time-limit to prefer appeal, appellate authority, form and manner of appeal under sub-section (1) of section 105; 40

(zp) manner of registration as beneficiary under section 106;

(zq) benefits of a beneficiary under sub-section (2) of section 107;

(zr) manner of administration of the Social Security Fund or funds under sub-section (5) of section 109;

(zs) eligible age for registration under clause (a) and form, manner, authority and 45

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;

5 (zt) form, manner and time for filing application for review under sub-section (2), of section 126;

(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;

10 (zv) the rate of simple interest which the employer shall be liable to pay under section 129;

(zw) manner of levying and recovery of damages under section 130;

(zx) manner to certify under sub-section (5) of section 131;

15 (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;

(zz) manner to establish identity under section 143;

(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;

20 (zzb) any other matter which is required to be, or may be, prescribed by the Central Government under the provisions of this Code.

155. (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. Power of State Government to make rules.

25 (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:—

30 (a) the manner of exercising the powers and performance of functions by State Unorganised Workers' Board under sub-section (9), the number of persons 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;

35 (b) the terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members and the manner of filling of casual vacancies of the members, 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;

40 (c) structure, functions, powers and activities of the organisations under sub-section (6) of section 40;

(d) procedure to be followed by the Employees' Insurance Court under sub-section (2) of section 50;

45 (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;

(f) conditions when application for review is made without certificate of a medical practitioner under sub-section (1) of section 79;

(g) manner of matters to be dealt by or before a Competent Authority under sub-section (1) of section 92;

(h) time- limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93;

(i) the manner of authentication of memorandum under section 97; and 5

(j) any other matter which is required to be, or may be, prescribed by the State Government under the provisions of this Code.

Power of Corporation to make regulations.

156. (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. 10

(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:—

(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; 15

(b) the method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees under clause (a) of sub-section (7) of section 24; 20

(c) unit in respect of which all contribution shall be payable under sub-section (3) of section 29;

(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; 25

(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; 30

(f) continuous period in which the employee contracts occupational disease under sub-section (1) of section 36;

(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; 35

(h) conditions for voluntary retirement scheme under the first proviso to sub-section (3) of section 39;

(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 benefits under sub-section (9), of section 41; 40

(j) user charges to be paid by other beneficiaries for medical facilities under clause (c) of the Explanation to section 44; and

(k) any matter in respect of which regulations are required or permitted to be made by this Code. 45

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:—

Prior publication of rules, regulations, etc.

(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;

(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.

158. (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:

Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.

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.

(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.

159. (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.

Laying of rules, regulations and schemes, etc.

(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.

160. (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:

Effect of laws and agreements inconsistent with this Code.

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.

(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.

Delegation of powers.

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.

Power to remove difficulties.

162. (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:

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.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

163. (1) The following enactments are hereby repealed, namely:—

1. The Employees' Compensation Act, 1923; 8 of 1923.
2. The Employees' State Insurance Act, 1948; 34 of 1948.
3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 19 of 1952.
4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; 31 of 1959.
5. The Maternity Benefit Act, 1961; 25 53 of 1961.
6. The Payment of Gratuity Act, 1972; 39 of 1972.
7. The Cine-Workers Welfare Fund Act, 1981; 33 of 1981.
8. The Building and Other Construction Workers' Welfare Cess Act, 1996; 28 of 1996.
9. The Unorganised Workers Social Security Act, 2008. 33 of 2008.

(2) Notwithstanding such repeal,— 30

(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 provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder by the appropriate Government. 40

- 19 of 1952. (b) the Central Board and the Executive Committee constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 so repealed and the Corporation, Standing Committee and the Medical Benefit Council constituted under Employees' State Insurance Act, 1948 so repealed shall remain so constituted and discharge respectively the functions and exercise the powers of the Central Board, Executive Committee, Corporation, Standing Committee and Medical Benefit Committee under this Code, till such Central Board, Executive Committee, Corporation, Standing Committee and Medical Benefit Committee are constituted in accordance with the provisions of this Code.
- 34 of 1948. 5
- 10 (c) any exemption given under any enactments so repealed shall continue to be in force till its validity expires or it is ceased to be in operation under the provisions of this Code or any direction made thereunder for such purpose.
- 10 of 1897. (3) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

THE FIRST SCHEDULE

[See section 1(4)]

APPLICABILITY

Chapter No.	Chapter Heading	Applicability
(1)	(2)	(3)
III	Employee's Provident Fund	Every establishment in which twenty or more employees are employed.
IV	Employee's State Insurance Corporation	<p>Every establishment in which ten or more employees 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 shall be notified by the Central Government.</p>
V	Gratuity	<p>(a) every factory, mine, oilfield, plantation, port and railway company; and</p> <p>(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 shops or establishments as may be notified by the appropriate Government from time to time.</p>
VI	Maternity Benefit	<p>(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government; and</p>

(1)	(2)	(3)
		<i>(b)</i> 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, gig worker, platform worker.
XIII	Employment Information and Monitoring	Career centres, vacancies and employers.

THE 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 of 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

(*xl ix*) 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.

THE THIRD SCHEDULE

[See sections 36 and 74]

LIST OF OCCUPATIONAL DISEASES

Serial No.	Occupational disease	Employment
(1)	(2)	(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.

(1)	(2)	(3)
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.

(1)	(2)	(3)
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.

THE 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

1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than [20.32 Cms.] from tip of acromion	80
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 metatarso phalangeal joint	80
14.	Loss of all toes of both feet through the metatarso-phalangeal joint	40

(1)	(2)	(3)
15.	Loss of all toes of both feet proximal to the proximal inter-phalangeal 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
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 metatarso-phalangeal joint	50
25.	Loss of all toes of one foot through the metatarso-phalangeal 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

(1)	(2)	(3)
39.	One phalanx	5
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 Two toes of one foot, excluding great toe	1
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

THE 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.

(1)	(2)
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.

(1)	(2)
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.

THE SIXTH SCHEDULE

[See section 76(b)]

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

	Completed years of age on the last birthday of the employee immediately preceding the date on which the compensation fell due	Factors
(1)	(2)	(3)
Not more than	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

(1)	(2)	(3)
	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

STATEMENT OF OBJECTS AND REASONS

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 amalgamated into the following groups, namely:—

- (a) industrial relations;
- (b) wages;
- (c) social security;
- (d) safety; and
- (e) welfare and working conditions.

2. In pursuance of the recommendations of the said Commission and the deliberations made in the tripartite meeting comprising of the Government, employers' and employees' representatives, it had been decided to bring the proposed legislation. The proposed legislation intends to amalgamate, simplify and rationalise the relevant provisions of the following nine central labour enactments relating to social security, namely:—

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; and
9. The Unorganised Workers' Social Security Act, 2008.

3. The amalgamation of the said laws will facilitate the implementation and remove the multiplicity of definitions and authorities without compromising the basic concepts of welfare and benefits to workers. The proposed legislation, namely, the Code on Social Security, 2019 would facilitate the use of technology ensuring transparency and accountability leading to effective enforcement of the provisions of the proposed legislation. Widening the scope of the benefits to the fixed term employees and facilitating ease of compliance of labour laws would be a big step towards equity and promote setting up of more enterprises thus catalysing the creation of employment opportunities.

4. The salient features of the Code on Social Security, 2019, *inter alia*, are—

(i) to extend the coverage of Employees' State Insurance to all establishments employing ten or more employees and to the employees working in establishments with less than ten employees on voluntary basis and also to plantations on option basis. It further seeks to empower the Central Government to notify the applicability of the said coverage to establishments which carries on the hazardous or life threatening occupation irrespective of the number of workers employed therein;

(ii) to extend the Employees' Provident Fund, Employees' Pension Scheme and Employees Deposit Linked Insurance Scheme to all industries or establishments employing twenty or more employees and thereby expands the existing coverage;

(iii) to make provision for specifying differential rates of employees' contribution for class of employees for employees' provident fund as the Central Government may notify for a specified period;

(iv) to provide that the money dues shall be the charge on the assets of the employer and shall be paid on priority basis in accordance with the Insolvency and Bankruptcy Code, 2016;

(v) to provide that in case of employer's failure to register the employee with Employees' State Insurance Corporation or failure to pay contribution and the Employees' State Insurance Corporation releasing the benefits to the workers, then, such benefits shall be recovered from the employer;

(vi) to empower the Central Government to frame schemes for providing social security, to the gig workers and platform workers who do not fall under traditional employer-employee relation;

(vii) to empower the Central Government, by notification, to constitute a Social Security Fund or funds for provision of social security for the unorganised workers, platform workers or gig workers or any such class of workers;

(viii) to provide 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 five years;

(ix) to provide for maternity benefit to the woman employee;

(x) to provide for compensation to the employees in case of the accidents while commuting from residence to place of work and vice versa;

(xi) to provide for levying and collecting the cess for the purposes of social security and welfare of building workers;

(xii) to provide for limitation period of five years for institution of proceedings in respect of assessment and determination of money dues from employer;

(xiii) to expand the sources of the fund for schemes to include funds from corporate social responsibility or any other source as may be specified in the scheme and also contains enabling provision for constituting the special purpose vehicle for the purpose of implementation of schemes for unorganised workers;

(xiv) to provide for renaming the designation of Inspector as Inspector-cum-Facilitator and to enhance his power to supply information and give advice to employers and workers concerning the most effective means of complying with the provisions of the proposed Code;

(xv) to provide for filing of a single return electronically or otherwise by the employer;

(xvi) to provide that the interests charged on delayed payments under the provisions of the proposed Code be specified in the rules;

(xvii) to provide penalty for the different types of violations commensurate with the gravity of the violations;

(xviii) to make Aadhaar mandatory for seeding at the time of registration of member or beneficiary or any other person to register or for receiving benefit;

(xix) to empower the appropriate Government to exempt certain establishments from all or any of the provisions of the proposed Code.

5. The notes on clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objectives.

Notes on Clauses

Clause 1 of the Bill seeks to provide for short title, extent, commencement and application of the proposed Code.

Clause 2 of the Bill seeks to define certain expressions used in the Code, which *inter alia*, includes “appropriate Government”, “building worker”, “employment injury”, “factory”, “permanent partial disablement”, “permanent total disablement”, “tribunal”, etc.

Clause 3 of the Bill seeks to provide for registration of establishment to which the proposed Code applies in the manner provided in the rules.

Clause 4 of the Bill seeks to provide for the manner of constitution and composition of the Central Board of Trustees for the purposes of Chapter III and the provisions of this proposed Code relating to that Chapter.

Clause 5 of the Bill seeks to provide for the manner of constitution and the composition of the Employees State Insurance Corporation for the purposes of chapter IV and the provisions of this proposed Code relating to that chapter.

Clause 6 of the Bill seeks to provide for the manner of constitution, composition and functions of the National Social Security Board for Unorganised Workers and also for the constitution of State Unorganised Workers Board.

Clause 7 of the Bill seeks to provide for the manner of constitution, composition and function of the State Building and Other Construction Workers’ Welfare Board.

Clause 8 of the Bill seeks to provide the conditions which leads to disqualification and removal of a member of any social security organisation.

Clause 9 of the Bill seeks to provide for the procedure of Social Security Organisation relating to their meetings, functions and allowances.

Clause 10 of the Bill seeks to provide that the Central Provident Fund Commissioner and the Director General shall not undertake any work unconnected with their office without prior approval of the Central Government.

Clause 11 of the Bill seeks to provide for the supersession of the Corporation, the Central Board of Trustees, the Unorganised Workers’ National Social Security Board or the State Unorganized Workers Social Security Board by the Central or State Government as the case may be.

Clause 12 of the Bill seeks to provide for the constitution of State Board, Regional Board, local committees, etc.

Clause 13 of the Bill seeks to provide for entrustment of additional functions by the Central Government to Social Security Organisations.

Clause 14 of the Bill seeks to provide for appointment of officers of the Central Board by the Central Government.

Clause 15 of the Bill seeks to provide for framing of Schemes, such as the Employees’ Provident Fund Scheme, Employees’ Pension Scheme, and Employees’ Deposit Linked Insurance Scheme.

Clause 16 of the Bill seeks to provide for establishment of the funds by the Central Government with respect to Schemes.

Clause 17 of the Bill seeks to provide regarding contribution in respect of employees and contractors.

Clause 18 of the Bill seeks to provide for fund to be recognised under the Income Tax Act, 1961.

Clause 19 of the Bill seeks to provide priority of payment of contributions over other debts.

Clause 20 of the Bill seeks to provide non-applicability Chapter III to certain establishments .

Clause 21 of the Bill seeks to provide authorization to certain employers to maintain provident fund accounts.

Clause 22 of the Bill seeks to provide transfer of accounts where the employee relinquishes his employment and obtains employment in any other establishment.

Clause 23 of the Bill seeks to provide for appeal to tribunal for matters specified therein.

Clause 24 of the Bill seeks to provide appointment of Principal Officers and other staff of the Corporation.

Clause 25 of the Bill seeks to provide for payment of all contributions and other moneys received in the Employees' State Insurance Fund and its administration thereof.

Clause 26 of the Bill seeks to provide the purposes for which the Employees' State Insurance Fund may be expended for the purposes specified therein.

Clause 27 of the Bill seeks to provide for acquiring and holding of property, sale or otherwise transfer of property both movable and immovable by the Corporation.

Clause 28 of the Bill seeks to provide for insurance of all employees in the establishments where provisions of this proposed code shall apply.

Clause 29 of the Bill seeks to provide for contribution payable by the employer and the employee to be paid to the Corporation.

Clause 30 of the Bill seeks to provide administrative expenses and percentage of income of Corporation which may be spent for such expenses.

Clause 31 of the Bill seeks to provide for payment of contribution by employers and recovery of contribution from the contractor, if paid by him and shall bear the expenses of remitting the contributions to the Corporation

Clause 32 of the Bill seeks to provide for benefits mentioned specified in this clause to the insured persons, their dependents etc. which includes periodical payments to any insured person in case of his sickness, 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 by regulations.

Clause 33 of the Bill seeks to provide power of corporation to promote measures for improvement of the health and welfare of insured persons and for the rehabilitation and reemployment of insured persons.

Clause 34 of the Bill seeks to provide presumption as to accident arising in course of employment. 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, succour or protect persons who are, or are thought to be or possibly to be, injured or imperiled, or to avert or minimise serious damage to property. 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.

Clause 35 of the Bill seeks to provide happening of accidents while acting in breach of law, etc. An accident shall be deemed to arise out of and in the course of an employee's employment if 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 or the act is done for the purpose of and in connection with the employer's trade or business.

Clause 36 of the Bill seeks to provide a list of occupational disease specified in the Third Schedule of the proposed code. 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.

Clause 37 of the Bill seeks to provide references to medical board to insured persons related to permanent disablement, loss of earning capacity etc. as mentioned therein. 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. Any decision 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. 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 or directly to the Employees' Insurance Courts.

Clause 38 of the Bill seeks to provide dependents' benefit. If an insured person dies as a result of an employment injury sustained as an employee (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury) dependants' benefit shall be payable to his dependents at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.

Clause 39 of the Bill seeks to provide medical benefit. 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. 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. The Corporation may establish medical colleges, dental colleges, nursing colleges and training institutes for its officers and staff with a view to improve the quality of services provided under the Employees' State Insurance Scheme.

Clause 40 of the Bill seeks to provide for medical treatment by State Government or by the Corporation. 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. 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

Clause 41 of the Bill seeks to provide general provisions of the benefits. A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement) 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.

Clause 42 of the Bill seeks to provide the rights of Corporation, when an employer fails to register or neglects to insure an employee or neglects to pay any contribution, 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 capitalized value of the benefit paid to the employee, to be calculated in such manner as may be prescribed by the Central Government.

Clause 43 of the Bill seeks to provide liability of owner or occupier of factories, etc., for excessive sickness benefit. Where the Corporation considers that the incidence of sickness among insured persons is excessive by reasons of insanitary working conditions in a factory or other establishment, insanitary conditions of any tenements or lodgings occupied by insured persons then, the Corporation may send to the owner or occupier of the factory or other establishment, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit.

Clause 44 of the Bill seeks to provide for schemes for other beneficiaries. The Central Government may, in consultation with the Corporation, and by notification, frame 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. Other beneficiaries "mean persons other than employees insured.

Clause 45 of the Bill seeks to provide for schemes for unorganised workers, gig workers and platform workers. The Central Government may, in consultation with the Corporation, and by notification, frame scheme for unorganised workers, gig workers and platform workers and the members of their families for providing benefits admissible under Chapter-IV by the Corporation.

Clause 46 of the Bill seeks to provide for exemption of factories or other establishments belonging to Government or any local authority. 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 Chapter IV, 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 Chapter-IV.

Clause 47 of the Bill seeks to provide for contributions, etc., due to Corporation to have priority over other debts. Any amount due under Chapter-IV relating to Employees State Insurance shall be the first charge on the assets of the establishment to which it relates and shall be paid in priority to all other debts.

Clause 48 of the Bill seeks to provide for constitution of Employees' Insurance Court by State Government by notification.

Clause 49 of the Bill seeks to provide for the matters specified in therein, to be decided by Employees' Insurance Court.

Clause 50 of the Bill seeks to provide for the powers of Employees' Insurance Court which 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. An order of the Employees' Insurance Court shall be enforceable as if it were a decree passed in a suit by a Civil Court.

Clause 51 of the Bill seeks to provide for the proceedings of Employees' Insurance Courts, manner of commencement of proceedings before that Court. But, and the time limit of filing, fees and procedure thereof shall be such as may be provided by rules by the State Government.

Clause 52 of the Bill seeks to provide for appeals from orders of Employees' Insurance Courts. No appeal shall lie from an order of an Employees' Insurance Court. But, an appeal shall lie to the High Court from an order of an Employees' Insurance Court, if it involves a substantial question of law.

Clause 53 of the Bill seeks to provide for eligibility for payment of Gratuity. 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, on his superannuation; or on his retirement or resignation; or on his death or disablement due to accident or disease; or on termination of his contract period under fixed term employment; or on happening any such event as may be notified by the Central Government. 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.

Clause 54 of the Bill seeks to define continuous service for the purpose of payment of gratuity. 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, 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 proposed Code.

Clause 55 of the Bill seeks to provide manner of nomination. 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 provided by rules by the appropriate Government. A nomination may 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 provided by rule by the appropriate Government, of his intention to do so.

Clause 56 of the Bill seeks to provide for determination and payment of amount of gratuity. As soon as gratuity becomes payable, the employer shall 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. 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.

Clause 57 of the Bill seeks to provide for compulsory insurance. 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 obtain an insurance in the manner provided by rules by the Central Government, for his liability for payment towards the gratuity, from any insurance company regulated by the Authority as defined under clause (b) of the Insurance Regulatory and Development Authority of India Act, 1999.

Clause 58 of the Bill seeks to provide for the appointment of competent authority. The appropriate Government may, by notification, appoint any person having such qualifications and experience as may be provided by rules, by the Central Government to be a competent authority for implementation of any provision of Chapter-V for such area as may be specified in the notification.

Clause 59 of the Bill seeks to provide for prohibition of employment of, or work by, women during certain period. 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. No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

Clause 60 of the Bill seeks to provide for right to payment of maternity benefit. 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, If 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 date of her delivery. 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. 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.

Clause 61 of the Bill seeks to provide for continuance of payment of maternity benefit in certain cases. This clause entitles every woman eligible to the payment of maternity benefit under Chapter-VI relating to maternity benefit continue to be so entitled until she becomes qualified to claim maternity benefit under the provision of the proposed code relating to Employees State Insurance irrespective of the fact that she is employed to the factory or other establishment to which the provisions relating to Employees State Insurance applies.

Clause 62 of the Bill seeks to provide for notice of claim for maternity benefit and payment thereof. Any woman employed in an establishment and entitled to maternity benefit under the provisions of Chapter-VI relating to maternity benefit may give notice in writing in such form as may be provided by rules by Central Government, to her employer, stating that her maternity benefit and any other amount to which she may be entitled, 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. The failure to give notice under this clause shall not disentitle a woman to maternity benefit or any other amount under the said Chapter if she is otherwise entitled to such benefit or amount.

Clause 63 of the Bill seeks to provide for payment of maternity benefit in case of death of a woman before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given and in case there is no such nominee, to her legal representative.

Clause 64 of the Bill seeks to provide for payment of medical bonus of three thousand five hundred rupees or such amount as may be notified by Central Government from her employer, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

Clause 65 of the Bill seeks to provide for leave for miscarriage, medical termination of pregnancy, tubectomy operation, suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy on production of such proof as may be prescribed by rules by the Central Government.

Clause 66 of the Bill seeks to provide for nursing breaks. 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 rules by the Central Government, for nursing the child until the child attains the age of fifteen months.

Clause 67 of the Bill seeks to provide for creche facility in every establishment where fifty employees or such number of employees as may be prescribed by Central Government, are employed. 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. The employer shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit available under Chapter-VI relating to maternity benefit.

Clause 68 of the Bill seeks to provide for dismissal for absence during pregnancy. When a woman absents herself from work in accordance with the provisions of Chapter-VI, 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.

Clause 69 of the Bill seeks to provide for no deduction of wages in certain cases. No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of Chapter-VI relating to maternity benefit shall be made by reason only of the nature of work assigned to her or breaks for nursing the child allowed to her under the relevant provisions.

Clause 70 of the Bill seeks to provide for forfeiture of maternity benefit to a woman who works for remuneration during the period she has been permitted by an employer to absent herself for availing the maternity benefit.

Clause 71 of the Bill seeks to provide for duties of employer. An abstract of the provisions of Chapter-VI 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.

Clause 72 of the Bill seeks to provide for power of Inspector-cum-Facilitator to direct payments to be made to a women, maternity benefit or any other amount to which she is entitled under Chapter-VI relating to maternity benefit and any person claiming that payment due under the said Chapter has been improperly withheld or her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of the said Chapter. The Inspector-cum-Facilitator may, on receipt of a complaint, make an inquiry or cause an inquiry and pass such orders as he deems just and proper according to the circumstances of the case.

Clause 73 of the Bill seeks to provide for reports of fatal accidents and serious bodily injuries to competent authority. A 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, 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.

Clause 74 of the Bill seeks to provide for employer's liability for compensation. 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 Chapter VII.

Clause 75 of the Bill seeks to provide for compensation in case of death of or injury in plantation. 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.

Clause 76 of the Bill seeks to provide for the manner of calculation of amount of compensation to be paid in case of death, permanent total disablement, permanent partial disablement or temporary disablement resulting from the injury. 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. If the injury of the employee results in his death, the employer shall, in addition to the compensation deposit with the competent authority a sum of not less than fifteen thousand rupees for payment of the same to the eldest surviving dependent of the employee towards the expenditure of the funeral of such employee.

Clause 77 of the Bill seeks to provide for compensation to be paid when due and damages for default as soon as it falls due. 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. Where any employer is in default in paying the compensation within one month from the date it fell due, the competent authority shall direct that the employer in addition to the amount of the arrears, pay interest at rates specified in the rules. If 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.

Clause 78 of the Bill seeks to provide for method of calculating monthly wages for purposes of compensation. For the purposes of calculation of compensation, 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)

Clause 79 of the Bill seeks to provide for review of half-monthly payment payable under Chapter-VII relating to Employee compensation. 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.

Clause 80 of the Bill seeks to provide for commutation of half-monthly payments . On the application of either party to the competent authority half-monthly payments may 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.

Clause 81 of the Bill seeks to provide for distribution of compensation in respect of an employee whose injury has resulted in death. 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. The employer may make to any dependent advances on account of compensation of an amount equal to three months’ wages of such employee. On the deposit of any money as compensation in respect of a deceased employee, the competent authority shall cause notice to be published or to be served on each dependent, calling upon the dependents to appear before him on such date as he may fix for determining the distribution of the compensation.

Clause 82 of the Bill seeks to provide for notice of the accident and claim. No claim for compensation shall be entertained by a competent authority unless notice of the accident has been given in the manner 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. 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 ,if he is satisfied that the failure so to give the notice or prefer the claim, was due to sufficient cause.

Clause 83 of the Bill seeks to provide for special provisions relating to accidents occurring outside Indian territory in the case of employees who are 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.

Clause 84 of the Bill seeks to provide for free medical examination. An employee who 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 employee who is in receipt of a half-monthly payment under Chapter-VII shall, if so required, submit himself for such examination from time to time.

Clause 85 of the Bill seeks to provide for compensation in case of contracting the work. 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. Where the employer is liable to pay compensation, he shall be entitled to be indemnified by the contractor.

Clause 86 of the Bill seeks to provide for remedies of employer against stranger. 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, the person by whom the compensation was paid shall be entitled to be indemnified by the person so liable to pay damages.

Clause 87 of the Bill seeks to provide for liability in case of insolvency of employer. Where any employer has entered into a contract with any insurers in respect of any liability under chapter-VII relating to compensation 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 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.

Clause 88 of the Bill seeks to provide for power to require statements regarding fatal accidents from employers. 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 a notice to the employee's employer requiring him to submit, within thirty days, a statement, 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 to the dependents of such employee ascertained by the competent authority. 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.

Clause 89 of the Bill seeks to provide for registration of agreements. 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. An agreement for the payment of compensation which has been registered shall be enforceable under the proposed Code.

Clause 90 of the Bill seeks to provide for reference to competent authority. If any question arises in any proceedings as to the liability of any person to pay compensation or as to whether a person injured is or is not an employee or as to the amount or duration of compensation or as to the nature or extent of disablement, the question shall be settled by a competent authority. No Civil Court shall have jurisdiction to settle, decide or deal with any question which is required to be settled, decided or dealt with by a competent authority.

Clause 91 of the Bill seeks to provide for qualification and appointment of competent authority. The State Government may, by notification, appoint any person who is or has 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 management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the Central Government to be a competent authority for Employee's Compensation.

Clause 92 of the Bill seeks to provide for venue of proceedings and transfer. Where any matter related with compensation to be done by or before a competent authority, the same shall be done by or before the competent authority for the area in which, the accident took place which resulted in the injury or the employee or in case of his death, the dependant claiming the compensation ordinarily resides or the employer has his registered office. 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, order such matter to be transferred to such other competent authority.

Clause 93 of the Bill seeks to provide for form of application for claim of compensation. An application to a competent authority for claim under or settlement may be made electronically or otherwise in such form and in such manner accompanied by such fee, if any, as may be prescribed by rules by the Central Government.

Clause 94 of the Bill seeks to provide for power of competent authority to require further deposit in cases of fatal accident, from the employer as compensation payable, if in the opinion of the competent authority that such sum is insufficient, the competent authority may, by notice in writing state 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.

Clause 95 of the Bill seeks to provide for powers and procedure of competent authority. 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 and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

Clause 96 of the Bill seeks to provide for appearance of parties before the competent authority. Any appearance, application or act required to be made or done by any person before or to a competent authority 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 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.

Clause 97 of the Bill seeks to provide for method of recording evidence before the competent authority. 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.

Clause 98 of the Bill seeks to provide for power to submit cases. 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.

Clause 99 of the Bill seeks to provide for appeal. An appeal shall lie to the High Court from the orders of a competent authority on the matters specified in this clause. No appeal by an employer 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. The period of limitation for an appeal shall be sixty days.

Clause 100 of the Bill seeks to provide for levy and collection of cess in respect of building and other construction workers. 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.

Clause 101 of the Bill seeks to provide for Interest payable on delay in payment of cess on building or other construction work. If any employer fails to pay any amount of cess payable within specified time, such employer shall be liable to pay interest as may be specified in the rules for the period from the date on which such payment is due till such amount is actually paid.

Clause 102 of the Bill seeks to provide for the power to exempt from cess on building or other construction work. The Central Government may, by notification, exempt any employer or class of employers in a State from the payment of cess payable, where such cess is already levied and payable under any corresponding law in force in that State.

Clause 103 of the Bill seeks to provide for self-assessment of cess by the employer. Employer shall after completion of his each building and other construction work, pay such cess by adjusting the advance cess already paid on the basis of his self-assessment on the cost of construction worked out on the basis of the documents and after such payment of cess, he shall file a return.

Clause 104 of the Bill seeks to provide penalty for non-payment of cess within the specified time. If any amount of cess payable by any employer is not paid within the date specified in the order of assessment, 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.

Clause 105 of the Bill seeks to provide for appeal by the employer. Any employer aggrieved by an order of assessment or by an order imposing penalty may, within such time as may be provided in the rules by the Central Government, appeal to such appellate authority in such form and in such manner as may be provided in the rules by the Central Government. Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

Clause 106 of the Bill seeks to provide for registration of building workers as beneficiaries. 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 Chapter-VIII relating to building and other construction in such manner as may be provided in the rules by the Central Government.

Clause 107 of the Bill seeks to provide for cessation as a beneficiary. A building worker who has been registered as a beneficiary 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.

Clause 108 of the Bill seeks to provide for Building and Other Construction Workers' Welfare Fund and its application. The fund shall be constituted by the Board to be called the Building and other Construction Workers' Welfare Fund. It shall be credited with the amount of any cess levied, any grants and loans made to the Board by the Central Government or any sum received by the Board. The fund shall be applied for meeting expenses of the National Social Security Board in discharge of its functions, salaries, allowances and other remuneration of the members, officers and other employees for the Board not exceeding five percent of total expense and on objects and for purposes authorised by the proposed code.

Clause 109 of the Bill seeks to provide for framing of schemes and constitution of social security fund for unorganised workers gig workers' platform workers, etc. 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 life and disability cover, health and maternity benefits, old age protection, education, housing, etc. The State Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to provident fund, employment injury benefit, housing, educational schemes for children, skill up gradation of workers, funeral assistance and old age homes. A special purpose vehicle may also be constituted by the Central Government for the purpose of implementation of such scheme.

Clause 110 of the Bill seeks to provide for funding of schemes notified by the State Government. Any scheme notified by the State Government may be wholly funded by the State Government, partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers, funded from any source including corporate social responsibility fund. 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.

Clause 111 of the Bill seeks to provide for keeping the records electronically or otherwise relating to the scheme and the authority by whom such records shall be maintained.

Clause 112 of the Bill seeks to provide for setting-up of workers facilitation centres. The Central Government or the State Government may set-up workers facilitation centres to perform the functions such as disseminate information on available social security schemes, facilitate filling, processing and forwarding of application forms for registration of unorganised worker and facilitate the enrolment of the registered unorganised workers in social security schemes.

Clause 113 of the Bill seeks to provide for registration of unorganised worker for social security. Every unorganised worker shall be eligible for registration if he has completed sixteen years of age or such age and he has submitted a self-declaration electronically or otherwise in such form, in such manner and to such authority containing such information as may be required. A registered unorganised worker shall be eligible to avail the benefit of a scheme on making such contribution, if any.

Clause 114 of the Bill seeks to provide for framing of scheme for gig workers and platform workers. The Central Government shall formulate and notify, from time to time, suitable welfare schemes for gig workers and platform workers on the matter relating to life and disability cover, health and maternity benefits, old age protection, etc.

Clause 115 of the Bill seeks to provide for maintenance of proper accounts of income and expenditure of each of the Social Security Organisations in a manner as the appropriate Government may, after consultation with the Comptroller and Auditor-General of India, specify.

Clause 116 of the Bill seeks to provide for audit. The accounts of each of the Social Security Organisations shall be audited annually by the Comptroller and Auditor-General of India.

Clause 117 of the Bill seeks to provide for budget estimates of the Social Security Organisations. 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 the date as may be fixed by it in that behalf.

Clause 118 of the Bill seeks to provide for the annual report. Each of the Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities along with the budget finally adopted by it. 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 shall be laid before each House of Parliament or the State legislature, as the case may be by the appropriate Government.

Clause 119 of the Bill seeks to provide for valuation of assets and liabilities. Each of the fund maintained by a Social Security Organisation or by an establishment under the proposed code shall have a valuation of its assets and liabilities made by a valuer or actuary.

Clause 120 of the Bill seeks to provide for holding of property, etc. by the Social Security Organisation, subject to such conditions as may be prescribed by the appropriate Government, acquire and hold property, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it, invest any moneys

vested in it, raise loans and take measures for discharging such loans and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation is established.

Clause 121 of the Bill seeks to provide for writing off of losses where any of the Social Security Organisations is of the opinion that the amount of contribution, cess, interest and damages due to it, under the proposed Code, is irrecoverable, the concerned Social Security Organisation may sanction the writing off of the said amount in such manner as provided in the rules by the appropriate Government.

Clause 122 of the Bill seeks to provide for appointment of Inspector-cum-Facilitators, their powers and design of inspection scheme. The Central Government for the purposes of Chapter III i.e. Employee Provident Fund and Chapter IV i.e. Employees State Insurance Corporation and the provisions in the proposed Code relating to those chapters, and the appropriate Government for the purposes of other provisions of the proposed code, may, by notification, appoint Inspector-cum-Facilitators. The Inspector-cum-Facilitator may give advice to employers and employees relating to compliance with the provisions of the proposed code, inspect the establishments as assigned to him subject to the instructions or guidelines issued by the appropriate Government from time to time.

Clause 123 of the Bill seeks to provide for maintenance of records, registers, returns, display notices at the work places, issue wage slips, etc. by the employer. An employer of an establishment shall maintain records and registers in the form 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 provided in the rules by the appropriate Government.

Clause 124 of the Bill seeks to provide that the employer shall not reduce the wages of the employees with the reason only to meet his liability for the payment of any contribution under the proposed code, or any charges thereunder.

Clause 125 of the Bill seeks to provide for assessment and determination of money dues from employer. 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 determine the amount due from any employer, conduct such inquiry and decide the dispute regarding the applicability of chapters relating to Employee Provident Fund or Employees State Insurance Corporation.

Clause 126 of the Bill seeks to provide for the review of orders passed by the authorised officer. Any person considering himself aggrieved by orders passed by the Authorised Officer, but from which no appeal has been preferred, may apply for a review of that order to the Authorised officer who made the order if 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. The 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.

Clause 127 of the Bill seeks to provide for appeal against the order of the Authorised officer. If an employer is not satisfied with the order made by Authorised officer, he may prefer an appeal to an appellate authority as may be provided in the rules by the Central Government, within sixty days of the date of such order only after depositing 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.

Clause 128 of the Bill seeks to provide for determination of escaped amount. Such determination shall be made where the authorised officer has reason to believe that by reason of the omission of failure on the part of the employer to make any document or report available or to disclose fully and truly or 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 and in case of other escape as specified in detail in the clause.

Clause 129 of the Bill seeks to provide for interest on amount due. The employer shall be liable to pay simple interest at such rate as may be specified in the rules from the date on which any amount has become due under the proposed code till the date of its actual payment.

Clause 130 of the Bill seeks to provide for power to recover damages. Where an employer makes default in the payment of any contribution which he is liable to pay in accordance with the provisions of the proposed code, the Central Provident Fund Commissioner of the Central Board 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 after giving an opportunity to employer of being heard.

Clause 131 of the Bill seeks to provide for recovery of amount due. 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 specified manner. The Authorised officer, or the competent authority, as the case may be, shall issue, to the Recovery Officer, a certificate under his signature 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.

Clause 132 of the Bill seeks to provide for the validity of certificate and its amendment. When the Authorised officer or the competent authority issues a certificate to a Recovery Officer, 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.

Clause 133 of the Bill seeks to provide for other modes of recovery. Such mode includes the power of the Central Provident Fund Commissioner or the Director General of the Corporation or any other officer of the Social Security Organisation to require a person to whom the person who is in arrears of the employer to deduct from amount of arrears due, and such person shall comply with any such requisition and to pay the sum so deducted to the credit of Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other person who is authorised in this behalf.

Clause 134 of the Bill seeks to provide for application of certain provisions of Income-tax Act, 1961. The provisions of the Second and Third Schedules to the Income-tax Act 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 referred to the arrears of the amount mentioned in the proposed code instead of to the income-tax.

Clause 135 of the Bill seeks to provide penalty for failure of pay contribution, etc. The penalties specified in the clause are inconsonance with the gravity of the offences.

Clause 136 of the Bill seeks to provide for enhanced punishment in certain cases after previous conviction. Whoever, having been convicted by a court of an offence punishable under this proposed Code, commits the same offence for second, or subsequent offence, shall be punishable with imprisonment for a term which may extend to two years and with fine of two lakhs rupees. Where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation under this proposed code, he shall be punishable with imprisonment for a term which may extend to five years but which shall not be less than two years and shall also be liable to fine of three lakhs rupees.

Clause 137 of the Bill seeks to provide for offences by companies. Where an offence under chapter XII has been committed by a 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.

Clause 138 of the Bill seeks to provide for cognizance of offences by Court. No court shall take cognizance of an offence punishable under the proposed code except on a complaint made by such officer or other person as may be prescribed for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under the proposed code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of the proposed code, by the appropriate Government.

Clause 139 of the Bill seeks to provide for prior opportunity to employer for compliance before prosecution. Before initiation of prosecution proceeding against an employer for any offence under the proposed code, an opportunity shall be given to the employer to comply with the aforesaid relevant provisions by way of a written direction. If the employer complies with the direction then, no such proceeding shall be initiated against the employer.

Clause 140 of the Bill seeks to provide for compounding of offences as provided under the said clause.

Clause 141 of the Bill seeks to provide for regarding reporting of vacancies to career centres. 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 shall report that vacancy to such career centre as may be specified in the notification. It shall not be obligation upon any employer to recruit any person through the career centre to fill any vacancy merely because such vacancy has been reported.

Clause 142 of the Bill seeks to provide for exclusions of certain employment from the application of Chapter XIII. This Chapter shall not apply in respect of vacancies relating to in any employment in agriculture (including horticulture) in any establishment in private sector other than employment in plantation, and employment as agriculture or farm machinery operatives, in any employment in domestic service, in any employment connected with the staff of Parliament or any State Legislature, etc.

Clause 143 of the Bill seeks to provide for application of Aadhaar for registration as member or beneficiary, 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, receiving any payment or medical attendance as insured person himself or for his dependents, under the proposed code or rules, regulations or schemes made or framed thereunder has to establish his identity or the identity of his family members or dependents through Aadhaar number.

Clause 144 of the Bill seeks to provide for power of appropriate Government to exempt establishment. The appropriate Government may, by notification, and subject to the conditions which may include the eligibility conditions to be fulfilled prior to exemption and the conditions to be complied with after exemption, as may be prescribed by the Central Government in this behalf, grant exemption to an establishment or class of establishments or employees or class of employees, from any or all of the provisions of the proposed Code as may be specified in the notification and may renew for further period such exemption by like notification. No such exemption shall be granted or renewed without prior consultation with the Central Board or without prior consultation with the Corporation.

Clause 145 of the Bill seeks to provide for liability in case of transfer of establishment. 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 proposed Code in respect of the periods up to the date of such transfer.

Clause 146 of the Bill seeks to provide for the members, officers and staff of Social Security Organisation, any Inspector-cum-Facilitator, Competent Authority, Authorised officer, Recovery Officer and any other person discharging any function under the proposed Code shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Clause 147 of the Bill seeks to provide for protection of a person or authority from legal proceeding if action is taken in good faith in pursuance of the proposed Code.

Clause 148 of the Bill seeks to provide for misuse of benefits. In case the appropriate Government is satisfied that any establishment or any person has misused the benefit provided under the proposed code then, the appropriate 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.

Clause 149 of the Bill seeks to provide for power of Central Government to give directions. The Central Government may give directions to the Social Security Organisations in respect of matters relating to the implementation of the provisions of this proposed Code.

Clause 150 of the Bill seeks to provide for power of the appropriate Government to frame schemes. The appropriate Government may, subject to the condition of previous publication, frame schemes not inconsistent with this proposed Code, for the purposes of giving effect to the provisions thereof.

Clause 151 of the Bill seeks to provide for protection against attachment of amount, etc. The amount standing to be credited in favour of the employee under relevant Chapters or, of any member in the fund, 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.

Clause 152 of the Bill seeks to provide for power to amend schedules. The Central Government may, by notification amend First, Fourth, Fifth and Sixth Schedules by way of addition or deletion therein and upon such addition or deletion, the said Schedule shall stand to have been amended accordingly. Similarly, the appropriate Government may amend the Second or Third Schedules by way of addition to the said Schedules.

Clause 153 of the Bill seeks to provide for power of Central Government to make rules. The appropriate Government may, by notification, and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of the proposed Code.

Clause 154 of the Bill seeks to provide for Power of make rules. The Central Government may, by notification, and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of the proposed Code.

Clause 155 of the Bill seeks to provide for power of State Government to make rules. The State Government may, by notification, and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of the proposed Code.

Clause 156 of the Bill seeks to provide for power of Corporation to make regulations. The Corporation may, by notification, and subject to the condition of previous publication, make regulations, not inconsistent with this proposed 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 proposed Code relating to that Chapter.

Clause 157 of the Bill seeks to provide for prior publication of rules, regulations, etc. The purpose of such publication is to obtain the objections and suggestions of the persons affected and to consider those objections and suggestions before the rules, regulations are finalised.

Clause 158 of the Bill seeks to provide for rules to give effect to arrangements with other countries for transfer of money. 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 relating to Employees Compensation, which has been awarded to or may be due to, any person residing or about to reside in such foreign country.

Clause 159 of the Bill seeks to provide for laying of rules, regulations and schemes, etc. Every rule, regulation, notification and scheme made, issued or framed by the Central Government or the Corporation, as the case may be, under this proposed Code shall be laid, as soon as may be after it is made, issued or framed, before each House of Parliament. Every rule and scheme made or framed, and every notification issued by, the State Government under this proposed Code, shall be laid as soon as may be after it is made or framed or issued before the State Legislatures.

Clause 160 of the Bill seeks to provide for effect of laws and agreements inconsistent with the proposed Code. Such provision is required to give the overriding effect for smooth implementation of the provisions of the proposed Code.

Clause 161 of the Bill seeks to provide for delegation of powers. 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 subjects in such conditions, be also exercisable by the Board, Corporation or any officer or authority as specified in the said clause.

Clause 162 of the Bill seeks to provide for power of Central Government to remove difficulties by order, published in the Official Gazette. Such order shall not be made after the expiry of a period of two years from the commencement of this proposed Code.

Clause 163 of the Bill seeks to provide for repeal and savings. The enactments which are being repealed are enumerated in the said clause. Further, anything done or any action taken under the enactments to be repealed under the said clause including any rule, regulation, notification (including the notifications issued by the State Governments), schemes, appointment, order or direction made thereunder or any benefit provided or given under any provision of the enactments so repealed, rules, regulations, notifications or schemes made thereunder for any purpose have been saved to the extent they are not contrary to the provisions of the proposed Code, till they are repealed under the corresponding provisions of the proposed code. It also provides that the Central Board and the Executive Committee constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 so repealed and the Corporation, Standing Committee and the Medical Benefit Council constituted under the Employees' State Insurance Act, 1948 so repealed shall remain so constituted and discharge respectively the functions and exercise the powers of the Central Board, Executive Committee, Corporation, Standing Committee and Medical Benefit Committee under the proposed Code, till such Central Board, Executive Committee, Corporation, Standing Committee and Medical Benefit Committee are constituted in accordance with the provisions of the proposed Code. It also contains that any exemption given under any enactments so repealed shall continue to be in force till its validity expires or it is ceased to be in operation under the provisions of the proposed Code or any direction made thereunder for such purpose. Further details have been specified in the provisions of the clause.

FINANCIAL MEMORANDUM

At present, the provisions of the proposed Code does not involve any expenditure either reoccurring or non-recurring from the Consolidated Fund of India. However, the financial implications may arise in future for formulating the schemes for unorganised sector and for entrusting the additional work for administration of other enactments or schemes relating to social security under clause 13 of the Bill. Such recurring or non-recurring expenditure cannot be estimated at present.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 154 empowers the Central Government, subject to the condition of previous publication, to make rules for the purpose of giving effect to the provisions of the proposed legislation. Sub-clause (2) of the said clause specifies the matters in respect of which such rules may be made. These matters include (a) manner of establishment and maintenance of career centre and the career services under sub-clause (8) of clause 2; (b) the income of dependant parents (including father-in-law and mother-in-law of a woman employee), under sub-clause (33) (e) of clause 2; (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 sub-clause (49) of clause 2; (d) the time and manner of registration of establishment under clause 3; (e) the manner of administration of the funds vested in the Board under sub-clause (1), the manner of performance of functions by an Executive Committee under sub-clause (3), the terms and conditions, including tenure of office of member of the Central Board and Executive Committee and their duties under sub-clause (5) and the manner of performance of such other functions under sub-clause (6) of clause 4; (f) the manner of administration of Employees' State Insurance scheme and the manner of representation of States under sub-clause (1) (d), the manner of constitution of Standing Committee under sub-clause (3), the manner of administration of the affairs of the Corporation, exercise of powers and performance of function by the Standing Committee under sub-clause (4) (a), the composition of the Medical Benefit Committee under sub-clause (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-clause (7) of clause 5; (g) the manner of exercising the powers and performance of the functions by the National Social Security Board under sub-clause (1), the number of persons to be nominated as members, their term of office and other conditions of service, procedure to be followed in the discharge of their functions and manner of filling vacancies under sub-clause (4) and time, place and rules of procedure relating to the transaction of business under sub-clause (6) of clause 6; (h) welfare measures and facilities under sub-clause (6) (j) of clause 7; (i) meetings and procedure in regard to the transaction of business at meetings (including the quorum at such meetings) under sub-clause (1) and fee and allowances of members of Social Security Organisation or any Committee under sub-clause (4), of clause 9; (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-clause (1) and the alternate arrangements for the purpose of administration of the relevant provisions of this Code under sub-clause (2), of clause 11; (k) manner of establishment of a Pension Fund and the manner of establishment of Insurance Fund under sub-clause (1) of clause 16; (l) the manner of maintenance of a provident fund account in relation to the establishment under sub-clause (1) of clause 21; (m) the manner of transfer and dealing with accounts under clause 22; (n) form, manner, time limits and fees for filing of appeal under sub-clause (2) of clause 23; (o) salary and allowances of the Director General or the Financial Commissioner under sub-clause (3) and the limit of maximum monthly salary under the proviso to sub-clause (6), of clause 24; (p) limits for defraying expenditure under clause 26 (k) ; (q) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-clause (1), conditions to invest moneys by the Corporation under sub-clause (2) and the terms to raise loans and take measures for discharging such loans under sub-clause (3), of clause 27; (r) manner of insurance of employees under clause 28; (s) the rate of contributions under sub-clause (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-clause (4), of clause 29; (t) the percentage of income which may be spent on expenses and the limits for such expenses under clause 30; (u) the amount

of payment under the proviso to sub-clause (1) (f) and the qualifications to claim benefits, conditions, rate and period thereof under sub-clause (3), of clause 32; (v) the limits within which the Corporation may incur expenditure from the Employees' State Insurance Fund under clause 33; (w) the rates, periods and conditions for payment of dependants' benefit under sub-clauses (1) and (2) of clause 38; (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-clause (3) and the payment of contribution and other conditions under the second proviso to sub-clause (3), of clause 39; (y) the terms and conditions subject to which the scheme may be operated under clause 44; (z) the contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions under sub-clause (2) of clause 45; (aa) the form of application to the competent authority under sub-clause (5) (b) of clause 56; (bb) 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-clause (1), conditions to exempt and manner of establishing an approved gratuity fund under sub-clause (2), and the time and manner to get establishment registered and the manner thereof under sub-clause (3), of clause 57; (cc) the form of notice under sub-clause (1) and the proof of pregnancy and proof of delivery under sub-clause (5), of clause 62; (dd) the proof of miscarriage or medical termination of pregnancy under sub-clause (1), the proof of tubectomy operation under sub-clause (2) and the proof of illness under sub-clause (3), of clause 65; (ee) the duration of breaks under clause 66; (ff) the number of employees and distance for crèche facility under sub-clause (1) of clause 67; (gg) gross misconduct under the second proviso to sub-clause (1) of clause 68; (hh) rate of interest to be paid by the employer under sub-clause (3) (a) of clause 77; (ii) the manner of notice under the first proviso to sub-clause (1), and the manner of transmitting money under sub-clause (3), of clause 92; (jj) the form, manner and fee for application for claim and settlement under sub-clause (3) of clause 93; (kk) the manner and time of collection of cess under sub-clause (2), manner of deposit of the cess so collected under sub-clause (3) and the uniform rate or rates of advance cess under sub-clause (4), of clause 100; (ll) the rate of interest in case of delayed payment of cess under clause 101; (mm) the manner of self-assessment of cess under sub-clause (1) of clause 103; (nn) the authority to inquire and impose penalty under clause 104; (oo) time limit to prefer appeal, appellate authority, form and manner of appeal under sub-clause (1) of clause 105; (pp) manner of registration as beneficiary under clause 106; (qq) benefits of a beneficiary under sub-clause (2) of clause 107; (rr) manner of administration of the Social Security Fund or funds under sub-clause (5) of clause 109; (ss) eligible age for registration and form, manner, authority and information under sub-clause (1) and the form of application and documents for registration and registering authority under sub-clause (2), of clause 113; (tt) form, manner and time for filing application for review under sub-clause (2) of clause 126; (uu) appellate authority to whom an employer may prefer an appeal under clause 127, and rate of interest on the refund of deposit to the employer, under the second proviso, to the said clause; (vv) the rate of simple interest which the employer shall be liable to pay under clause 129; (ww) manner of levying and recovery of damages under clause 130; (xx) manner to certify under sub-clause (5) of clause 131; (yy) manner of compounding of offences under sub-clause (1) and the form and manner of application for compounding of an offence under sub-clause (4), of clause 140; (zz) manner to establish identity under clause 143; (aaa) the eligibility conditions to be fulfilled prior to exemption and the conditions to be complied with after exemption and the period of extension of exemption under sub-clause (3), of clause 144; (bbb) any other matter which is required to be, or may be, prescribed by the Central Government under the provisions of this Code.

2. Sub-clause (1) of clause 155 empowers the State Government, subject to the condition of previous publication, to make rules for the purpose of giving effect to the provisions of the proposed legislations. Sub-clause (2) specifies the matters in respect of which rules may be made. These matters include (a) the manner of exercising the powers and performance of functions by State Unorganised Workers' Board under sub-clause (9), the number of persons 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-clause (12), and the time, place and rules of procedure relating to the transaction of business at its meetings under sub-clause (14), of clause 6; (b) the terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members and the manner of filling of casual vacancies of the members, under sub-clause (4) and the terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees under sub-clause (5) (c), of clause 7; (c) structure, functions, powers and activities of the organisations under sub-clause (6) of clause 40; (d) procedure to be followed by the Employees' Insurance Court under sub-clause (2) of clause 50; (e) manner of commencement of proceedings before the Employees' Insurance Court and the time-limit of filing, fees and procedure thereof under sub-clause (1) of clause 51; (f) conditions when application for review is made without certificate of a medical practitioner under sub-clause (1) of clause 79; (g) manner of matters to be dealt by or before a competent authority under sub-clause (1) of clause 92; (h) time limit for disposal of application and costs incidental to the proceedings under sub-clause (4) of clause 93; (i) the manner of authentication of memorandum under clause 97; and (j) any other matter which is required to be, or may be, prescribed by the State Government under the provisions of this Code.

3. Sub-clause (1) of clause 153 empowers the appropriate Government, subject to the condition of previous publication, to make rules for the purpose of giving effect to the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters include (a) the amount in connection with premium for Group Insurance Scheme of the beneficiaries, educational schemes for the benefit of children of the beneficiaries and the medical expenses for treatment of major ailments of a beneficiary or, such dependent under sub-clause (6) of clause 7; (b) other member who may authenticate the orders and decisions of the Social Security Organisations and other instruments issued under sub-clause (2) of clause 9; (c) bank or other financial institution in which the gratuity shall be invested for the benefit of minor under the second proviso to sub-clause (1) of clause 53; (d) the time, form and manner of nomination by an employee under sub-clause (1), the time to make fresh nomination under sub-clause (4), the form and manner of modification of a nomination under sub-clause (5) and the form for fresh nomination under sub-clause (6) of clause 55; (e) time and form of application under sub-clause (1) of clause 56; (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-clause (4) of clause 57; (g) the qualifications and experience of competent authority under sub-clause (1) of clause 58; (h) authority to whom an appeal may be preferred under sub-clause (3) of clause 72; (i) class of employers and the form of notice-book under sub-clause (4) of clause 82; (j) the frequent interval for medical examination under proviso to sub-clause (1) of clause 84; (k) form of statement and the manner of ascertaining the dependents under sub-clause (1) and the manner of providing an advocate under sub-clause (5) of clause 88; (l) manner of recording memorandum under sub-clause (1) of clause 89; (m) such other experience and qualifications for appointment as a competent authority under sub-clause (1) of clause 91; (n) time-limit to pay the amount of cess under clause 101; (o) fees for appeal under sub-clause (2) of 105; (p) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-clause (1), conditions to invest moneys, re-invest or realise investments under sub-clause (2), terms to raise loans and take measures for discharging such loans under sub-clause (3) and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds under sub-clause (4) of clause 120; (q) conditions and manner of writing off losses under clause 121; (r) other powers of Inspector-cum-Facilitator under sub-clause (6) (e) of clause 122; (s) form and manner for maintenance of records and registers and other particulars and details, manner and form for display of notices at the work places of the employees and the manner and period of filing returns under clause 123; (t) officer or other person who may make complaint under sub-clause (1) and the authority to give sanction under sub-clause (2), of clause 138; (u) the manner and form for reporting

vacancies to the career centres and the manner and form of filing the return by the employer to the concerned career centre under sub-clause (2) of clause 141; (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-clause (1) and the conditions which the exempted establishment or the class of establishment or the employers or class of employers or the employees or class of employees as the case may be, shall comply after exemption under sub-clause (2) of clause 144; (w) any other matter which is required to be, or may be, prescribed by the appropriate Government under the provisions of this Code.

4. Sub-clause (1) of clause 156 empowers the Corporation, subject to the condition of previous publication to make regulations for carrying into effect the provisions of Chapter VI and the provisions of this Code relating to that Chapter. Sub-clause (2) specifies the matters in respect of which such regulations may be made. These matters include (a) the cases and matters to be submitted for the decision of the Corporation under sub-clause (4) (b) of clause 5; (b) composition of committees under sub-clause (6) of clause 5; (c) the method of recruitment, salary and allowances, discipline and other conditions of services of the officers and employees under sub-clause (7) (a) of clause 24; (d) unit in respect of which all contributions shall be payable under sub-clause (3) of clause 29; (e) maintenance of register of employees by or through the contractor under sub-clause (7), conditions for deduction of wages under sub-clause (8) and any matter relating or incidental to the payment and collection of contribution under sub-clause (9), of clause 31; (f) qualifications and experience of other person to certify sickness under sub-clause (1) (a), authority to certify eligibility of a woman under sub-clause (1) (b) , authority to certify eligibility for payment under sub-clause (1) (c), conditions for extension of medical benefits under sub-clause (2) and any matter relating or incidental to the accrual and payment of benefits under sub-clause (4), of clause 32; (g) continuous period in which the employee contracts occupational disease under sub-clause (1) of clause 36; (h) constitution of medical board under sub-clause (1), constitution of medical appeal tribunal under sub-clause (5) and manner of filing appeals before the medical appeal tribunal under sub-clause (7), of clause 37; (i) conditions for voluntary retirement scheme under the first proviso to sub-clause (3) of clause 39; (j) other authority for providing permission under sub-clause (3) (c), form of nomination under sub-clause (6) and the authority to determine benefits under sub-clause (9), of clause 41; (k) user charges to be paid by other beneficiaries for medical facilities under the Explanation to clause 44; (l) any matter in respect of which regulations are required or permitted to be made by this Code.

5. The matters in respect of which rules or regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

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BILL

to amend and consolidate the laws relating to social security of the employees and the matters connected therewith or incidental thereto.

[Shri Santosh Gangwar, Minister of State Labour and Employment (Independent Charge)]

MGIPMRND—4171LS(S3)—06-12-2019.

LOK SABHA

CORRIGENDA
to
THE CODE ON SOCIAL SECURITY, 2019
[To be/As introduced in Lok Sabha]

1. Page (iii), in the arrangement of clauses, in clause 76,-
for “Compensation in case of death of or injury in plantation.”
read “Amount of compensation.”
2. Page (v), in the arrangement of clauses, in clause 135,-
for “Punishment for”
read “Penalty for”
3. Page 3, line 28,-
for “(1) of 14;”
read “(1) of section 14;”
4. Page 3, line 35,-
for “notified by the appropriate”
read “notified”
5. Page 3, line 36,-
for “Government as”
read “under this Code as”
6. Page 4, omit lines 33 to 35.
7. Page 4, line 36,-
for “(v) a minor”
read “(iv) a minor”
8. Page 4, line 37,-
for “(vi) a widowed”
read “(v) a widowed”

P.T.O.

9. Page 4, line 38,-
for “(vii) a minor”
read “(vi) a minor”
10. Page 4, line 39,-
for “(viii) a minor”
read “(vii) a minor”
11. Page 4, line 41,-
for “(ix) a grandparent”
read “(viii) a grandparent”
12. Page 6, line 31,-
for “child dependent”
read “child dependant”
13. Page 6, line 33,-
for “wholly dependent”
read “wholly dependant”
14. Page 6, line 38,-
for “wholly dependent”
read “wholly dependant”
15. Page 6, line 44,-
for “wholly dependent”
read “wholly dependant”
16. Page 8, line 2,-
for “the purpose”
read “the purposes”
17. Page 22, line 43,-
for “under sub-section”
read “under clause”
18. Page 31, line 38,-
for “dependents specified”
read “dependants specified”

19. Page 48, line 24,-
for "of any accident or injury"
read "of such accident or disease"
20. Page 48, line 26,-
for "injury before"
read "disease before"
21. Page 48, line 28,-
for "injury in"
read "disease in"
22. Page 49, in marginal heading against clause 76,-
for "Compensation in case of death of or injury in plantation."
read "Amount of compensation."
23. Page 58, line 2,-
for "the dependents"
read "the dependants"
24. Page 58, line 16,-
for "prescribed from the panel of advocates maintained by"
read "prescribed by"
25. Page 64, line 6,-
for "employees for the"
read "employees of the"
26. Page 64, line 41,-
for "meaning of Companies"
read "meaning of the Companies"
27. Page 65, line 18,-
for "(2) may be"
read "(2) of section 109 may be"

28. Page 80, line 22,-
 for "days;"
 read "days; or"
29. Page 81, line 42,-
 for "of Code"
 read "of this Code"
30. Page 81, line 48,-
 for "or license or "
 read "or licence or"
31. Page 82, line 40,-
 for "nominee or such family and"
 read "nominee and"
32. Page 83, line 17,-
 for "such dependent"
 read "such dependant"
33. Page 83, line 39,-
 for "the dependents"
 read "the dependants"
34. Page 84, line 11,-
 for "periods of"
 read "period of"
35. Page 86, line 15,-
 for "section 57 and the qualifications and experience of Competent"
 read "section 57;"
36. Page 86, omit line 16,-

37. Page 94, line 18,-
 for “any premises.”
 Read “any premises; or”
38. Page 96, line 23,-
 for “circus;”
 read “circus; or”
39. Page 102, line 31,-
 for “o9”
 read “9”
40. Page 102, line 32,-
 for “05”
 read “5”

NEW DELHI;

9 December, 2019
Agrahayana 18, 1941 (Saka)