EVERYONE HAS THE RIGHT TO BENEFIT FROM SOCIAL SECURITY

LABOUR CODE ON SOCIAL SECURITY, 2018

MARCH 2018
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CHAPTER 8 : SOCIAL SECURITY
PREFACE

As an effort to simplify and rationalize the Labour Laws, the Ministry of Labour and Employment had undertaken an exercise for drafting a comprehensive law governing universal social security, in line with the recommendations of the 2nd National Commission on Labour (2002).

A first draft of Labour Code on Social Security was published and put in the public domain on 16th March 2017, for comments of stakeholders. A number of workshops and discussions were held with various stakeholders, such as Employers’ organisations, Worker’s organisations, State Governments, NGOs, representative of unorganized workers law practitioners etc. We were very encouraged with the feed-back and response from all the stakeholders. We received extensive comments on various provisions of the draft code, which ran into almost 3000 pages. In addition, we also received technical inputs from the International Labour Organisation (ILO). It was an arduous task in going through all the inputs and refining the draft of the Code accordingly.

The Ministry thanks all the persons and stakeholders who contributed in this effort of drafting the Code. This new draft of the Code has attempted to incorporate all such suggestions that were in line with the philosophy of the code. An Executive Summary and a Preamble has been incorporated now which also elucidate the objectives and reasoning behind the proposed provisions of the Code. The ILO Convention 102 and the Report of the 2nd National Commission of Labour on the subject of ‘Social Security’ has been appended in the document as appendices. These appendices provide the rationale and justification to the provisions of the Draft Code. We hope, this will improve the comprehension of the Code provisions, which we understand, sometimes become difficult to comprehend because of its legal language.

The team drafting this code did not have the privilege of a legislative drafting expert, and therefore the language of the code, at times may not look professional (in legal terms). This draft code is yet to undergo a thorough scrutiny of a legal drafting expert. We propose to undertake this exercise only after completing the tripartite and other consultations so as to avoid duplicating the effort.
ABOUT SOCIAL SECURITY:
It is the duty of the society in general and government in particular to ensure that nobody who has contributed to the growth of the nation in his good days is left alone to face the problems like sickness, accident, unemployment, disability, maternity and old age in his lean days. Under a Social Security System, these risks and eventualities can be managed through small contributions by all through a robust social security framework.

Social Security means a program that requires the government to create a fund or system which can be used to make payments to people who are unable to work (and earn his livelihood) because of circumstances. Essential features of Social Security are that it is mandatory (by law), administered by government and it has provisions of rights and enforcements. The social security paradigm is not a simple goodwill gesture or appeasement from the government to the citizen but a Right.

No wonder that the right to social security has been treated as a human right by the United Nations. According to Articles 22 and 25 of the Universal Declaration of Human Rights, access to Social Security is a basic right. The ‘Social Security (Minimum Standards) Convention 102’ adopted by the International Labour Organization (ILO) in 1952 also prescribes minimum standards for benefits in the important areas of social security. India has not yet ratified this convention. It is high time now that the Country moves towards providing the minimum standards of social security to all its citizen.

As per the practices prevalent worldwide, Social Security benefits can be State (taxpayer) funded, employer funded or worker funded, or any combination of these though the ideal scenario would be that every citizen of the country earns enough to pay for his social security to the state.

Social Security is not only aimed at personal welfare of citizen, but is also linked to National economic prosperity, as it enables the person(s) exposed to these risks to spend the earnings in maintaining a decent standard of living with a life of dignity instead of stashing the earnings somewhere for unforeseen eventualities.

Social Security also contributes to economic progress as effective Social security Policy, labour protection laws, medical facilities and unemployment benefits play a highly significant role in avoiding social costs and safeguarding efficient labour potential.
EXECUTIVE SUMMARY

Preamble
The Labour Code on Social Security is an attempt to simplify, rationalize and consolidate the hitherto fragmented laws to make them less complex for easier comprehension, implementation and enforcement. Basic core principles that have been incorporated are - (Progressive) Universalization to entire workforce; Integration of fragmented schemes; Decentralization of administration; Rights based approach and Single window compliance.

PART – A : Application and Definitions
Attempt has been made to ‘Universalise’ the applicability, hence the Code is Applicable to all ‘entities’ and all ‘workers’. How the classification of ‘labour-force’ and ‘places of work’ been worked out in the terminology can be seen from the following charts -

Accordingly, the definition of these terms have been worded in this part. As may be seen from above, ‘Entity’ is a much broader term which includes the entire spectrum of units (wherein work is done by persons) irrespective of the nature and quantum of work. Enterprise and households are sub-set of the larger universe i.e. Entity. This differentiation has been provided for in the Draft to distinguish between the enterprises which engage work for any economic activity and households who engage work for domestic requirements. Further ‘enterprise’ may or may not employ any worker (‘establishments’ are the ones that employ at least one worker). The different terms such as business, factory, project etc. have been specifically defined to ensure that all kinds of employees get coverage under the code and there is no room for the employer to use any possible gap or loophole to avoid coverage under the provisions of the code. The term ‘business’ has been used to specify the kind of activity the ‘enterprise’ undertakes – such as manufacturing, agriculture etc. The term enterprise also include the units in which an own account worker works. Households are also included in the term ‘entities’ and ‘employer’ and thus, as such (if not specifically excluded through an entry in Schedule-I) the code applies to households and domestic workers as well.

Similarly, attempt has also been made to recognise the plethora of employment relationships that exist in labour market today. Here the objective is to include every employment relationship in the definition of ‘employee’ so that the employer does not get a loop-hole to avoid coverage. Exhaustive definitions leave lesser flexibility of diverse interpretations and as inadequate coverage is one of the problematic issues in the present labour legislations in India, we have attempted comprehensive definitions of these terms to ensure universal coverage.

Schedule – I provides for exclusions : i.e., entities / workers who will be excluded. Regular Government servants will be excluded (who are covered under CCS Rules), however, contractual employees even of Government are included. Schedule-I is proposed to be dynamic – to be used for phased implementation of the Code. As such, the code has been made applicable universally, and provisions exists to cater to special treatment of various classes of entities / workers, but, for the purpose of phased implementation many such workers / entities (which we would like to cover in long run) will initially find place in Schedule – I. Thereafter gradually the Schedule – I will be pruned out to universalise the coverage.

There are two cut-offs (in respect of wage/income) defined. ‘Income Threshold’ and ‘wage ceiling’. The term ‘wage ceiling’ is for the purpose of determining a maximum limit on contribution payable. On the other hand, the term
‘income threshold’ (which will be somewhere between minimum wage and income ceiling) is just used once in the code, and that too in an illustration, - is for the purpose of enabling the government to provide for two different kind of schemes (for same purpose) for two different class of workers. One may be subsidised while the other may not. There is another threshold – in terms of Number of employee working under an establishment. It is used to define organised and un-organised sector. Although the Code applies to all sectors (organised or un-organised), this distinction has been kept for the purpose of eligibility of gratuity.

The term ‘benefit wage’ is for the purpose of arriving at the benefits for the worker under the schemes. The benefits under the schemes generally are a factor multiplied by benefit wage. The term ‘benefit wage’ is defined differently for the purpose of determining gratuity / employee compensation (where there is employer liability) and slightly differently for the purpose of determining scheme benefits.

PART – B : Social Security Organisations

This part sets out Administrative Structure for implementation of the Code. The term ‘Social Security Organisation’ is the collective name given to the National Council, Central Board and the State Board, i.e., the administrative set-up created by virtue of this part.

A Universalised social security will require a set-up to service almost 50 Crores of workers. As the scope of this Code expands to almost 10 times as compared to the present EPF/ESIC, a decentralised structure (with central coordination and regulation) has been proposed. Another reason for decentralised approach is Federal nature of our Constitution. The subject ‘Labour’ (or Social Security) fall under concurrent list of the constitution and hence sufficient role, powers and jurisdiction need to be given to States. Moreover, many Social Security schemes are run and funded by States. For integrating them in comprehensive system, it is necessary that the Social Security administrative set-up is run by the States. Considering the vast scope and jurisdiction of Social Security, Administering/ Enforcement Agency that is decentralised is more effective, and infrastructure of local bodies can be used for providing registration / grievance redressal services.

The concept behind design of the Social Security Organisations is to build strong tripartite autonomous organisations that can reach remotest rural parts of the country. Further, it is envisaged that all social security schemes and programmes will be run through this comprehensive administrative set-up – so as to remove the problem of fragmentation. Very important role has also been given to the Local Bodies (i.e. panchayats and municipal bodies) in administration of the social security system.

As per the recommendation of 2nd NCL, an overarching Regulatory body is proposed in the Code (National Social Security Council). The National Council, headed by the Prime Minister and composed of Ministers of Finance, Health and also Chief Ministers/ Administrators of all States/Union Territories apart from workers and employers is envisaged as the apex body to bring out harmonious co-ordination amongst different ministries and also at the Centre-State level. The National Council has been proposed on similar lines to the Goods and Service Tax (GST Council) which has been able to successfully roll out the GST Regime in India. The NSSC has the function to regulate and coordinate this multi-disciplinary / multi authority jurisdiction of Social Security.

The Central Board is also a tripartite body at Central Level with the functions to coordinate national comprehensive Social Security Schemes, portability of Social Security and do professional investment of funds (on behalf of state boards). Central Board shall also manage the IT system required for comprehensive registration and scheme management.

State Board is the final body (also tripartite) which shall actually administer and execute the Schemes. It includes providing services, administer collection of contributions, enforcements, managing hospitals, etc. In addition functions have been prescribed for local bodies (panchayats / urban local bodies) of registrations and facilitation. Both the Central Board and the State Boards will also have experts of certain fields (related to social security) as members, who will be appointed by Central / State Governments respectively.

The Executive Committee and Standing Committee are sub-ordinate to National Council and State Board respectively. Powers can be delegated by the main body to these Committees for day-to-day functioning of these organisations.

The Code also continues the concept of ‘Advisory Boards’ that are in existence today for welfare of certain class of workers (such as bidi workers etc). We understand that there will be certain sectors where informalisation is so prevalent that it may be difficult to capture employer-employee relationship and thus the contribution(s) from employer / employee too will be difficult to collect. For this purpose, the Concept of ‘Contribution Augmentation Fund’ has been created where money can be credited by way of budgetary allocation or imposition of Cess. These
advisory boards will be advising the State Boards on the use of the ‘Contribution Augmentation Fund’ created for the said class of workers. Central Government has been given the powers to supersede the Central or State Board if the Board has not been performing due functions as per the Code, while State Government has been given powers to supersede Standing Committee.

PART - C : Registration of Workers and Establishments
This part provides for a statutory universal registration of workers and entities. Basically, the primary responsibility of registration of a worker is that of the employer. In case of own-account-worker, he can register himself. However, safeguards have been provided that if the employer fails, the worker can register by himself, and also obligation has been provided to the State Board to undertake proactive campaigns / surveys to cover left-over workers, if any. The Registration of a worker is a once in a lifetime activity, thereafter any change in status, employment etc. is to be done through amendments of Registration. Aadhar has been made mandatory so that true identification of the worker (specially in case of migration) can be made at the time of granting benefits. Also Aadhar will prevent malpractices of multiple registration of same person.
Registration is common for organised and unorganised workers – that means present concept of IP (of ESIC), UAN (of EPFO) and UWIN (of Unorganised workers’ SS Act) will merge into one. The Code provides for Socio-economic classification of workers at the time of Registration based on parameters that will be determined in Rules. This Socio-economic Classification will enable the governments to handle various classes of people differently, especially in the matters of collection of contributions.
A common & universal Registration system implies that all the workers (organised or un-organised) shall be covered under the same set of Basic Schemes. The only difference would be the manner in which the contribution (or subscription charges for the schemes) shall be collected, and who would pay such contribution.
A (worker’s) registration shall remain active till he indulges in proactive work (in India). If he retires, or does not engage himself in work, the registration gets de-activated. The worker’s registration ceases when he dies (or migrates out of country).
It is understood that in-spite of our best efforts to cover all the workers under Registration fold (and consequently within the scope of social security schemes) there will be persons who are left out. This will specially be true in case of persons who are old and infirm at the time of application of Code and can not be taken into fold of a contributory system. For such persons, the Code envisages (state government funded) social assistance programme, and for that purpose there is a concept of ‘Special Registration’ of such persons.
For persons who can-not be covered as workers but need to be provided Social Assistance (meaning fully government funded support) there is a provision of Special Registration. For example, persons who are currently old and infirm, and not in workforce will be registered under ‘Special Registration’. Such special registered persons will be eligible for Social Assistance programme of the state government.
As regards registration of entities are concerned, Code prescribes for Registration of all kind of employers – be it establishments (that have a commercial purpose) or households (that employ domestic workers). An ‘own-account-enterprise’ will be registered both as employer and worker automatically. The objective is to bring all kinds of employers in the fold of a universal social security system.
There is a TDS like concept for collection of Contribution (to ensure better and automatic compliance) in the Code. Therefore, entities (who may otherwise not be covered under the code, but are required to do TDS) are also required to be registered and obtain a ‘TAN – like’ number. A manpower contractor or a placement agency too is compulsorily required to be registered.
Upon Registration, the establishments are classified in four categories based upon OSH standards of the establishments, based upon parameters that will be determined in Rules. This is done to empower the government to collect differential contribution on the basis of OSH standards. This will improve OSH compliance in establishments as there will be a financial incentive for higher OSH standard.
For implementing such a vast and universal registration system, the Panchayats and Municipal Bodies are given the task of registration of workers and entities. The State Boards will provide necessary finance. For this purpose, Facilitation Centers shall be established so that registration can happen at grassroots level.

PART - D - Funds and Schemes
This Part of the Code makes provision for establishing social security fund in the States, Union Territories wherein State Board has been constituted. It also makes provision for establishing State Gratuity Fund.
The code lays down the maximum limit (17.5% of monthly income upto wage ceiling) of contributions payable by the employer while providing that Central Government may notify such rate of contribution that are not exceeding the said maximum limit. There is power to levy lesser rate of employer’s contribution where any cess have been levied on such class of employer. Similarly, employer’s contribution can be lesser for establishments that are classified as those maintaining higher OSH standards.

In addition, employers (where gratuity applies) need to pay 2% of the wages as contribution to gratuity Fund. The principal employer is made liable for payment of gratuity contribution even for workers employed through contractors. The Gratuity Fund is maintained in the name of Principal Employer (and not individual employee). Employer can also pay contribution on optional basis in respect of a person who is an Indian citizen in the event that such member is deployed to work in another country with which India does not have a social security agreement. The employees’ contribution is also limited to a maximum rate (12.5%). However, if the employee belongs to SEC-IV category, the Employee’s contribution shall be zero (i.e. single contribution from employer only be collected in such cases).

In case of own account worker (and owner-cum-worker of an enterprise), there is no ‘employer’, and hence a single contribution from the worker himself (maximum 20% of income) is prescribed. However, if the worker is of SEC-IV, the contribution to be paid is zero (it is expected that government will contribute on his behalf). Further, in case of such own account worker belong to SEC-III, a lump-sum contribution is to be paid by the worker (without going into actual income of such worker).

The Code enjoins the employer to pay his own contribution as well as on behalf of the worker employed by him directly or by through contractor in the first instance. Contributions are to be paid on monthly basis; However, for simpler compliance provision, households (employing domestic workers) can pay consolidated contribution for quarter, semester etc. Own account workers too have to pay contributions on monthly basis, however, they too have option to pay consolidated contributions.

The code empowers the Central Government or the State Government to establish contribution augmentation fund as deemed necessary by the Central or State Government, as the case may be. The contribution augmentation fund would be administered by the respective State Board. The State Boards are empowered to credit to the state Social Security Fund from the State contributions on behalf of workers by general or special orders.

There is also a ‘Social security Reparation fund’ which will also be administered by the State Board. Such fund shall be expanded for payment of any reparation awarded to a worker for failure to provide any service to such worker or for deficiencies in the services provided. The Credits to this fund shall be from the penalties and damages recovered under the Code.

The code empowers the Central Government to prescribe and frame schemes in consultation with the National Council for providing social security for workers or employees. These will be general, basic schemes under which all the workers throughout the country shall be covered. These scheme will be uniform throughout the country and portability of benefits under these schemes shall be provided.

The State Governments have also been empowered to prescribe one or more supplementary schemes in addition to the schemes made by the Central Government in respect of workers who are not covered or not adequately covered by the schemes made by the Central Government. The code stipulates establishing a separate fund for each of the schemes framed under it.

A consolidated contribution is to be made by the Employer / worker into the State Social Security Fund. He need not bifurcate it Scheme-wise while paying the contribution. This contribution received in the State SS Fund will be credited in the name of each individual worker’s account (called VIKAS). This VIKAS Account acts like an escrow account for each worker, and from the said account, subscription amount in respect of each scheme will be debited, and credited into the Scheme fund. This is explained by following chart -
The code provides for establishing a National Stabilisation fund which will be used for harmonising the Scheme Funds across the country. National Stabilisation Fund will be managed by the Central Boards. Any actuarial surpluses in any scheme or unclaimed amounts will be credited to the National Stabilisation Fund, and it will be used if any state’s scheme fund falls in distress. It can used for providing loans or grants to State Boards in case of deficit found in any scheme after actuarial evaluation.

The code provides that while the State Scheme Funds will vest in the States, for the purpose of professional investment of scheme fund, Central Board shall provide the investment services to the State Boards. The State Boards shall therefore transfer the current surpluses to the Central Boards for professional investments, who will invest the amounts on behalf of the State Boards. In case of any current deficits, State Boards can draw such amount as may be required from the invested amount.

The Code provides for a provision for providing Social Assistance to persons who cannot be covered under the regular contributory schemes. For Social Assistance, the person will be registered under ‘special registration’ and through the Funds received from the State Governments, social assistance to such persons shall be provided. Any payment or benefit under the code shall not be transferrable or assignable. It further, provides that payment of any benefit, assistance or gratuity under this code shall not be liable for attachment in execution of any decree or order of any Court or under any Act.

The code provides that benefits can be paid to an entitled person even in the case where an employer fails to register an employee or neglects to pay any contribution in respect of the employee. In such instances, the employer shall be liable to pay the present value of the long term and short term benefits as well as any cost of medical benefit or long compensation as well as the contribution payable by the employer including interest and damages. Provisions have been made for the manner, form and procedure for portability of benefits under the scheme in the event of change in employment from one state to another state. Thus any change in employment or state of work will be seamless in terms of availing of benefits.

PART – E : Cess and Contribution Augmentation Funds
This Part specifically provides for a levy of Building and Construction Cess, on all construction works above a certain threshold. This is for the protection of Building & Construction workers, as generally it is found that these workers are not engaged in formal employment relationship basis. The liability of payment of BOCW cess has been imposed on the landlord (i.e. the person who commissions construction work) as the entire cost of construction has to be ultimately borne by the landlord, who commissions the construction work. The cess shall be collected by the Commissioner and proceeds of the cess shall be credited further to the Building and Other Construction Workers Contribution Augmentation Fund set up by the State Government. The landlord may pay an amount of cess in advance which shall be adjusted in the final assessment.

The Code also provides for a general power of Central Government to levy Cess on other products and services. As such, the provision of Cess has been kept only as an alternate mechanism to collect contributions (of employers / employees). The Government does not intend to levy cess on any sector, as the normal Employer’s and Employee
Contribution levied under Part D should be sufficient to meet the Social Security requirement. However, it is understood that certain sectors are very prone to informality, due to which number of employees are not declared by the employers, leading to their exclusions from social security. In order to handle such sectors, the powers to levy cess has been kept, so that in sectors where employers are escaping their obligations, the concerned workers can be protected by levy of cess, and providing their contribution from this collection of cess.

There is a corresponding provision in Part D wherein it has been specified that in sectors where Cess is levied, the Government may reduce the Employer’s Contribution percentage so as to avoid double taxation in such sectors. The code also permits exemption from levy and collection of cess in any State or part thereof, provided that the Central Government, after consultation with the concerned State Government, is satisfied that there is in force a law which has adequate provision for the financing of activities to promote the social security of such persons for whom any particular cess is being collected.

PART – F : Obligations
This chapter lays down the duties of various persons under this Code. Every Employer and Contractor is obliged to deliver returns to the State Board providing detail about the employees in respect of whom contributions become due. A self employed worker or household file a simpler return-cum-challan. The frequency will be specified in Rules. Return is also to be filed by a person who is obliged to do CDS (Contribution deduction at source). The part also obliges employers & contractors to maintain registers.

Administrative Charges are to be paid by the employers. The manner of calculation of contribution has been changed slightly as compared to EPF system. Instead of certain percentage of wage, the Administrative charges shall be certain percentage (less than 4%) of contribution. In case of State (i.e. government) contribution, same administrative charges will be deducted from the government’s contribution.

Interest on delayed payments of dues is payable @ simple interest at 12% rate. Similarly, refunds, if due will be payable with interest.

If a person claims or receives benefit to which he was not entitled to, the beneficiary is obliged to return the said amount of benefit with interest.

This part also provides for a concept of Contribution deduction at source (CDS), which is on the same lines as TDS of income tax. Any person awarding a (high value) works contract to any other agency, he is obliged to deduct, from the payment due to the contractor, certain amount as CDS and deposit to SS Board. This payment goes in the credit of the said contractor, and can be utilised for payment of contractor’s liability to pay contributions.

The Part also obliges the principal employer to pay contributions and administrative charges in respect of every employee, including those engaged through contractors. The principal employer can deduct the said payments of contributions and administrative charges made to the SS Fund from the payments made to the contractor, to furnish certificate to the contractor about such deductions.

Employer cannot reduce the wages of any employee on account of employer’s liability to pay contributions to the Social Security Fund. In case of transfer of ownership of any establishment, the transferor and transferee are both jointly and severally liable to pay the outstanding dues under this Code.

The Code ensures confidentiality of returns etc. No person can intentionally disclose, transmit, copy or otherwise disseminate any information collected in the course of implementing the provisions of this Code, to any person not authorized under this Code. Similarly Code prohibits unauthorised access, download, steal, tamper or destroy the data of any Social Security Organisation (SSO).

This chapter classifies as “confidential” the data and information produced during the implementation of this Code and lays down the exceptions where this restriction of confidentiality shall not apply to the Governments, their agencies and the Courts.

PART - G : Gratuity
This part pertains to payment of gratuity on the lines of the provisions under the Payment of Gratuity Act, 1972. The provisions under the code in respect of applicability of Gratuity Scheme, entitlement of gratuity, payment in lump-sum amount of gratuity, entitlement of an employee to receive better terms of gratuity under any award or agreement or contract, calculation of amount of gratuity & continuous service, interest in delay in payment of gratuity are similar to those already exists under the Payment of Gratuity Act, 1972. However, the code does not specify the minimum number of employees that should be employed in an established for applicability of gratuity scheme and the same is to be provided for in the Rules.
However, there is complete shift in the code wherein it is purposed to create State Gratuity Fund from the contribution of employer @ 2% of wages. Monthly contribution of the employer will be collected by the State Board to be credited to the individual account of the employer in the State Gratuity Fund. Thus, the State Gratuity Fund will comprise of accumulation of contribution of individual employer, which would not be a pooled fund. It has been envisaged to make employer compulsorily save for payment of gratuity, whenever required so as to ease burden on employer at the last moment, when gratuity is to be paid.

If funds are available in the Employer’s Gratuity Fund, and any employee of the said employer becomes entitled to gratuity, the Commissioner, shall release the said gratuity amount due to the employee from the amount standing in the Credit of the employer in the State Gratuity Fund. If sufficient amount is not available in the gratuity fund account of the employer, the Commissioner shall direct the employer to pay the gratuity to the employee from his own funds within 15 days. Therefore, in the proposed scheme of things, the maximum period for payment of gratuity has been enhanced to 60 days.

The most important aspect of this part of the code is to count qualifying continuous services rendered for a Principal Employer, who will be liable to pay gratuity, though under different contractors or under a contractor, who will be liable to pay gratuity, may be under different Principal Employers. This is to ensure portability of service rendered by an employee under the same Principal Employer or under the same contractor. This will benefit the employee, whose services were otherwise not counted for becoming eligible for payment of gratuity even when working under the same Principal Employer or under the same contractor.

**Part – H : Maternity Benefits**

The Code stipulates that the Maternity benefit scheme will be applied to all employees employed by the establishment whether employed directly or through contractor as well as own-account workers and also to those SEC-IV workers on whose behalf, the government contributes. Maternity benefits shall be payable (in normal case) for 26 weeks.

Basically, the liability of Maternity Benefits will be taken care of by the Maternity Benefit Fund, in which the subscription amounts will come from the contribution received. However, if the employer fails to cover his employee under the maternity benefit scheme, the worker shall be provided the benefits from the fund, and recoveries shall be made from the employer under section 28.

Employer is bound not to employ any woman who has given child-birth (etc.) for a period of six weeks. He is also bound not to employ pregnant woman in arduous work, provide nursing break to woman, provide paid leave for (extended) period in case of illness arising out of confinement.

Employer can-not dismiss a woman on account of absence due to pregnancy etc. Commissioner has been given powers to investigate into complaints of wrongful dismissals in this regards and order corrective measures. Employer cannot discriminate against women during recruitment.

**PART I- Pension Schemes- Retirement, Disablement and Dependent benefits.**

This part contains elaborate provisions of the social security provided to the workers in the form of old age pension upon retirement or on account of their disablement and pension to the dependents of a deceased worker.

The basic objective of this part is to provide comprehensive coverage to the workers throughout their active service life and a guarantee of old age, disability or dependent pension. Further, this part does not distinguish between death/disablement due to employment injury or otherwise as for a worker and his family, occurrence of such a contingency brings a lot of grief and mostly, where the worker is the sole breadwinner, his death or disability pushes the entire family into scarcity. Thus, by making a provision for pension through the pension schemes as may be instituted, it provides an income security to the worker and his family in times of distress.

The benefits to the workers are guaranteed and if any employee becomes disentitled from availing benefits under the Pension Scheme on account of non-coverage by the employer, the benefits are to be paid by the Commissioner in the first instance and subsequent recovery to be made from the employer in accordance with section 28 of the code.

In case of ineligibility of an employee to receive the dependent/disablement benefits due to non-completion of the qualifying service or conditions, the employer would be liable to pay compensation which would be determined by calculating the capitalized value of the pension which would have been admissible to the worker in case of disablement or to the dependents’ in case of his death.

Therefore, while the provisions of this Part make compensation for personal injuries a fund based liability; it adequately protects the rights of the employee to receive compensation from the employer as well, if necessary.
Occupational diseases have been included as part of personal injury to protect the interests of the workers working in hazardous environment and compensation is admissible on the happening of such disease. The Central Government has been given the powers of fixing the minimum and maximum amounts of compensation admissible under this Part.

Any question of disablement and its extent would be determined by a medical board and the medical board shall also conduct periodical medical examination of the persons receiving disablement benefit every five years for the purpose of assessing the improvement or aggravation of disability. No such review would be required in respect of persons who have attained the age of sixty years.

Other major provisions of this Part:-
(i) Distribution of compensation through Commissioner; direct payment to the employee not admissible;
(ii) Statutory duty of the employer to maintain and make entries in the accident notice book in the prescribed manner;
(iii) Notice of claim to Commissioner through employer in case of employee and by the non-employee himself or any of his dependents in case of a non-employee;
(iv) The Commissioner entrusted with the responsibility of disposing the matter relating to compensation under this Code within a period of three months from the date of reference and communicating the same to the worker.

PART - J : Sickness Benefits and Medical Benefits
Code endeavours to provide Sickness Benefit and Medical Benefit to all category of workers as per prescribed contributory conditions. Sickness benefit will be available only to low income workers as per wage ceiling. Medical benefits will be applicable only in notified areas. While the Sickness Benefit attempts to cover loss of wages during sickness requiring abstention from work on medical advice, the Medical Benefit provides appropriate medical care.

The code envisages funding from the contributions of wage workers, self employed persons and State contributions in respect socio-economically weaker members, separately for Sickness Benefit Fund Account and Medical Benefit Scheme Fund. The subscriptions to both schemes shall be mandatory.

The code lays down modalities of certification of sickness and abstention required from work by authorized/recognized medical practitioners for claiming Sickness Benefit. The code also provides for medical care to persons and their spouse who cease to be in insurable employment on account of permanent disablement or who vacate employment consequent upon superannuation, when the normal contribution ceases to be payable. The persons who retire under a Voluntary Retirement Scheme or take premature retirement are also included. In such cases, on fulfilment of certain conditions, the members have to pay contribution as specified in Medical Benefit Scheme.

On part of the employers, safeguards have been provided to prevent dismissal, discharge, reduction and penal action against an employee during his abstention on account of certified sickness or medical treatment. For early recovery from illness/sickness, the insured employee has to observe medical advice.

The State Governments are expected to meet the incidence of Sickness Benefit if it is in excess of subscriptions received. In case of shortfall, the Central Govt. may step in to cover the deficit on justified/bonafide grounds. Similarly, the Labour Commissioner may intervene in case the incidence of sickness is abnormally high in any establishment owing to insanitary working or lodging conditions. If he is convinced, he may determine the excess expenditure incurred on Sickness Benefit and recover the same and recoup the State Sickness Fund Account.

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The code enables the State Governments to establish, designate, utilize health care infrastructure and share with that of other State Governments for reasonable medical/surgical and obstetric treatment. The State Board can also designate Intermediate Agency through third party participation for providing medical care to its members and their families.

Further, the State Governments can also allow the non-members to use its unutilized health care infrastructure on user changes as per its notified protocol. The user charges would replenish the MBS Fund.

As explained earlier, the Social Security Code envisages universalisation of social security provisions so far available to a limited class of organised sector workers. A Universalised social security will require a set-up to service almost 50 Crores of workers as against 5-6 crore covered presently under ESIC/EPFO. Given the vast scope and jurisdiction
of Social Security, the code proposes a decentralised Administering/ Enforcement set up down below at the level of local bodies. At the same time, provision for intermediate agencies has been made, on the lines of PFRD Act, in the select fields such as Fund Management, Point of Presence, Service delivery, Benefit disbursement, Record keeping and Facilitation for enabling PPP system in administering social security. These Intermediate Agencies work on behalf of the State Board. The thought behind this provision is to expand the service delivery net to cater to the broad base of subscribers who are not just very large in numbers but are also very heterogeneous in their characteristics, including geographical spread, access to information, and ability to participate in this right based system. At the same time, this provision allows for engaging expertise for specialised yet non-core activities related to administration of provisions of Social Security Code while reducing the pressure on the SSAs in terms of routine responsibilities. The Core Activities under the Code continue to be the responsibility of social Security Organisations. The scope of work/functions of the intermediate agencies is to be decided as per the terms and conditions of the licence to be given by the Director General (Central Board). Intermediate Agencies will have to meet extensive eligibility criteria depending on the function they are undertaking. There is also a provision for State Boards to nominate one or more member/director to the governing body of the IA.

The apprehension that such PPP mode of administering the activities under the code may lead to evasion or contravention of the provisions of the Code by the Intermediate Agencies has been well guarded in the Code. The code envisages adequate safeguards for exercising control over Intermediate Agencies for protecting the interest of subscribers. At the same time, it provides for appropriate opportunity to the Intermediate Agencies to put their case for consideration.

There is a provision for cancellation and suspension of licence by the Director General, if it is established, after due inquiry, that Intermediate Agency has breached the provisions of the Code related to functions for which it has been provided licence, or, without any such inquiry if Intermediate Agency fails to comply with the eligibility criteria for licence at any point of time. Under the powers to investigate the matters of any intermediate agency, the Commissioner can appoint an investigating officer to carry out the due procedure. The Code further provides for search and seizure of documents and other records by the authorised officer, appointed by the Commissioner, following the due process of inquiry. Maintenance and furnishing if such documents and records would be the responsibility of intermediate agency. Only in those cases where the Intermediate Agency is into the task of fund management, the search and seizure provisions would be exercised by the Director General.

The Code provides for State Boards to submit a report, based on the inquiry related to operations, persons involved and overall adherence by the Intermediate Agency with the provisions of the Code to the Central Board, which in turn may, inter alia decide to issue appropriate orders to the Intermediate Agency, cancel or suspend licences, supersede the Governing Body of Intermediate Agency and appoint an Administrator, as well as secure and manage the funds of the Intermediate Agency to ensure the protection to the interest of the subscriber.

PART – L : Alternate Coverage Mechanism

The objective of this chapter is to allow any establishment to operate its own PF / Gratuity Fund in lieu of such Fund framed under this Code for the benefit of employees and workers. The thumb rule for an establishment to qualify to run such an alternate mechanism is to ensure that the benefits to the employees and workers are at par or better than the benefits envisaged in the concerned scheme of this Code.

The permission to run the alternate coverage mechanism shall be granted by the concerned State Government after the consultation with the concerned State Board. However, the Central Government can also allow certain establishments to operate the alternate coverage mechanism.

Following qualifying conditions are required to be fulfilled by the establishment seeking to run its alternate coverage mechanism:

(i) The establishment must have complied as a covered establishment under this Code without any violation for a continuous period of five years immediately before the date of seeking the permission.

(ii) The establishment must employ one hundred or more employees.

If alternate coverage mechanism is sanctioned, the contribution payable to the State Social Security Fund by the employer of such an establishment shall be reduced by appropriate percentage.

The Code requires that when permitted to run its alternate coverage mechanism, the employer of the concerned establishment shall establish a Board of Trustees for the administration of the respective Scheme Fund and the said Board of Trustees shall perform the duties laid down upon it u/s-95.1 of the Code. The employer of such establishment also shall perform the duties laid down upon it u/s-95.2 of the Code.
The Code has made provisions for appropriate penalty against the Trustees and the Employer who fail to observe the duties cast upon them under the Code, including the provision to cancel the permission to operate the alternate coverage mechanism. In the event of cancellation, appropriate mechanism to transfer the accumulations to the credit of employees is envisaged under the Code.

**PART – M : Finance and Accounts**

The provisions related to finance and accounts for Social Security Organisations as well as Intermediate Agencies have been primarily developed on the standard lines following existing provisions of EPF and MP Act 1952 and ESI Act 1948 in matters related to audit, budget estimates, holding of properties etc, valuation of assets and liabilities, writing off losses and annual report. The CAG Report so prepared will be placed before the Parliament or the State Legislature as the case may be.

The Code however, envisages few innovative and new approaches to ensure a transparent and fair financial set up. These include:

(i) Accounts of Intermediate Agencies to be subject to CAG Audit on the same lines as that of Social Security Organizations.

(ii) Time bound preparation of Accounts within six months of the end of the financial year.

(iii) Provision for social audit of social security schemes by State Boards in every five years by agencies empaneled by the Central Board. Since the social security mechanism envisaged in the code operates at various levels including that of local bodies level, social audit may help in creating ownership amongst the subscribers specially in the lower socio-economic workers strata whose contribution will be subsidized from the Government fund which will help in identifying the corrective measures right at the ground level.

(iv) The management of unclaimed amount is the most prominent departure from the present practice. Unlike the present practice in EPFO where unclaimed amount is left as it is in the suspense account, the Code proposes for Commissioner and Board of Trustees of Alternately Covered establishments to specify, as on 30th April every year, a timeline, not less than 6 months, to invite claims and objections for the unclaimed amount for last financial year. On the completion of such timeline, the unclaimed amount at the disposal of commissioner and with the Board of Trustees of Alternately Covered establishments will be confiscated and credited in the National Stabilization Fund. While this provision, at first glance may appear to be unjust to the individual worker whose unclaimed amount was pushed to common pool, yet this provision is in fact, envisaged to correct the present situation where large unclaimed amount is lying in the suspense account to no avail. Also, with the proposed elaborate mechanism for identification and registration and update on registration including deregistration for the worker in every category, the possibility of any amount remaining unclaimed is also expected to go down drastically. This, in turn, would mean that only genuine cases where the worker has left the sphere of the code will be left for unclaimed amount. The augmentation of this surplus to the National Stabilization Fund will push the fund back into the system to strengthen the social security scheme thus ensuring larger benefit.

**Part- N: Officers and Staff of Social Security Organisations**

The part deals with the Human Resource of existing as well as the proposed Social Security Organizations, their mode of recruitment, their powers if the same has not been enumerated elsewhere in the code. These officers shall be deemed to be public servants and their action which is in good faith done or intended to be done under this Code or the rules or regulations made thereunder have been protected. Senior officers of the Social Security Organizations may delegate their powers to junior officers and employees. Police Officers have been given the responsibility to inform and assist the Officers in compliance of the code.

Regulator General of Social Security of India shall be the member secretary and executive head of the National Council. Similarly, there is a provision for Director General for Central Board who is the Executive Head of the Central Board.

Regulator General and Director General shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing officer shall be eligible for reappointment if he is otherwise qualified. He can be removed by a resolution in a special meeting passed by not less than two thirds of the total strength of the National Council / Central board respectively.

The method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees of Central Board and National Council shall be in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay unless any departure is given prior approval by the Central Government.
At the State level, there shall be a Commissioner of Social Security in each State, who shall be appointed by the State Government, shall work under the general superintendence and control of the State Board and shall be the Chief Executive and member secretary of the State Board. He shall normally hold office for maximum five years in a term and shall be eligible for reappointment if he is otherwise qualified. He can be removed by a resolution in a special meeting passed by not less than two thirds of the total strength of state board.

The method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees of the State Board shall be such as may be stipulated in By laws. State Board may on approval of the State Government make a departure from the said By Laws.

The salary and allowances for the officers and staff of the Central Board and the State Boards shall be paid from the administrative fund.

The Code provides for constitution of a Service named Indian Social Security Service (ISSS) which would be an Organized Group A service under Ministry of Labour and Employment, Government of India. The service has been envisaged to act as the main backbone of the Human resource of the SS Organizations running across the nation. Central recruitment and training of the social security organizations shall make sure that there is uniformity in the quality of decision making and implementation across the nation. Moreover, their all India transfer liability would make sure that every state board gets an officer with best mix of experiences. The officers of ISSS can be posted in any of the Social Security Organizations by the Central Government. ISSS will man certain percentage of posts in the respective Boards, and the rest will be manned by departmental officers of the concerned Board.

The service shall be manned by recruits from an annual competitive examination conducted by Union Public Service Commission or by encadrement of Group A officers of the Social Security Organizations or the predecessor organizations (meaning EPFO, ESIC, DGLW etc.).

For the purpose of enforcement of the Code, State Boards have been entrusted with the responsibility of appointment of inspectors.

The Code provides for Inspectors who shall be have the power to conduct enquiry, ascertaining applicability of the code and its compliance and check misuse of benefits under the code. They shall have the responsibility to inspect establishments which have been permitted to operate Alternate Coverage Mechanism too.

Social security laws are primarily beneficial for the marginalized sections of the society but they are not able to use these laws to their benefit due to lack of understanding and knowhow of the procedures. This is the reason there is a provision for facilitators by the name of Samajik Suraksha Mitras in this part.

The local bodies shall be authorized to appoint Samajik Suraksha Mitras under this Code in accordance with the rules and orders applicable to the officers and employees of the State Government drawing corresponding scales of pay. The SSMs shall get their salary from the Administrative Fund of the State Board through a grant to the local body. Samajik Suraksha Mitras have been given the role and responsibility to be the friend and guide of the employers and the workers as far as procedural formalities for complying with or taking benefits under the provisions of the code is concerned. Their role becomes more important in cases of assisting persons with special needs.

They have been given powers to make preliminary enquiry from employers in case a worker files a complaint with them. They have also been given responsibility to mediate and conciliate between employer and employee to settle the grievance of the worker and promoting compliance of the Code and make such reports to the Commissioner for the proper discharge of his duties.

PART – O: Assessment of Dues and Resolution of Disputes

This part refers to the powers of Commissioner (i.e. his officers) to initiate compliance actions against defaults by the employer or any other persons to comply with the provisions of the code. These are Commissioner’s powers and he has full authority to examine compliances by establishments etc. and determine if they have been proper/ adequate and if not, determine dues and damages (for non compliance) against the establishments. The assessing officer also has the powers to get the records of the employer get audited by specialists in certain cases.

The part also provides for review and appeal mechanism whenever the employer / establishment has a grievance against this determination that is handled by section 122. The first level appeal, in the cases where the employer is aggrieved by the compliance action by the Commissioner lies to a authority called appellate officer.

Elsewhere, the Code (Part Q) provides for any worker / beneficiary (or even trade unions) to file a complaint in the matters of non coverage, denial of services etc. to the Samajik Suraksha Mitra. The Samajik Suraksha Mitra is obliged to do certain actions on the complaint and the Commissioner is obliged to act upon the report of the Samajik Suraksha Mitra. Where the beneficiary is aggrieved by the action taken (or non action) by the Commissioner on his complaint, the first level appeal can be filed to the same appellate officer.
The first appellate officer also hears appeals against other orders of the authorities (under the code) such as orders related to registration (or denial thereof), orders relating to entitlement of gratuity, confiscation of unclaimed amounts etc. He also has been given role of determining certain questions and disputes, such as whether any person will be treated as employee or not, whether any entity is principal employer or not, etc. There is no condition for pre-deposit of (disputed) assessed amount before entertainment of appeal before the (first level) Appellate officers. However, admitted amount has to be paid before entertainment of appeal. This will enable easy resolution of employers’ disputes.

The Assessing officer / Appellate officer has powers to levy damages for wilful default or delay of payment of contributions and dues.

Second Appeal (against the orders of Appellate officer) is to the Tribunal formed under this code. For entertainment of (second) Appeal, the appellant has to deposit such amount as may be determined by the Tribunal. Tribunal also directly hears appeals on the decisions of Medical Boards, and matters relating to Commissioner’s actions against the Intermediate Agencies. Subsequent Appeal (on question of law) is to the concerned High Court.

**PART – P : Appellate Tribunal**

The Code envisages that the Social Security Appellate Tribunals (SSATs) shall consist of two members: one of whom shall be a Judicial Member and the other an Administrative Member. It further provides that the Tribunal in the National Capital Region of Delhi shall be treated as the Principal Appellate Tribunal and it shall have three members, one of whom shall be a Judicial Member and the other two shall be the Administrative Members.

The Code provides that the nature and categories of the officers and staff of the SSAT shall be determined by the concerned State Government and the officers and staff of the Tribunal shall discharge their functions under the general superintendence of the Presiding Officer. The Code further provides that administrative expenditure and salary of the officers and staff of SSAT shall be borne by the concerned State Board.

The Code provides that in case of difference of opinion among the members of the Tribunal, the decision of the Principal Social Security Appellate Tribunal shall be decided by majority, whereas in case of other Tribunals, the matter of difference shall be referred to the Principal Appellate Tribunal.

Finally, in keeping with the constitutional spirit, the concerned High Court shall have supervisory jurisdiction over the respective SSAT.

**PART – Q : Compliance**

The purpose of this Part is two-fold-

(i) to lay a foundation for the enforcement of the provisions of this code by determining some illustrative criteria for conduct of inspections; and

(ii) to make the social security admissible under this code and the schemes notified under this code right based i.e. to provide an easy and accessible grievance redress mechanism to the workers through the Samajik Suraksha Mitras, who would be stationed at the level of local bodies to ensure accessibility by all workers.

The Commissioner may notify a system for inspection of entities which may be designed taking into account, inter alia, such characteristics i.e. whether the entity is a household, small business or a large undertaking, geographical dispersions, type of employment , nature of work such as long and irregular working hours, irregular incomes, etc.

Every worker shall have the right for coverage under the Social Security System provided under this Code and scheme members and their families shall have access to clear, simple and timely information on the operation of the program. In case of denial of rights, the worker/ registered trade union/ Registered organization or association of workers may file a complaint with the Samajik Suraksha Mitra, under due acknowledgement. The Samajik Suraksha Mitra has been empowered to conduct enquiry on the basis of compliant or even on basis of suo-moto information available with him and submit report to the Commissioner.
The Commissioner has been entrusted with the responsibility of ordering the corrective action required for
protecting the rights of the workers including the payment of compensation from the reparation fund in case of
established deficiency in services. The complainant would be entitled to receive a copy of the Commissioners’
directions through the Samajik Suraksha Mitra within the stipulated time frame.

PART – R : Recovery of Dues
This part explains the manner in which any amount due to be paid to the Social Security Fund is in arrears such as
contribution, any due from an establishment permitted to operate alternate coverage mechanism, damages, value
of benefit paid to the employee who was not covered due to fault of employer, interests on any due, cess and dues
related to contribution augmentation fund, etc. is to be recovered from anybody and the powers of officers in such
matters.
The officer designated as Recovery Officers are entrusted with execution of recovery procedures and exercise of
powers associated with it. The Assessing officer shall issue certificate of recovery to the recovery officer in whose
jurisdiction the employer or the persons resides or operates his business.
Thereafter the Recovery Officer can use any or all of the modes such as attachment and sale of properties,
attribution of bank account, arrest of the employer or the person and his detention (in civil prison) or appointment
of a receiver for the management of properties to make recovery. However there is an order of priority of use of
these powers and modes and the reason for use of the same is to be recorded in writing.
In cases where an establishment or the employer or the person has property within the jurisdiction of more than
one Recovery Officers the recovery certificate may be sent by the Assessing officer to multiple recovery officers also.
A recovery certificate once issued cannot be disputed for correctness of amount or objected on any ground. Only the
Assessing officer has the power to withdraw the certificate or correct any clerical or arithmetical mistake in the
certificate or to grant further time for payment of the amount by sending intimation to the Recovery Officer.
If the amount of recovery is ordered to be reduced in appeal or other proceeding under this Code but the order of
appeal officer is the subject-matter of further proceeding under this Code the recovery of the amount over the
reduced amount shall be stayed by the Assessing Officer for the period for which the appeal or other proceeding
remains pending. However if the order issued as the result of an appeal has become final and conclusive the
recovery certificate shall be amended or withdrawn.
The commissioner has been authorized to recover the due amount also from the creditor of the person or the
employer from whom recovery is to be made originally. The Commissioner may direct such creditor to either pay
forthwith or withhold such amount until some time and the creditor shall be liable to the Commissioner as
equivalent to the original defaulter. In case the money is held by the creditor jointly with any other person,
the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal. The person
(i.e. the creditor) so paying shall be fully discharged from his liability to the employer (i.e. the said defaulter) or any
other person to the extent of the amount so paid. Such order may be revoked or the time of payment may be
extended by the Commissioner too. The commissioner may also apply to the court in whose custody there is money
belonging to the employer for payment to him of the due amount.
For the purpose of the Indian Income-tax Act, 1961 all funds under this Code shall be deemed to be a recognized
provident fund within the meaning of Chapter I of that Act except for the provisions that render ineffective any
provisions of the Scheme under which the Fund is established.
The Director General and some officers have been given powers to conduct enquiry to determine dues in case of
any body corporate, institution, company, corporation or any other Organisation wherein the Fund has been
invested by or on behalf the Boards or by any Trust permitted to operate Alternate Coverage Mechanism which
commits default in the payments which remains outstanding for more than 3 months from its due date.

PART – S : Control
This part essentially establishes the hierarchy of the decision making with reference to the working of the Social
Security Organizations. More importantly, it brings out the role of appropriate governments. This is important in a
federal democracy where it is the Governments that are answerable to the legislature. This is also significant as the
budgetary provisions for subsidizing the contributions of socio-economic category IV would be ensured by
appropriate governments. National Council, by the virtue of its position in the Code is the apex authority amongst
the Social Security Organizations. It can investigate any matter related to the working of the Central Board or any of
the State Boards, and after conducting a fair inquiry, may pass an order for either Central or State Board to cease. It
may submit its report to the Central Government. Appropriate governments have the authority to call for
information as well as for issuing directions to ensure the suitable and effective enforcement of the Code.
The order of precedence given in part S, Section 146.2 gives Central Government a higher hierarchical advantage
over State Government. However, it may not be understood as an attempt to undermine the authority of States in a
federal structure. The proposed clause is only to ensure that the basic social security set up is available across the
board.

PART - T: Transitionary Provisions
Implementation of the Code would require transition from the 16 existing schemes under various Acts to the
corresponding new schemes under the Code. Hence, the existing Scheme Funds shall cease to operate and the new
Scheme Funds under this Code shall come into effect from the date of Notification of this Code.
The Code provides for dividing the assets of the existing scheme Funds so as to determine the share of each State
Board. The liabilities of the existing scheme Funds shall also stand transferred to the scheme Funds under this Code
and the successor Boards shall be liable to bear them.
The rights and liabilities of the contracts entered into by the existing organisations shall become the rights and
liabilities of the concerned State Board or, in case the subject matter of the contract exceeds the purposes of one
state, of the Central Board.
The rights of the beneficiaries under the existing schemes have been protected under this Code by providing that the
beneficiaries shall be entitled to draw the benefits which are on the whole are not less favourable than the benefits
they were entitled to draw under the ceased schemes.
The Code also provides for the transfer of current provident fund accumulations standing to the credit of the
employee, along with undistributed interest, if any, to the credit of the provident fund account to be created in
respect of that employee under the Fund of this Code.
Regarding the outstanding litigation, the Code provides that the applications pending before the EPF Appellate
Tribunal (under the EPF&MP Act 1952) or Employees’ Insurance Court (under the ESI Act 1948) or High Court under
the Employee Compensation Act 1923 or appropriate government under the Payment of Gratuity Act 1972, shall
stand transferred to the appropriate Social Security Appellate Tribunal created under this Code.
Reorganization of the manpower of the existing (predecessor) organisations is also provided under the Code. It
empowers the Central Government, in consultation with the National Council, to prepare a scheme for the
reorganisation and division of posts of various cadres in EPFO, ESIC and DGLW and creation of new cadres in the
Central and State Boards. On the other hand, the successor Social Security Organisation in respect of the employ-
ees of the existing organisations shall be determined by the Central Board in accordance with an Allocation Scheme,
which shall be prepared in accordance with the Reorganisation scheme referred to above.
The Code protects the conditions of service of the employees of the existing organisations. It provides that the
conditions of service applicable immediately before the appointed day in the case of any person deemed to have
been allocated to the successor Board shall continue to be governed by conditions of service applicable immediately
before the appointed day and as may be amended from time to time thereafter.
The Code also preserves the exemptions under the EPF&MP Act 1952, or under the ESI Act 1948, being currently
enjoyed by the establishments, by providing that such exemptions shall be deemed to be the permission to operate
the Alternate Coverage Mechanism u/s-94 of this Code.

PART - U : Offences and Penalties
The objective of this Part is to provide the commission/omission of such acts which would be considered offences
under the code and to provide for the penalties in respect of these offences. The purpose of setting out penalties in
any law is twofold- (i) to punish and (ii) more importantly as a deterrent against committing an offence. This part
attempts to achieve both these objectives.
The Seventh schedule lists out the offences and the corresponding penalties in respect of these offences.
Provision for compounding an offence (other than an offence which is punishable with imprisonment under this
Code) by the Commissioner on an application of the accused person either before or after the institution of the
prosecution on such terms and conditions including payment of such sums as may be prescribed.
Provision for Community service order to undertake unpaid work as directed by the court, in cases where the
punishment for the offence committed is not more than two years of imprisonment and the court considers it a fit
case for awarding the Community service order.
Rationale for Community service order:- Any person committing an offence with regard to social security legislation, does not commit an offence against an individual, but against the society as a whole thereby putting the entire social security system in jeopardy and as such should be reformed against committing such acts in future.

The Central Government has been empowered to index the monetary penalties specified in this part and the seventh schedule by linking the fine increase or reduction to the change in Consumer Price Index. This provision is felt necessary as it would avoid the possibility of the monetary penalties remaining static for long periods of time.

PART – V : Subordinate Legislations
The Code provides powers to many authorities to make subordinate Legislations. The Central Government and State Governments can make ‘Rules’; National Council can make ‘Regulations’ and Central Board can make ‘by-laws’.
Three different terminologies (viz., Rules, Regulations and by-laws) are used for distinguishing between them. The Code at various places uses the word ‘prescribed’ when it refers to rules made by Central Government; the word ‘stipulated’ when it refers to the regulations made by National Council and ‘specified in by-laws’ when it refers to by-laws made by Central Board. In addition if on any subject, Rules are to be made by State Government, the same is specifically provided in the respective provisions.

This part consolidates the matters on which sub-ordinate legislations can be framed.

Further, the Code refers to Schedules I to VI, that are appended to the Code. This part also provides for Powers of Central and State Governments to amend these Schedules. It may be noted that Schedule – VII prescribes for penalties, which can-not be amended by Executive’s notification as this is Legislature’s prerogative.

PART - W : Repeal and Savings
The Code repeals 15 existing laws relating to social security. However, this part also provides for scope to implement the Code gradually, and these old laws get repealed only in those jurisdictions where the Act has come in force.
Where the Act has not come in force, the existing laws continue as such. Further, in case of entities on whom the Code does not apply by virtue of its inclusion in Schedule – I, again the old Acts continue to apply on them as earlier.
Similarly, the Old EPFO / ESIC Schemes continue to apply until the new scheme repeals the old scheme.

The Part also provides for powers to remove difficulties to enable the Central Government to smoothen any initial hic-ups.
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 relating to social security should be grouped into a single Social Security Code. Provision of adequate Social Security for the entire workforce regardless of the nature of their employment has also been accepted as a fundamental element towards achievement of Goal 8 (Decent Work and Economic Growth) of the 2030 Sustainable Development Goals Agenda adopted at the UN Summit held in September 2015. In pursuance with the recommendation of the National Commission on Labour and fulfilling our Commitment towards the attainment of Sustainable Development Goals, the Government of India decided to formulate a comprehensive code relating to Social Security.

1. The objective of this Code is to provide a legislative back-up and an Administrative Structure for a right based, Universal basic Social Security to the entire workforce in the Country. The Code, inter-alia aims to achieve the following:
   a) Provide universal social security including Pension, Sickness Benefit, Maternity Benefit, Disablement Benefit, Invalidity Benefit, Dependent’s benefit, Medical Benefit, Group Insurance Benefit, Provident Fund, Unemployment Benefit and International worker’s pension benefit
   b) Cover all kinds of employment including part-time workers, casual workers, fixed term workers, piece rate / commission rated workers, home-based workers, domestic workers, own account workers etc.
   c) Merge, simplify, rationalize and consolidate the fragmented labour legislations and Schemes on social security to make them less complex, easier to implement, comprehensive and effectively enforceable while protecting and maintaining the existing level of protection to those already covered through appropriate transitory provisions.
   d) Create causal linkages such as between Occupational Safety and Health and employment injury; employment policy and unemployment benefit at policy level to create synergies and to encourage decent working conditions.
   e) Establish a National Social Security Council for regulation of Social Security Schemes administered by various authorities in order to bring fragmented Social Security Schemes under a single umbrella.
   f) Create a single-window decentralized structure for administration of social security by establishing Central Board and State Boards of Social Security
   g) Empower local bodies and Panchayats for enforcement, facilitation and delivery of service.
   h) Establish a unique Aadhaar based registration system for all the workers of different categories and provide a portable Social Security Account.
   i) Extending the outreach of Social Security to the most deprived sections of society through government contribution, while to others, through a system of employers’ and workers’ contributions.
   j) To establish a comprehensive complaint redressal system to ensure effective rights based Social Security.

3. In this attempt the Code on Social security Code in the form of a Bill has been prepared after amalgamating, simplifying and rationalizing the relevant provisions of the following Fifteen central labour enactments :-
   (i) Unorganised Workers’ Social Security Act, 2008
   (ii) The Mica The Employees’ Compensation Act, 1923
   (iii) The Employees’ State Insurance Act, 1948
   (iv) The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952
   (v) The Maternity Benefit Act, 1961
   (vi) The Payment of Gratuity Act, 1972
   (xi) The Beedi Workers Welfare Cess Act, 1976
   (xii) The Beedi Workers Welfare Fund Act, 1976
   (xv) The Building and Other Construction Workers Cess Act, 1996
LABOUR CODE ON SOCIAL SECURITY 2018

LABOUR CODE ON SOCIAL SECURITY 2017

A Bill

To simplify, rationalize and consolidate the laws relating to social security of workforce so as to create a system for Universal Social Security in India.

Be it enacted by Parliament in the sixty eighth year of the republic of India as follows.

PART A

Application and Definitions

<table>
<thead>
<tr>
<th>Clause</th>
<th>Short title, extent, application and commencement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>This Code may be called the Labour Code on Social Security 2017.</td>
</tr>
<tr>
<td>1.1.</td>
<td>It shall extend to the whole of India</td>
</tr>
<tr>
<td>1.3.</td>
<td>It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint: Provided that different dates may be appointed for different classes of entities, different provisions of this Code and for different States or different parts thereof.</td>
</tr>
<tr>
<td>1.4.</td>
<td>The Code shall apply to all entities: Provided that the Code or such provisions of the Code shall not apply to such class of entities as may be specified in the Part – I of First Schedule, in respect of such workers of the entity and subject to restrictions and conditions specified therein.</td>
</tr>
<tr>
<td>1.5.</td>
<td>The Code shall apply to – (a) workers that are employed by any entity within the territory of India; (b) worker who may also be the owner or the proprietor of an entity or an own account enterprise within the territory of India.; (c) international workers; and (d) Indian citizen, working outside the territory of India, who opts to become a covered worker of social security schemes under sub-section (5) of section 20 of this Code: Provided that the Code or such provisions of the Code shall not apply to such class of workers as may be specified in the Part-II of the First Schedule, subject to restrictions and conditions mentioned therein.</td>
</tr>
<tr>
<td>1.6.</td>
<td>The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956 (31 of 1956).</td>
</tr>
<tr>
<td>1.7.</td>
<td>The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this code: Provided that where under any such award, agreement, contract of service or otherwise, a worker is entitled to benefits in respect of any matter which are more favourable to him/her than those to which he would be entitled under this Code, the worker 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.</td>
</tr>
<tr>
<td>1.8.</td>
<td>Nothing contained in this code shall be construed to preclude a worker 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 is entitled under this Code. Explanation 1 – The expression “more favourable benefits” implies that the employer shall, at the least provide the benefits, rights and privileges entitled to the worker under this Code (and Schemes applicable to him/her) and something extra, beyond what is entitled to him/her under this Code. Explanation 2- Where a worker enters into an agreement with his employer for granting him more favourable rights and privileges, the rights and privileges, shall be enforceable under the provisions of this code.</td>
</tr>
<tr>
<td>2.</td>
<td>Definitions.-In this code, unless the context otherwise requires or elsewhere in this code provide-</td>
</tr>
<tr>
<td>2.1.</td>
<td>“agent” means any person, whether appointed as such or not, who acts as the representative of the owner or occupier in respect of the management of an entity or of any part thereof, but does not include an individual manager subordinate to an employer.</td>
</tr>
</tbody>
</table>
2.2. “Alternately Covered Employee” means an employee to whom the Provident Fund Scheme would, but for the permission to operate Alternate Coverage Mechanism granted under section 94 have applied;

2.3. “Alternately covered establishment” means an establishment to which provisions of the Provident Fund Scheme would, but for permission to operate Alternate Coverage Mechanism granted under section 94 have applied;

2.4. “apprentice” means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship, expressed or implied;

2.5. “Appellate Officer” means such officer as may be authorised by the Commissioner under sub-section (11) of section 116;”

2.6. “Appropriate Government” means:

| The Central Government | (a) In the matters relating to the National Social Security Councilor the Central Social Security Board; and  
(b) In matters relating to Contribution Augmentation Funds established by the Central Government  
(c) In matters relating to the Executive Committee  
(d) In respect of Schemes framed by Central Government under section 24.1 of the Code  
(e) In matters relating to permission to operate the Alternate Coverage Mechanism under sub-section (2) of section 94  
(f) In matters relating to Principal Appellate Tribunal and Appellate tribunals that have jurisdiction over more than one states. |
| --- | --- |
| The State Government | (a) In the matters relating to the State Board of Social Security;  
(b) In matters relating to Contribution Augmentation Funds established by the State Government  
(c) In the matters relating to the Standing Committee of the concerned State Board.  
(d) In respect of Schemes framed by State Government under section 24.2 of the Code.  
(e) In matters relating to grant of permission to operate alternate coverage mechanism u/s 94(1)  
(f) In relation to appellate Tribunals that have jurisdictions over one state. |

2.7. “assesse” means any person who is liable to pay contribution, Cess or any other amount under this Code and includes:

| (a) An employer  
(b) A non-employee from whom contribution is due under section 20(3)  
(c) Any landlord in relation to a building or other construction work.  
(d) Any entity liable to pay Cess under section 33 |

2.8. “Assessing Officer” means such officers of State Board to whom powers are delegated by the Commissioner under sub-section (10) of section 116

2.9. “Benefits” means the benefits available to the workers under the Code, and includes gratuity, employee compensation, maternity and sickness benefits as well as benefits under any of the Schemes framed under section 24.

2.10. “Benefit disbursement Agency” means an agency licensed under section 88(1) for the purpose of making benefit payments to the beneficiaries of Schemes in the manner as may be stipulated.

2.11. “benefit wage” means – such amount of wage that shall be used for the purpose of calculating benefits under any Scheme framed under Section 24, as calculated below -

<table>
<thead>
<tr>
<th>Condition</th>
<th>Method of calculation of Benefit Wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>If contribution to the Social Security Fund of the member was paid or recovered during last twelve months immediately preceding the date when the claim arose</td>
<td>the average monthly wage or income (or both where applicable) on which the contribution was received, during the said period of twelve months</td>
</tr>
<tr>
<td>If during the said span of twelve months there are non-contributory periods including cases where the member has drawn wage for a part of the month-</td>
<td>total amount of wage or income (or both where applicable) during the said twelve months span on which the contribution was received, divided by twelve to work out the benefit wage</td>
</tr>
</tbody>
</table>

Provided that the Benefit wage shall not exceed such amount as may be prescribed.
**Explanation** – Different maximum amounts can be prescribed for different benefits.

2.12. “Boards” means the Central Board or the State Boards.

2.13. “building or other construction work” means the construction, alteration, repairs, maintenance or demolition of or in relation to:
   - (a) buildings,
   - (b) streets, roads,
   - (c) railways, tramways,
   - (d) airfields,
   - (e) irrigation, drainage,
   - (f) sewer or septic tank,
   - (g) embankment and navigation works,
   - (h) flood control works (including storm water drainage works),
   - (i) generation, transmission and distribution of power,
   - (j) waterworks (including channels for distribution of water),
   - (k) oil and gas installations,
   - (l) electric lines,
   - (m) wireless, radio, television, telephone, telegraph and overseas communications,
   - (n) dams, canals, reservoirs, watercourses,
   - (o) tunnels, bridges, viaducts, aqueducts, pipelines,
   - (p) towers, cooling towers, transmission towers and
   - (q) such other work as may be specified in this behalf by the appropriate Government, by notification

2.14. “building and other construction worker” means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person—
   - (i) who is employed mainly in a managerial or administrative capacity; or
   - (ii) who, being employed in a supervisory capacity, draws wages exceeding the such amount as may be prescribed or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

2.15. “business includes—
   - (a) any factory
   - (b) any mine
   - (c) any plantation
   - (d) any shop
   - (e) a provision of service, but excluding services provided by an employee
   - (f) any contractor or sub-contractor
   - (g) any charitable activity or advocacy /
   - (h) any activity by a Non-Governmental Organisation
   - (i) any religious service or activity
   - (j) any activity by a political party or Trade Union
   - (k) any educational institution
   - (l) any agriculture, horticulture, animal husbandry, fishery,
   - (m) operation of railways, waterway, airline or any other transport service
   - (n) any trade, commerce or manufacture;
   - (o) any adventure or concern in the nature of trade, commerce or manufacture;
   - (p) any transaction in connection with, or incidental or ancilliary to, any trade, commerce or manufacture, adventure or concern;

whether or not such service, trade, commerce or manufacture, adventure or concern is carried out with a motive to make gain or profit and whether or not any gain or profit accrues from such service trade, commerce or manufacture, adventure or concern;

Explanation 1 - in exercise and performance of powers and duties of a local authority or of any department acting on behalf of the Central or State government shall, for the purpose of this Code, unless contrary intention appears, be deemed to be a business of such local authority or department.

Explanation 2 - Provision of service includes service provided by professionals such as Chartered Accountants, Doctors, Lawyers, Architects, Consultants, Priests etc.
2.16. “by-laws” means the by-laws framed by the Central Board under Section 167.

2.17. “casual worker” means a freelance worker who is employed or engaged by an entity for any work on need basis, and such work is essentially sporadic in nature and comes without regularity, and does not include-
   (a) Seasonal worker, or
   (b) Worker engaged or employed for a work that is the main work carried out by the establishment, or
   (c) Any worker employed or engaged on ‘retainer-ship fee’ basis.

Explanation - A causal worker is not a part of permanent workforce of an entity but supplies services on irregular or flexible basis.

2.18. “Central Board” means Central Social Security Board constituted under sub-section (4) of Section 3

2.19. “Charitable organization” means an organization which has an objective of charitable purpose. Charitable purpose includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility

2.20. “commission or piece rate worker” means a worker who gets remuneration on the basis of the units or quantum of production or service

2.21. “Commissioner” means the Commissioner of the respective State Board appointed under sub-section (1) of section 111

2.22. “commissioning mother” means a biological mother who uses her egg to create an embryo implanted in any other woman;

2.23. “Committees” means the Executive Committee constituted under sub-section (1) of Section 5 or the Standing Committees constituted under sub-section (3) of Section 5

2.24. “community service order” means an order passed by the competent court under section 162.

2.25. “compensation” means the compensation, to which a worker is entitled and an employer is liable, under the provisions of the Code.

2.26. “compensation officer” means such officers who have been delegated powers to administer employee compensation under sub-section (9) of section 116

2.27. “completed year of service” means continuous service for one year;

2.28. “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;

2.29. “continuous service” means continuous service as defined in section 50;

2.30. “Contract worker” means a worker employed as contract worker 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 principal employer;

Explanation: It shall not include a person directly employed by the employer on a contract

2.31. “contractor” in relation to an entity means a person who undertakes to produce a given result for the entity, other than a mere supply of goods or articles of manufacture to such entity, through contract worker or who supplies contract worker for any work of the entity and includes a sub-contractor.

2.32. “contribution” means the sum or money payable under this Code to the State Board –
   (a) by the principal employer or contractor in respect of an employee; or
   (b) by the worker himself in case of a non-employee

and includes the employers’ contribution and the employees’ contribution;

2.33. “contribution period” means
   (a) in relation to an employee, 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;
   (b) in relation to a non-employee, a calendar month.

2.34. “cost of construction” means cost incurred by an entity or person in connection with the building and other construction work and shall include all expenditure connected with the construction but shall not include-
   (a) Profit
   (b) Income Tax Liability
   (c) Cost of finance
   (d) Expenses on staff welfare incurred beyond minimum statutory provisions
   (e) Donation as exempted under income tax act 1961 (43 of 1961)
   (f) Advertising and business promotion expenses except salaries and wages of employees/labourers
   (g) Audit fees
   (h) Tender expenses
   (i) Puja expenses
   (j) Legal charges and fees
(k) Loss on sale of assets and bad debts written off
(l) Electric and electronic appliances not covered under the category of furniture and fixtures.
(m) Cost of land
(n) Any compensation paid or payable to a worker or his kin under section 61.
(o) The cost incurred on purchase and transportation of plant and machinery meant to be used in a factory.

Explanation: The cost of plant and machinery used in any construction shall be included in the cost of construction in the following manner, namely:

(i) If plant and machinery are hired for construction work, hiring charges during the project period.
(ii) If plant and machinery are purchased or owned, the depreciation incurred during the project period.

2.35. “covered worker” means a worker to whom this Code applies under sub-section (4) of section 1

2.36. “deemed wage” 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 below-

<table>
<thead>
<tr>
<th>Case</th>
<th>Formula</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>The last twelve months’ wage, which have fallen due for payment, from the date of personal injury (or confinement or termination of employment), of the employee, divided by twelve.</td>
</tr>
<tr>
<td>(b)</td>
<td>The last twelve months’ wage, which have fallen due for payment, from the date of personal injury (or confinement or termination of employment), in respect of an employee who was employed on the same work by the same employer, or, if there was no such employee, so employed on similar work in the same locality, divided by twelve.</td>
</tr>
<tr>
<td>(c)</td>
<td>Thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident (or confinement or termination of employment) from the employer who is liable to pay compensation (or maternity benefit or gratuity), divided by the number of days comprising such period.</td>
</tr>
<tr>
<td>(d)</td>
<td>At such rate as may be stipulated for various classes of employment.</td>
</tr>
</tbody>
</table>

Provided further that the deemed wage shall not be less than the minimum wage notified under the Minimum Wages Act by the Central Government for that employment and shall not exceed such amount as may be prescribed.

Explanation 1 - A period of service shall, for the purposes of this section be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days and any paid leave availed by the employee shall not construe as absence.

Explanation 2 - For the purpose of computing the compensation payable to an employee who is employed after a permanent partial 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.

Explanation 3 - In case of personal injury due to occupational disease after cessation of employment, the deemed wage shall be calculated in the manner specified above, considering the date of cessation of employment as the date of liability.

2.37. “dependent” means any of the following relatives of a deceased person, namely:

(i) a widow/widower, a biological or adopted son (or transgender) who has not attained the age of twenty-five years, an unmarried biological or adopted daughter;
2.38. “immediate family”, in respect of a person, means all or any of the following relatives of such person, namely:

(i) a spouse;
(ii) a minor biological or adopted child dependent upon the person;
(iii) a child who is wholly dependent on the earnings of the person and who is—
   (a) receiving education, till he or she attains the age of twenty-five years,
   (b) an unmarried daughter;
(iv) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the person, so long as the infirmity continues;
(v) dependent parents, whose income from all sources does not exceed such amount as may be prescribed;
(vi) in case the person is unmarried and his parents are dependent upon him or not alive, a minor brother or sister wholly dependent upon the earnings of the person;

2.39. “Director General” means the Director General of Central Board appointed under sub-section (1) of Section 110.

2.40. “domestic worker” means, a person who is employed for remuneration whether in cash or kind, in any household through any agency or directly, either on a temporary or contract basis or permanent, part time or full time to do the household or allied work and includes a Replacement worker who is working as a replacement for the main workers for a short and specific period of time;

Explanation 1- household and allied work includes but is not limited to activities such as cooking or a part of it, washing clothes or utensils, cleaning or dusting of the house, driving, gardening, caring/nursing of the children/sick/old/mentally challenged or disabled persons.

2.41. “dues” means any amount payable or assessed to be payable under the Code or the Schemes framed thereunder and includes—

(a) Any Contributions payable by employer or worker,
(b) Any Cess payable under the Code,
(c) Any Interest or damages payable under the Code,
(d) Any Administrative Charges payable under the Code,
(e) Any other fees, charges or any other amount payable under the Code, Schemes, Rules, Regulation or By-laws
(f) Any charges imposed by the Commissioner or Board
(g) Any amount required to be deducted at source and paid in accordance with the provisions of this Code, or Rules or Regulations made thereunder.

2.42. “employee” means any person who is employed for wages by the entity in accordance with the terms of contract of employment, whether written or oral and whether expressed or implied, in or in connection with the work of the entity and includes a person—

(i) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the entity, whether such work is done by the employee in the premises of entity or elsewhere;
(ii) who is employed by or through any other entity, contractor or contractor on the premises of the entity or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the entity or which is preliminary to the work carried on in or incidental to the purpose of the entity;
(iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service;
(iv) employed for wages on any work connected with the administration of the entity or any part,
department or branch thereof or with the purchase of raw materials for, or the distribution or sale of the products or services of the entity;

and who gets wages directly or indirectly from the employer of the entity, but does not include a person-
(a) Who is subject to the Army Act, 1950 (46 of 1950) or the Air Force Act, 1950, or the Navy Act 1957 or;
(b) Who is employed in the police service or an officer or other employer of a prison;
(c) Who is an apprentice engaged under the Apprentices Act, 1961;

Explanation – for removal of doubts, the term employee would include all kinds of contracts of employments and includes -
(a) part-time worker
(b) any worker employed or engaged on ‘retainer-ship fee’ basis.
(c) a fixed term worker
(d) commission or piece rate worker
(e) apprentice not covered under Apprentice Act, 1961
(f) informal worker
(g) outworker
(h) seasonal worker
(i) wage worker
(j) domestic worker
(k) home-based worker
(l) probationer or trainee
(m) a railway servant as defined in clause (34) of section 2 of the Railways Act 1989 (24 of 1989), excluding those permanently employed in any administrative district or sub-divisional office of a railway;
(n) a master, seamen, a captain or other members of the crew of a ship or an aircraft registered in India.
(o) a person recruited for work abroad by a company.
(p) A person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle registered in India, and who is employed outside India.

2.43. “Employer” means-

| (a) in relation to an establishment which is a factory or a mine, |
| the owner or occupier of the factory or the mine, as the case may be, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; |
| (b) in relation to an establishment which is under the control of any department of the Central Government or the State Government, |
| the authority specified by the head of such department in this behalf or where no authority is so specified, the head of the department and in relation to an establishment under the control of a local authority, the Chief Executive of that authority; |
| (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 and Managing Director, |
| (d) In case of household or an enterprise undertaken by an household |
| The head of household. |

Explanation 1– “employer” includes,
(i) owner , occupier or any body of persons (whether incorporated or not)
(ii) any person appointed or acting as the representative of such owner , occupier or any body of
persons for the purpose of carrying on their trade or business, but does not include an individual manager subordinate to an employer,

(iii) the legal representative of a deceased employer, and,

(iv) when the services of an employee are temporarily lent or let on hire to another person by the person with whom the employee has entered into a contract of service or apprenticeship, means such other person while the employee is working for him;

(v) any land-owner who allows a tenant to use his land on sharecropping basis.

Explanation 2 - The term “employer” in its grammatical connotations used in this code means the employer of any entity that employs an employee or employees, formally or informally, either directly or through contractors.

2.44. “Employment injury” means a personal injury to a worker caused by accident or an occupational disease arising out of and in the course of his employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;

Explanation: An accident occurring to a worker 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.

2.45. “Enterprise” means any project, undertaking or business carried out by any-

(a) Organization; or
(b) Institution; or
(c) Corporation; or
(d) local body; or
(e) company; or
(f) co-operative society or Society registered under Societies Registration Act 1860; or
(g) trust; or
(h) Political Party; or
(i) Trade Union; or
(j) Religious institution; or
(k) self- help group; or
(l) partnership; or
(m) person; or
(n) Hindu Undivided family; or
(o) association of person or body of individuals whether incorporated or not; or
(p) any Ministry, Department, Boards, and Authorities of Central, State or Union Territory Government; or
(q) any other person or legal entity;

and includes any organization under the control of Central or State Government, but does not include households.

2.46. “Entity” means —

(a) An enterprise; or
(b) A household;

2.47. “Establishment registration officer” means such officers who have been delegated powers to register or deregister establishment under sub-section (5) of section 116.

2.48. “Establishment” means an enterprise that employs one or more worker.

Explanation: where an establishment consists of different departments or has branches, whether situated in the same place or in different places within the State, all such departments or branches shall be treated as parts of the same establishment.

2.49. “Executive Committee” means the committee constituted in accordance with the provisions of sub-section (1) of section 5.

2.50. “Factory” means any premises including the precincts thereof, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include-

(a) a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or
(b) a mobile unit belonging to the armed forces of the Union, or
(c) a railway running shed or
(d) a hotel, restaurant or eating place.

2.51. “Family” means husband, wife, their children whether married or unmarried, brothers and/or sisters, parents, grandparents of either of the spouse and widow / widower of his/ her predeceased child, if living
with the worker.
Explanation.--Any child lawfully adopted by him/her shall be deemed to be included in his family, and where a child of a worker has been adopted by another person and such adoption is lawful, such child shall be deemed to be excluded from the family of the worker.

2.52. “fixed term” means contractual employment or arrangements between one employer and one employee characterised by a limited duration on or a pre-specified event to end the contract between them.

Explanation- Together with project-based, casual employment, and temporary work through private employment agencies, fixed-term contracts represent special forms of temporary dependent employment and they are distinct from regular employment that is open-ended, “permanent”, or “of indefinite” duration.

2.53. “fund” means the State Social Security Fund or any of the funds established under this Code;

2.54. “fund management agency” means an intermediate agency licensed under section 88(1)) to perform functions of professional management, investment and custody of accumulations in a social security fund or any scheme fund.

2.55. “Head of household” means the person who has an ultimate control over the affairs of such household, and includes any other person to whom the affairs of such household is entrusted.

2.56. “home-based worker” means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

2.57. “honorary service” in respect of running the house hold means the work done willfully by a person without wage or any remuneration payable in lieu of such service.

2.58. “household” means a group of occupants or a family regarded as a unit including individuals who comprise a family unit and who live together under the same roof, dwell in the same place, and are under control of one domestic head.

Explanation : Any project, undertaking or business, whether for sale of goods or providing of services undertaken by a household shall be treated distinct enterprise and separate to the household.

2.59. “income threshold” means such amount as notified by Central Government from time to time.

2.60. “informal contract” means an oral contract between an employer and a worker in which the wage is determined for a work to be done without determining employment of the worker;

2.61. “Inspector” means the inspector appointed under section 113.

2.62. “intermediate agency” means any Fund manager agency, Point of presence Agency, Service delivery Agency, Benefit disbursement Agency or Recordkeeping Agency licensed under Section 88(1)

2.63. “International Worker” means an employee other than an Indian Citizen working for an entity situated in India, and excludes —

The citizen or permanent resident of such country or countries as may be notified by the Central Government in the Official Gazette from time to time:

Explanation - The employee who is citizen or permanent resident of such excluded countries shall have the status of an Indian employee under this Code;

2.64. “landlord” in relation to a building or other construction work means person or entity commissioning any building or other construction work.

Explanation - A landlord may or may not be the actual owner of the land on which the building or other construction work is being executed.

2.65. “local body” means the institutions of the local self governance (by whatever name called) constituted under article 243B, or article 243Q of the Constitution.

2.66. “major port” has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908).

2.67. “manager” means the person who is responsible for the overall management, control, supervision or direction of the establishment, subject to overall instructions of the owner of the establishment:

Provided that where no manager is appointed, the owner or his representative for the purpose of carrying the owner’s trade or business shall be deemed to be manager.

2.68. “manufacturing process” means any process for-

(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

(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or

2.69. “manufacturer” means any person who carries on business as a manufacturer.

2.70. “manufacturer’s business” means the business carried on by a manufacturer.

2.71. “manufacturer’s undertaking” means the undertaking of a manufacturer.

2.72. “manufacturer’s work” means the work of a manufacturer.

2.73. “material” includes raw material, fuel, or any other raw substance used for manufacturing or processing any goods.

2.74. “material element” means an element, or a feature, or a characteristic, or a combination of such elements, features, or characteristics, of any article that is essential for the realization of its purpose.

2.75. “material substitute” means a material that has the same or equivalent function in the same or similar manner as another material.

2.76. “materially transformed” means the transformation of raw material into a finished product.

2.77. “materially transformed product” means a product that is substantially different from its raw material.

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(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or
(vi) preserving or storing any article in cold storage; or
(vii) development of software
(viii) any process resulting in generation of a new commercial commodity

2.69. “maternity benefit” means the payment referred to in sub-section (1) of Section 57;

2.70. “medical termination of pregnancy” means the termination of pregnancy permissible under the provisions of the Medical Termination of Pregnancy Act, 1971.

2.71. “mine” means a mine as defined in clause (j) of Section 2 of the Mines Act, 1952 (35 of 1952);

2.72. “minor” means a person who has not attained the age of eighteen years;

2.73. “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 (45 of 1860);

2.74. “monthly income” in the context of a non-employee shall be determined by dividing the Gross Income or earning of the year by twelve.
Explanation - Assessment of Gross income or earning of a person shall be done in the same manner as specified in Income Tax Act 1961, as amended from time to time.

2.75. “National Council” means National Social Security Council of India constituted under sub-section (1) of Section 3.

2.76. “National Minimum Wage” means such amount of monthly wage as may be notified by the Central Government.

2.77. “non-employee” means –
(i) An own account worker; or
(ii) An owner-cum-worker

2.78. “Non-Governmental Organisation” means organizations engaged in public service, based on ethical, cultural, social, economic, political, religious, spiritual, philanthropic, environmental or scientific & technological considerations. These include formal as well as informal groups, such as: community-based organizations (CBOs); non-governmental development organizations (NGDOs); charitable organizations; support organizations; networks or federations of such organizations; as well as professional membership associations.

2.79. “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 grammatical variation and cognate expressions shall be construed accordingly;

2.80. “Occupational disease” means a disease included in the fifth schedule which is specified therein as a disease peculiar to the employment of the worker.

2.81. “occupier” of an establishment means the person who has ultimate control over the affairs of the establishment:
provided that:
(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;
(ii) in the case of a company, any one of the directors shall be deemed to be the occupier;
(iii) in the case of an establishment 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, as the case may be, shall be deemed to be the occupier;
(iv) in the case of trust/NGOs, the members of the Governing body of the trust or NGOs, by whatever name called

2.82. “outworker” means a worker who hold explicit or implicit contract of employment under which agrees to work for a particular enterprise, or to supply a certain quantity of goods or services to a particular enterprise, by prior arrangement or contract with that enterprise, but, whose place of work is not within any of the establishments which make up that enterprise.

2.83. “own account enterprise” means any self-owned business or enterprise, in which an individual works for himself (with or without assistance of his family members) for profit or family gain, in cash or in kind, instead of working for an employer, and without employing any other worker.

2.84. “Own account worker” means any person who is not employed by an employer for wages, but engages himself or herself in any occupation in an own account enterprise for profit or family gain, in cash or in kind, or holds cultivable land which he tills using his own or family members’ labour, including a person who takes land on share cropping or any other form of rent, and tills the same using his own or family members’ labour, and includes a casual worker.

2.85. “owner” when used in relation to an enterprise, means –
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<td>(i)</td>
<td>any person who is the immediate proprietor or lessee or occupier of the enterprise or any part thereof; and</td>
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<td>(ii)</td>
<td>in the case of an enterprise the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver but does not include a person who does not have ultimate control over the activities of the enterprise and—</td>
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<td>(a) merely receives a royalty, rent or fine from the enterprise, subject to any lease, grant or license for the working thereof; or</td>
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<td>(b) is merely the owner of the premises and not interested in the activities of the enterprise:</td>
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<td>provided that in case of any contract or lease for running a business or enterprise, the contractor or the leasee shall also deemed to be the owner, but not so as to exempt the person who has granted the contract or lessee from any liabilities under this Code.</td>
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2.86. “owner-cum-worker” means a person who is also an owner, head or proprietor of an establishment and who is also a worker in that establishment.

2.87. “part-time worker” means a worker whose normal working hours of work, while working for an entity are less than those of comparable full-time workers;

2.88. “permanent partial disablement” means such disablement of a permanent nature, as reduces the earning capacity of a worker in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:

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

2.89. “permanent total disablement” means such disablement of a permanent nature as incapacitates a worker for all work which he was capable of performing at the time of the accident resulting in such disablement:

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 percent or more;

2.90. “Placement Agency” means any entity which provides or engages in employment of contract workers or domestic workers or which facilitate the placement of contract workers or domestic help for prospective employers and includes such agency or person offering such services through any print, electronic or any form of communication

2.91. “plantation” means any land used or intended to be used for growing tea, coffee, rubber cinchona or cardamom, or such other horticultural product as may be prescribed by the rules made by state governments.

2.92. “Point of presence Agency” means an agency licensed under section 88(1) for receiving contributions and instructions and transmitting them to the Trustee Bank or Record keeping agency;


Explanation - The term “Employee Provident Fund Organisation” means the institution established under the Employee Provident Fund Act 1952.

2.94. “prescribed” means prescribed by rules made by the central government (unless otherwise specified) under this Code;

2.95. “Principal Employer” in respect of any worker means –

(a) In case of an entity, that contracts out whole or any part of work, which is ordinarily part of the work of the entity or is preliminary to the work carried on in, or incidental to the purpose of, any such entity, other than a mere supply of goods or articles of manufacture to such entity, to a contractor. The employer of such entity whose work is getting executed;

(b) In case of an entity, that undertakes whole or any part of work, which is ordinarily part of the work of the entity or is preliminary to the work carried on in, or incidental to the purpose of, any such entity, directly by employing employees. The employer of such entity that has employed the employee;

(c) In case of a non-employee worker. The said non-employee worker himself.

2.96. “project” means a temporary endeavor undertaken to create a unique product, service, or result. The
2.97. “medical practitioner” means any person registered under any Central Act, Provincial Act, or an Act of the Legislature of a State providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be a qualified as medical practitioner for the purposes of this Code;

2.98. “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;

2.99. “Record keeping agency” means an agency licensed under section 88(1) to perform functions of record-keeping, accounting, administration and customer service for any scheme members.

2.100. “Recovery Officer” means such officer of the Central Government, State Government, Central Board or the State Board who may be authorised by the appropriate Government, by notification, to exercise the powers of a Recovery Officer under section 138 of this Code.

Explanation – The Appropriate government, while authorizing an officer (or set of officers) under this clause shall also specify jurisdiction of such officer(s).

2.101. “registered worker” means a worker registered under sub-section (9) of section 11;

2.102. “regulated assets” means the assets and properties, both tangible and intangible, owned, leased or developed by and other rights belonging to, the State Board;

2.103. “regulation” means a regulation made by the National Council.


2.105. “reparation” means such amount as may be awarded to a scheme member to compensate for failure to provide service that he is entitled to, or is provided services that are deficient, under sub-section (2) of section 136.

2.106. “retirement” means efflux of period of the service of an employee otherwise than on superannuation;

2.107. “resident” means an individual who has resided in India for a period or periods amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for registration;

2.108. “Samajik Suraksha Mitra” means the officers appointed by the local bodies under sub-section (1) of section 114.

2.109. “Schedule” means a schedule to this Code;

2.110. “scheme” means any Scheme framed by the Central or State Government or State Government under section 24;

2.111. “scheme member” means a covered worker in respect of whom subscription towards the Scheme under consideration are or were payable under this code and who is, by reason thereof, entitled to the benefits provided under the concerned Scheme;

2.112. “seamen” means any person forming part of the crew of any ship, but does not include the master of the ship;

2.113. “seasonal establishment ” means such establishment which operates only during certain seasons of the year, and not throughout the year. –

2.114. “seasonal worker” means a worker who does not get regular or continuous employment throughout the year, but is employed only during certain seasons or certain part of an year.

2.115. “service delivery agency” means an agency licensed under section 88(1) for the purposes of providing services, medical or otherwise, and other non-financial benefits under any Schemes.

2.116. “shop” means any premises where goods are sold either by retail or wholesale or where services are rendered to customers, and includes an office, a store-room, godown, warehouse or workhouse or work place, whether in the same premises or otherwise, used in or in connection with such trade or business but does not include a factory or a commercial establishment;

2.117. “sickness” means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds ;

2.118. “Social Assistance” means a state government funded programme for the purpose of providing any one or more of the following assistance to a Special Registered Person –

(a) Pension to persons aged beyond sixty years
(b) Disablement pension
(c) Maternity Assistance
| 2.119. | “social security” means the measures of protection afforded to worker to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights enshrined and schemes framed under the Code. |
| 2.120. | “Social Security Organisations” mean the organisations established under this Code, that is to say-  
(a) The National Council,  
(b) The Central Board and  
(c) the State Boards;  
and the term ‘Social Security Organisation’ shall be construed as the concerned National Council, Central Board or State Boards as the context may imply. |
| 2.121. | “Standing Committee” means a committee constituted in accordance with the provisions of sub-section (4) of section 5. |
| 2.122. | “State Board” means the State Social Security Board constituted under sub-section (7) of Section 3 in respect of the concerned State or Union Territory. |
| 2.123. | “State Government” means –  
(a) in relation to a Union Territory with legislature, the Government of the Union Territory,  
(b) in relation to a Union Territory without legislature, the Administrator thereof;  
(c) The concerned State Government in relation to regular States;  
| 2.124. | “stipulated” means specified by the regulations made by the National Council under this Code; |
| 2.125. | “sub-contractor” means a contractor who undertakes to produce a given result for another contractor through contract worker or who supplies contract worker for any work taken up by the said another contractor. |
| 2.126. | “superannuation” in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment:  
provided that in relation to application of a Scheme, superannuation shall mean the attainment of such age, as may be specified in the Schemes. |
| 2.127. | “temporary disablement” means a condition resulting from an employment injury which requires medical treatment and renders a worker, 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;  
| 2.128. | “temporary partial disablement” means such disablement of a temporary nature, as reduces the earning capacity of a worker in every employment in which he was engaged at the time of the accident resulting in disablement;  
| 2.129. | “Threshold” means five or such lesser number of workers as may be notified by the central government, after considering the recommendation from the Central Board in this regard:  
Provided that State Governments may, after considering the recommendation of the State Board, by notification, fix the threshold at any level below that is notified by the Central Government (or specified in this Code). |
| 2.130. | “total disablement” means such disablement whether of a temporary or permanent nature, as incapacitates a worker for all work which he was capable of performing at the time the injury was sustained:  
Provided that permanent total disablement shall be deemed to result from every injury specified in the Part – I of the fourth Schedule, or from any combination of injuries, specified in the Part – II of the fourth Schedule, where the percentage, or the aggregate percentage, of disability as specified in the said Schedule against such injury, or combination of injuries, amounts to one hundred per cent. or more;  
| 2.131. | “Tribunal” means the Social Security Appellate Tribunal constituted under section 129 and includes the Principal Appellate Tribunal; |
| 2.132. | “unclaimed amount” means –  
(a) Any amount credited to State Social Security Fund under suspense account (or any other account) which cannot be associated with any contribution made by or on account of any particular worker in a period of three years from the date of its credit.  
(b) Any amount of claim due to any worker, but not claimed by him within a period of five years from the date it became due.  
(c) Any amount in credit to a State Gratuity Fund in the name of an establishment which has been closed or liquidated after settlement of gratuity claims of the employees of that establishment. |
| 2.133. | “Unorganised sector” includes –  
(a) establishments which employ workers, and the number of such workers is less than the threshold;  
(b) own account enterprise;  
(c) Households that employ domestic workers for carrying out the activities of the household. |
2.134. “unorganised worker” means –
   (a) a worker (including home-based worker, own account worker, owner-cum-worker or a wage worker) working in the unorganised sector; or
   (b) a person who gets employed by any entity through an informal contract or in absence of any written contract.

2.135. “VIKAS” means the worker’s Social Security Account assigned to him under section 11;

2.136. “voluntary contribution” means a contribution paid by a worker, or as the case may be, the employer, over and above the statutory contribution mandatorily required to be paid under this code;

2.137. “Wage” means all remuneration (whether by way of salary, 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, –
   (i) any remuneration payable under any award or settlement between the parties or order of a court;
   (ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
   (iii) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
   (iv) any house rent allowance;
   
   but does not include-
   (a) any annual bonus payable under the payment of Bonus Act, 1965, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;
   (b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity and expenditure on perquisites incurred by the employer and not paid directly to the employees;
   (c) any contribution paid by the employer to any Social Security fund, and the interest which may have accrued thereon;
   (d) Value of any Leave travelling concession;
   (e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
   (f) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (v)
   (g) Shares, prizes gifts given occasionally.

2.138. “wage ceiling” means such amount of wages or income as may be notified by the Central Government, after considering the recommendations of the Central Board, from time to time for the purpose of this Code;

2.139. “wage worker” means a person employed for remuneration in an entity, 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 worker. Explanation – any worker undertaking tenancy of land on sharecropping basis shall be treated as a wage worker.

2.140. “worker” means any person who –
   (i) performs a work (intellectual, mental or physical) for an entity; or
   (ii) provide services, whether regular or part-time to an entity,

whether directly or through an agency, for wage, profit or gain, in cash or kind, whether under a contract of employment, or other contract where an individual undertakes to do or to provide personally the work or services, whether the contract is expressed or implied; and includes-
   (a) an employee;
   (b) a non-employee
   (c) an international worker
   
but does not include –
   (a) A person who is subject to the Army Act, 1950 (46 of 1950) or the Air Force Act, 1950, or the Navy Act 1957, or;
   (b) A person who is employed in the police service or an officer or other employer of a prison, or;
   (c) Housewives / House-husbands and other family members that provide honorary services for
running the household.

Explanation 1: All employees of an entity shall be workers irrespective of nature of work performed by them.
Explanation 2: Apprentices shall be deemed to be workers, unless they are engaged in accordance with the provisions of Apprentices Act 1961 or the standing orders of the establishments.
Explanation 3: persons performing voluntary services for an entity and receiving remuneration or fee whether in form of honorarium or otherwise shall be deemed to be workers.

| 2.141. | “work life” means the period from the attainment of age of eighteen years to attainment of age of sixty years. |
| 2.142. | “Workplace” means the location at or from which a worker ordinarily performs the duties of his or her position and, in the case of an employee whose duties are of an itinerant nature, the actual building to which the employee returns to prepare and/or submit reports, material etc., and where other administrative matters pertaining to the employee’s employment are conducted and includes any residential place where any domestic worker works. |
| 2.143. | “works contract” means any agreement for carrying out for cash or for deferred payment or for an valuable consideration, any civil work, building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property, and includes-  
(a) production of programmes for broadcasting or telecasting;  
(b) carriage of goods or passengers by any mode of transport other than by railways;  
(c) catering;  
(d) manufacturing or supplying a product or software according to the requirement or specification of a customer by using material purchased from such customer. |
| 2.144. | “works contractor” means any person who executes a works contract and includes a works sub-contractor. |
### Part B: Social Security Organisations

#### 3. Constitution and functions of Social Security Organisations

3.1. There shall be established, by notification, for the administration of social security, an authority to be known as the National Social Security Council of India (hereinafter referred to as ‘the National Council’) which shall have all such administrative and financial powers as may be prescribed for discharging its functions.

3.2. It shall be the function of the National Council to-

- (a) promote universalization of social security, and ensure regular growth of the social security schemes;
- (b) review and monitor the implementation and compliance of the Social Security in the country.
- (c) advise the central & state governments and the Boards, generally in the matter of social security administration, enforcement and compliances;
- (d) recommend to the Central Government of any changes in the Code and rules.
- (e) prescribe Minimum Standards to achieve decent conditions of work related to social security.
- (f) regulate schemes of social security that are framed by Central government, State Governments or the local bodies whether or not within the framework of this code;
- (g) co-ordinate between the Central and State Government and the Boards in the matter of implementation of social security schemes and ensure coordination and portability;
- (h) take such measures, as may be necessary, to protect the interests of the scheme members of social security schemes;
- (i) regulate the Funds administered by the Central Board and the State Boards.
- (j) regulate the Provident Funds constituted under the Provident Fund Act 1925.
- (k) laying down norms for the management of the corpus of the funds, including investment pattern under such schemes.
- (l) make regulations in respect of intermediate agencies.
- (m) make regulations in respect of distribution of assets and fund corpus between the State Boards and the Central Board.
- (n) any other matter as may be assigned by the central Government by general or special order.
- (o) regulating the regulated assets;

3.3. The National Council shall consist of the following members, namely:

- (a) Prime Minister as Chairperson;
- (b) Minister, Labour and Employment as Vice-Chairperson;
- (c) Minister for Finance
- (d) Minister of Health and Family Welfare
- (e) Minister for Labour of all the States and Union Territories
- (f) not more than three officers of Central government, as may be prescribed to be appointed by the Central Government;
- (g) two persons representing workers to be nominated by the Central Government in consultation with such organisations of workers as may be recognized for the purpose by the Central Government out of which one person shall represent workers in unorganised sector.
- (h) two persons representing employers from such organisations of employers as may be recognised for the purpose by the Central Government out of which one person shall represent employers in the unorganised sector.
- (i) one person representing own account worker to be nominated by the Central Government in consultation with such organisations of own account worker as may be recognized for the purpose by the Central Government;
- (j) One person to be appointed by the Central Government, being an expert in Social Security have made a notable contribution in the field of social security;
- (k) 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
(l) The Regulator-General of the Social Security, ex-officio:

Provided that at least one person nominated under each of the clause (g) and (h) shall be a woman.

3.4. The Central Government shall, by notification in official gazette, constitute with effect from such date as may be specified in the notification, but within two years of the enforcement of this code a Central Board of Social Security (hereinafter referred to as ‘the Central Board’).

3.5. It shall be the function of the Central Board—

(a) to administer the Scheme funds vested in it in such manner as may be specified in the respective Scheme.
(b) to administer other funds including National Stabilization Fund in such manner as may be stipulated.
(c) to design and manage the Centralized system of Registration of workers and entities.
(d) to develop and manage the Centralized database and Information Technology Infrastructure for implementation of the Code
(e) develop and manage the systems for portability of accounts and claims for implementation of Social Security Schemes.
(f) coordination and ensure data sharing between State Boards.
(g) protecting the interests of scheme members by—
   (i). ensuring safety of the contribution of scheme members to various social security schemes;
   (ii). ensuring that the intermediation and other operational costs under the Social Security Schemes are economical and reasonable;
(h) establishing mechanism for redressal of grievances of scheme members;
(i) promoting professional organisations connected with the Social Security;
(j) undertaking steps for educating members and the general public on issues relating to social security schemes;
(k) standardising dissemination of information about performance of social security funds and performance benchmarks;
(l) specifying fees or other charges for carrying out the purposes of this Code;
(m) calling for information from, undertaking inspection of, conducting inquiries and investigations including audit of, intermediate agencies and other entities or organisations connected with social security;
(n) collection of data, commissioning of studies, research and projects, conducting of surveys and evaluation of impact and outcome of social security programmes on its own or through State Boards or intermediate agencies.
(o) monitor utilization of and expenditure from Contribution Augmentation Funds administered by the State Boards;
(p) review the record keeping functions performed at the State level;
(q) advise the Central Government on such matters arising out of the administration of the Code and Schemes as may be referred to it;
(r) perform such other functions as it may be required to perform by or under any provisions of the Schemes framed under this Code,
(s) regulating intermediate agencies for implementation of social security schemes;
(t) issuing to an intermediate agency, a license and renewing, modifying, withdrawing, suspending or cancelling such license;
(u) adjudication of disputes between
   i) intermediate agencies,
   ii) intermediate agencies and State Boards,
   iii) intermediate agencies and scheme members,
   iv) State Boards and scheme members and
   v) State boards

(v) specifying, by issuing by-laws, the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediate agencies;
(w) exercising such other powers and functions as may be prescribed, or are assigned to it by the Central Government or the National Council.

3.6. The Central Board shall consist of the following members, namely: —

(a) Minister of Labour and Employment as Chairperson;
(b) Regulator General as Vice-Chairperson
(c) Secretary, Ministry of Labour and Employment;
(d) not more than two officers, as may be prescribed, to be appointed by the Central Government;
(e) one officer each representing five States selected by rotation, in the manner prescribed, to be appointed by the State Government concerned;
(f) one officer to be appointed by the Central Government to represent the Union territories, by rotation in the manner prescribed;
(g) seven persons representing employers, to be nominated by the Central Government in consultation with such organisations of employers as may be recognized for the purpose by the Central Government; of which, at least one person should be representing employers of unorganised sector;
(h) seven persons representing workers to be nominated by the Central Government in consultation with such organisations of workers as may be recognized for the purpose by the Central Government out of which at least one person shall represent workers in unorganised sector.
(i) two persons representing own account workers to be nominated by the Central Government in consultation with such organisations of own account workers
(j) one person representing pensioners, having such qualification and experience as may be prescribed, to be appointed by the central government.

(k) one expert each, having such qualification and experience as may be prescribed, to be appointed by the Central Government, having knowledge in –
   (i). medical sciences and public health
   (ii). Social Security policies; and
   (iii). Banking or Finance
   (iv). Actuarial sciences
   (v). Management of large financial database.

   (l) Director General, ex-officio:
Provided that at least –
   (i). Two persons nominated under each of the clause (g) and (h),
   (ii). One person nominated under clause (i), and
   (iii). One expert appointed under clause (k) shall be women

3.7. Every State Government and every Union Territory shall by notification, constitute with effect from such date as may be specified, within six months of the enforcement of this Code a State Board of Social Security, for the state concerned (hereinafter referred to as ‘the State Board’).

3.8. It shall be the function of the State Board-
   (a). To implement and administer the schemes of social security in the respective states;
   (b). To administer and provide services and perform such other functions as may be required to perform by or under the provisions of any schemes;
   (c). To register entities;
   (d). To collect Contributions and settle of Claims
   (e). To enforce the Code and ensure compliance;
   (f). Record keeping for the purpose of implementation of the Code;
   (g). To manage registration of workers through the registering authorities and to regulate the registering authorities;
   (h). recommend the State Government in formulating suitable schemes for different sections of workers;
   (i). advise the State Government on such matters arising out of the administration of this Part as may be referred to it
   (j). monitor such social welfare scheme as are administered by the State Board
   (k). review the record keeping functions performed at the District level or by the local bodies;
   (l). review the progress of registration of workers;
   (m). calling for information from, undertaking inspection of, conducting inquiries and investigations including audit of, intermediate agencies and other entities or organisations connected with social security;
   (n). review the expenditure from the funds under various schemes; and
   (o). undertake such other functions as are assigned to it by the State Government from time to time.

3.9. The State Board shall consist of the following members, namely: —
   (a) Chief minister of the state as the chairperson.
(b) Minister incharge of Labour of respective state government as vice Chairperson;
(c) Chief secretary in charge of labour department of the state;
(d) not more than four officers of State Government, as may be prescribed by rules framed by State Governments, to be appointed by the State Government;
(e) One officer from Central Government or Central Board as may be nominated by the Central Government;
(f) five persons representing employers to be nominated by the State Government in consultation with such organisations of employers as may be recognized for the purpose by the State Government; of which, at least one persons should be representing employers of unorganised sector;
(g) five persons representing workers to be nominated by the State Government in consultation with such organisations of workers as may be recognized for the purpose by the State Government out of which at least one persons shall represent workers in unorganised sector.
(h) one person representing own account workers to be nominated by the State Government in consultation with such organisations of own account workers
(i) one person representing pensioners, having such qualification and experience as may be prescribed, to be appointed by the state government.
(j) two members of State Legislative assembly elected by the members of the Legislative assemble of the concerned State;
(k) one expert each, having such qualification and experience as may be prescribed, to be appointed by the State Government, having knowledge in –
   (i). Medical sciences and public health
   (ii). Social Security; and
   (iii). Banking or Finance
   (iv). Actuarial sciences
(l) Commissioner of the State board, ex-officio:

Provided that in case of Union Territory without legislature, the Administrator of the Union Territory with whatever name he may be called, shall be the chairperson.

Provided further that at least –
(i). Two persons nominated under each of the clause (f) and (g)
(ii). One expert appointed under clause (j)

shall be women.


4.1. Each of the Social Security Organisations shall be body corporate, having perpetual succession and a common seal and shall by the said name sue and be sued.

4.2. The term of a Social Security Organisation, unless dissolved or superseded earlier, shall be such as may be prescribed.

4.3. The method of nomination, terms and conditions of the Chairman, vice-chairman and other members of a Social Security Organisation shall be such as may be prescribed.

4.4. Disqualification and removal of a member of a Social Security Organisation:

No person shall be chosen as, or continue to be, a member of a Social Security Organisation who,-

(a). is or at any time has been adjudged insolvent; or
(b). is found to be a lunatic or become of unsound mind; or
(c). is or has been convicted of any offence involving moral turpitude; or
(d). If he is an employer in relation to an establishment which has been permitted to operate Alternate Coverage Mechanism or an establishment to which the Scheme applies has defaulted in the payment of any dues to the Central or the state Boards or the Fund recoverable from him under the Code or the Scheme, as the case may be; or
(e). If he is a member of Parliament or member of State Legislative Assembly, and he ceases to be a member of Parliament or State Legislative assembly, as the case may be; or
(f). If he is a member of Parliament or member of State Legislative Assembly, and he becomes a –
   (i). Minister of Central or State Government or
   (ii). Speaker or Deputy Speaker of House of People or State Legislative assembly, or
   (iii). Deputy Chairman of Council of States
4.5. The appropriate Government may remove from office any member, who,--
(a). is or has become subject to any of the disqualifications mentioned in sub-section (4); or
(b). is absent without leave of the concerned Social Security Organisation, for more than three consecutive meetings of the concerned Social Security Organisation;
(c). in the opinion of the appropriate Government, has so abused the position of member as to render that persons continuance in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member:
Provided that, no person shall be removed under clause (b) and (c), unless that person has been given an opportunity to show cause as to why he should not be removed.

4.6. The members shall hold office for such tenure as may be prescribed: provided that no member shall hold office for more than two consecutive terms.

4.7. If in the opinion of the appropriate Government,--
(a). the member representing employers and the workers, ceases to adequately represent the employers or, as the case may be, the workers, or
(b). the member representing to be an expert in the field, is found not to possess sufficient expertise in the relevant field, or
(c). having regard to exigencies of circumstances or services in the Government, the member representing the Government cannot continue to represent the government,
then, the appropriate government may, by an order, remove all or any of them from office of the concerned Social Security Organisation at any time:
Provided that, no person shall be removed under clause (a) or (b), unless that person has been given an opportunity to show cause as to why he should not be removed.

4.8. Any member of a Social Security Organisation may at any time resign his office by writing under his hand addressed to the concerned member secretary, and his office shall, on acceptance of the resignation, become vacant.

4.9. Vacancies in the office of appointed or elected members of a Social Security Organisation shall be filled by appointment or election, as the case may be:
Provided that a member of the Social Security Organisation appointed or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is appointed or elected would have been entitled to hold office if the vacancy had not occurred.

4.10. If any member of a Social Security Organisation, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the concerned Social Security Organisation, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the concerned Social Security Organisation, and the member shall not take part in any deliberation or decision of the concerned Social Security Organisation with respect to that matter.

4.11. The Central or the State Board shall exercise such administrative and financial powers as are conferred on it by the schemes.

4.12. The Social Security Organisations shall meet within such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be prescribed.

4.13. Members of the Social Security Organisations, the Executive Committee, and the Standing Committee shall receive such fees and allowances as may be prescribed.

4.14. All orders and decisions of the Social Security Organisations shall be authenticated by the signature of the Executive head of the Social Security Organisation and all other instruments issued by the Social Security Organisation shall be authenticated by the signature of the Executive head or such other officer of the Social Security Organisation as may be authorized by him.

4.15. No act done or proceeding taken by the a Social Security Organisation or the Committees constituted under section 5 shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the concerned Social Security Organisation or the concerned Committee, as the case may be.
5.1. The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the National Council in the performance of its functions.

5.2. The Executive Committee shall consist of the following persons as members, namely:

(a) Minister of Labour as Chairperson;
(b) one persons representing the employers elected by the National Council from amongst the persons representing employers;
(c) one persons representing the workers elected by the National Council from amongst the persons representing workers;
(d) one person representing own account worker elected by the National Council from amongst the persons representing own account workers;
(e) One person nominated by the Central Government from amongst members of the National Council who are officials;
(f) Three persons nominated by the Central Government from amongst persons who are experts.

5.3. The State Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Standing Committee to assist the State Board in the performance of its functions.

5.4. The Standing Committee shall consist of the following persons as members, namely:

(a) Minister in charge of Labour of respective state/UT by whatsoever name called as Chairperson
(b) Secretary in charge of Labour of the respective state/UT as Vice-Chairperson;
(c) two persons representing the employers elected by the State Board from amongst the persons representing employers of which one is from unorganised sector;
(d) two persons representing the workers elected by the State Board from amongst the persons representing workers, of which one is from unorganised sector;
(e) one person representing non-employee elected by the State Board from amongst the persons representing non-employee s;
(f) two persons nominated by the State Government from amongst members of the State Board who are officials;
(g) Two persons nominated by the State Government from amongst persons who are experts.

5.5. The State Government shall constitute a Medical Benefit Council consisting of —

(a) the Commissioner, ex-officio as Chairperson;
(b) the Director General, Health Services, of the State ex-officio as Co-Chairperson;
(c) the Medical Commissioner of the State Board, ex-officio;
(d) two members from amongst the persons representing employers to be appointed by the State Government in consultation with such organisations of employers as may be recognised for the purpose by the State Government;
(e) two members from amongst the persons representing workers to be appointed by the State Government in consultation with such organisations of workers as may be recognised for the purpose by the State Government; and
(f) two members representing the medical profession, to be appointed by the State Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the State Government:

Provided that no person (except in respect of clause (f)) shall be appointed to the Medical Benefit Council unless he is a member of the State Board:

Provided further that at least one third of total persons appointed under the clause (d), (e) and (f) shall be women.

5.6. The tenure, terms and conditions subject to which —

(a) a member of the National Council may be appointed or elected to the Executive Committee; or
(b) a member of the State Board may be appointed or elected to the Standing Committee;
(c) a person may be appointed as a member of Medical Benefit Council.
and the procedure of the meetings of the Committees shall be such as may be prescribed.

5.7. Subject to the general superintendence and control of the National Council, the Executive Committee—

(a) shall administer the affairs of the National Council and may exercise any of the powers and perform any of the functions of the National Council.

(b) shall submit for the consideration and decision of the National Council all such cases and matters as may be prescribed, or directed by the National Council.

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

5.8. The Medical Benefit Council shall—

(a) advise the Board and the Standing Committee on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters;

(b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance; and

(c) perform such other duties in connection with medical treatment and attendance as may be stipulated.

5.9. Subject to the general superintendence and control of the State Board, the Standing Committee—

(a) shall administer the affairs of the State Board and may exercise any of the powers and perform any of the functions of the State Board;

(b) shall submit for the consideration and decision of the State Board all such cases and matters as may be prescribed by rules made by state government, or directed by the State Board; and

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

6. Central Advisory Committee and the State Advisory Committees

6.1. The Central Government may, constitute one or more Advisory Committee, to be called the Central Advisory Committee in respect of such schemes as it deems fit, to advise the Central Government upon such matters arising out of the administration of this Code or relating to the application of the provisions of this Code to such schemes for which the Advisory Committee is constituted, and such other matters that the Central Government may refer to it for advice.

6.2. A Central Advisory Committee shall consist of—

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

(b) such number of members, as the central government may nominate, that shall include association, Union or persons espousing the cause of the said workers, individuals having expertise in issues relating to labour matters, women and child issues, law and any other interests which in the opinion of the central Government, ought to be represented on the Central Advisory Committee;

(c) such number of members, as the central government may nominate, from amongst officers of central government, National Council or the Central Board;

(d) the Director-General – member ex-officio.

6.3. The State Government may, subject to regulations, by notification constitute one or more Advisory Committees (to be called State Advisory Committee for welfare of concerned workers) to advise the State Board on such matters arising out of administration and utilization of one or more Contribution Augmentation Funds and matters related thereto:

Provided that separate advisory committee shall not be constituted for any Contribution Augmentation Fund, for which the annual collections to the funds are, or are likely to be less than such amount as may be stipulated.

6.4. The State Advisory Committee shall consist of following members—

(a) A Chairperson appointed by the State Government

(b) One member, being an officer of Central Government or Central Board, to be nominated by Central government

(c) One officer of State Government, to be nominated by the State Government.
6.5. The State Advisory Committee shall perform the following functions:
   (a) advise, promote and facilitate the registration of worker and employers and contractors as per the procedure specified under this Code;
   (b) advise to State Board regarding the amounts in form of State-contribution to be apportioned from Contribution Augmentation Fund into the social security account of the concerned workers
   (c) advise the State Board, measures to promote compliance amongst employers.
   (d) Advise on the matters relating to administration of the concerned Contribution Augmentation Funds
   (e) Advise such other measures to be taken to promote and strengthen social security coverage and benefits to the concerned workers.
   (f) Advise on dissemination of information on available social security schemes for the concerned Workers;
   (g) To advise on such matters so as to prevent misuse and irregularity of the scheme.

6.6. The –
   (a) number of persons to be appointed as members from the categories specified in sub-section (2)
   (b) term of office and other condition of service of the members of,
   (c) procedure to be followed in the discharge of their functions by,
   (d) fee and allowances to be paid to (for attending the meetings) to the members of, and
   (e) manner of filling vacancies of

   the Central or State Advisory Committee shall be such as may be prescribed:
   provided that no fee shall be payable to a member who is an officer of Government or any authority of body corporate established by or under any law for the time being in force.

6.7. A Central or State Advisory Committee at any time and for such period as it thinks fit, co-opt any person or persons to the Committee and a person co-opted shall exercise and discharge all the powers and functions of a member thereof, but shall neither be entitled to vote nor to any fee.

7. Executive Heads of the Social Security Organisations

7.1. The Regulator General, Director General and the Commissioner shall be whole-time officers of the respective Social Security Organisation and shall not undertake any work unconnected with their office without the sanction of the appropriate Government.

7.2. The method of recruitment, salary and allowances and conditions of service of the Regulator-General, Director-General and the Commissioner shall be such as may be prescribed.

8. Supersession of the Boards

8.1. If the Central Government, on the report of National Council or State Government or otherwise is satisfied that,
   (a) the Central Board or State Board is unable to perform its functions, or
   (b) The Central or State Board has persistently made delay in the discharge of its functions or has exceeded or abused its powers,

   then, the Central Government may, by notification in the Official Gazette, supersede the concerned Board and re-constitute it (or direct it to be reconstituted) in the manner specified in section 3 as the case may be, within a period of six months from the date of supersession.
   Provided that, before issuing a notification under this sub-section on any of the grounds Central
Government shall give an opportunity to the respective Central or Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the concerned Central or State Board.

8.2. After the supersession of the Central or State Board and until it is reconstituted, the powers and functions of the concerned Board under this Code shall be exercised and performed by the appropriate Government or by such officer or officers of the appropriate Government as the Central Government may appoint for this purpose.

8.3. When the Board is superseded, the following consequences shall ensue, that is to say,--
(a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1), vacate their office;
(b) all the powers and functions, which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such persons as may be specified in the notification;
(c) all funds and other property vesting in the Central Board or the State Board as the case may be, shall, during the period of supersession, vest in the Central and State Government respectively, and on the reconstitution of the Board, such funds and property shall re-vest in the Board.

8.4. The Central Government shall cause a full report of any action taken under this section and the circumstances leading to such action to be laid before Parliament at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Central Board or the State Board, as the case may be.

9. **Supersession of the Committees.**

9.1. If in the opinion of the appropriate Government, the Executive Committee or the Standing Committee or the Central Advisory Committee or the State Advisory Committee as the case may be, persistently makes default in performing the duties imposed on it or abuses its powers, that Government may, by notification, supersede the concerned Committee: Provided that before issuing a notification under this sub-section the appropriate Government shall give an opportunity to the concerned Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the concerned Committee.

9.2. Upon the publication of a notification under sub-section (1) superseding the concerned Committee, all the members of the concerned Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.

9.3. When the Executive Committee, the Standing Committee, the Central Advisory Committee or the State Advisory Committee has been superseded, a new Committee shall be immediately constituted in accordance with section 5 or section 6.

9.4. When Executive Committee or the Standing Committee has been superseded, the appropriate Government in its discretion, nominate such officer of the concerned Board as it may think fit, to exercise the powers and perform the functions of the concerned Committee for such period and such officer shall be competent to exercise all the powers and perform all the functions of the concerned Committee.

10. **Jurisdiction and Powers of Central Board, State Board.**

10.1. The Central Board shall have jurisdiction over whole of India, while the State Boards shall have jurisdiction over the respective state. Provided that where the decision or the order of the Central Board is in conflict with the order of the State Board, the decision or the order of the Central Board shall prevail.

10.2. The Central Board and the State Boards shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:--
(i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Board;
(ii) summoning and enforcing the attendance of persons and examining them on oath;
(iii) inspection of any book, register and other document of any person or intermediate agency, at any place;
(iv) issuing commissions for the examination of witnesses or documents;
(v) any other matter which may be prescribed.
## PART C

### Registration of Workers and Establishments

<table>
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<th>11.</th>
<th>Registration of workers</th>
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<td>The State Boards, in coordination with the Central Board shall provide a unique Aadhar-based registration service for registration of workers and provide a portable Social Security account, to be named as Vishwakarma Karmik Suraksha Khata (hereinafter referred to as 'VIKAS'), which shall be linked to Aadhar Number of the worker. Provided that the boards shall provide all necessary assistance to workers to register themselves for Aadhar in case the worker does not have Aadhar prior to registration:</td>
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| 11.1 | Such officer of the local body of the area concerned where the worker performs work, as may be notified by the State Board, shall be the Registering Authority for the said worker. |
| 11.2 | The State Board shall provide such support, Information Technology infrastructure, and finance to the Registering Authorities as may be specified in the by-laws to enable the Registering Authorities to perform the functions specified in this Code. |
| 11.3 | For the purposes of this Code, the Registering Authorities shall function under general superintendence and control of the State Board. |

| 11.4 | Every worker to whom this code applies shall be registered in the manner prescribed in the bye-laws. Provided further that no worker shall register himself more than once. Explanation: For removal of doubt, every worker shall be required to provide his Aadhar details for registration: Provided that for registration of International worker, Aadhar Registration shall not be necessary. Provided further that citizen or permanent resident of such countries who are excluded under subsection (64) of section 2 can be provisionally registered without requirement of Adhaar till such period they become eligible to be registered under Adhaar. Provided also that the workers who are already registered with any of the predecessor organizations and have seeded their Aadhar numbers with the registration database would not need to register afresh |

| 11.5 | Whenever any entity employs a worker who is not already registered, it shall, within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the bye-laws, an application for registration, providing such details of the employer and the employee, and such other particulars as may be specified in the bye-laws. |

| 11.6 | A non-employee shall, within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the bye-laws, an application for registration, providing such details about himself and his occupation and such other particulars as may be specified in the bye-laws. Explanation: If a person migrates from being non-employee to becoming an employee or vice versa, or migrates from one place to another, or from one employer to another, he need not get registered afresh, but need to update his particulars as per sub section (15). |

| 11.7 | Whenever any contractor or placement agency provides or intends to provide, for any entity, the services of a worker who is not registered under this code, such contractor or placement agency shall within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the bye-laws, an application for registration of the said worker, providing such details about the worker and his occupation and such other particulars as may be specified in the bye-laws. |

| 11.8 | Whenever any entity fails to register an employee it was liable to do so within the period stipulated, the said employee may, within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the bye-laws, an application for registration, providing such details about himself and his occupation, his employer and such other particulars as may be specified in the bye-laws. Explanation: The employer of the entity who has failed to register the employee shall be liable for penalties, notwithstanding the fact that the employee himself applied for registration on account of such failure. |

| 11.9 | If the Registering Authority is satisfied that the applicant - (a) Is a resident of India; and (b) Has been registered with UIDAI or possesses an Aadhar Card, (c) Has not been registered under this Code previously: and |

| UWSSA 10(1) BOCA 11 |
| UWSSA 10(2) BOCA 12 |
| UWSSA 10(2) |
| UWSSA 10(3) |
(d) Belongs to the category to which he has applied for.

it shall register the applicant:

Provided that the Registering Authority may Register an International Worker without requiring him to be a resident of India, or registered with UIDAI or possessing an Aadhar Card:

Provided further that the Registering Authority shall not reject an application for registration merely on the grounds that such application for registration has been filed after expiry of the period fixed in this behalf:

Provided also that the Registration Authority shall not reject the application for registration, or register him in a different category than applied for, unless the applicant is given a right to be heard.

Explanation: The Registering Authority may conduct such inquiry as it may deem fit to satisfy itself that the applicant if eligible for registration under the category he has applied for.

11.10. It shall be the duty of the person or entity submitting application for registration of worker to verify that the information submitted is correct to his best knowledge and belief.

11.11. Where a worker undertakes part time work in two or more entities and is not employed through any contractor, agency or placement agency, the worker may choose the employer through whom he wishes to get registered:

Provided that it shall be the duty of the worker to inform the other employers about his choice of employer for getting himself registered and provide them his VIKAS number.

11.12. Whenever any registered worker undertakes an employment, it shall be the duty of such worker to inform his VIKAS number to the employer and it shall be the duty of the employer to update the registration particulars within such period as may be stipulated.

Explanation: If an unregistered worker undertakes an employment, he may inform the fact of being unregistered to the employer.

11.13. Whenever any entity employs workers through a contractor, middleman, agency or placement agency, it shall be the duty of such entity to ensure that such contractor, middleman, agency or placement agency is registered as well as the workers so provided for the purposes of his entity are also registered.

11.14. No –

(a) entity shall employ any worker beyond such period as may be stipulated; or

(b) contractor shall undertake execution of any work for an entity or provide services of contract workers to any entity

unless the said worker or workers are registered.

11.15. Whenever -

(a) there are any changes in the personal information, employment details or registration particulars of the worker or his immediate family including cessation or discontinuation of work or any particular kind of work,

(b) circumstances warrant change in the category or classification of registration of the worker the concerned worker shall by himself, or through his employer inform the Registering Authority about the change for the purpose of updating his registration particulars within such period as may be stipulated.

Provided that if a worker requests the employer to update the registration particulars, it shall be the duty of the employer to provide the necessary assistance.

11.16. It shall be the duty of the employer to inform the Registration Authority, of changes in the nature of relationship of him with any of the employees registered as having been working with him in such form, in such manner and within such time as may be stipulated in the regulations.

11.17. It shall be the duty of the employer to provide to his employees-

(a) The (Establishment) Registration Number of the Employer, or

(b) If the employer is not required to be registered, the Aadhar Number of the Employer,

At the time when the worker is employed.

11A Classification of Registered Workers

11A.1 The workers, at the time of registration shall be classified in such categories as may be prescribed:

Provided that the categorization of a registered worker may be changed by the registering authority subsequently, if the status of the worker or value of parameter in respect of him changes.

11A.2 Notwithstanding the generality of sub-section (1), the Central government may prescribe classification the workers on the basis of-
11A.3 Classification of workers in Socio-economic category shall be made in four Categories, that is, Category - I, Category - II, Category - III and Category - IV, on the basis of such parameters and on such weightage (of parameters) as may be stipulated.

Explanation – The Category – IV has the weakest socio-economic status (or is most deprived), while Category – I has the strongest socio-economic status (or is privileged). The Categories II and III will be graded in between in similar manner.

11A.4 Notwithstanding the generality of sub-section (3), the National Authority may use any or all of the following parameters (or any other parameter as deemed fit) for classification the workers in Socio-Economic Categories-
(a) Income
(b) Source of income of household
(c) Social Profile,
(d) Demographic Profile
(e) Immovable assets owned
(f) Land holding, and nature of land held
(g) Movable assets of such kind as may be stipulated
(h) Nature of dwelling
(i) Occupation
(j) Nature of employment
(k) Nature of disabilities or adversities, of bread-winner

12. Cessation or deactivation of Registration –

12.1 A worker registered under this Code shall cease to be such in case he or she-
(a) dies; or
(b) emigrates for settlement.

12.2 If there is occurrence of any event that leads to cessation of registration of the worker, It shall be the duty of the worker or his legal heirs to submit to the Registering Authority, an application for cancellation of the Registration within such period as may be stipulated and in such form as may be specified in the bye-laws.

12.3 Any registered worker shall be deemed to be deactivated if he
(a) Retires; or
(b) decides to stop working for wage, profit or gain; or
(c) does not engage in any work in India that will qualify him to be a ‘worker’ for such minimum period in a year as may be stipulated
Provided that in computing the period under the clause (c), there shall be excluded any period of absence from work due to any medical confinement arising out of personal injury, accident, sickness or maternity.
Provided further that whenever the registered worker again undertakes any work, he may within such period of his return to work, as may be stipulated, either himself or through his employer, as the case may be apply for reactivation of the registration to the Registering Authority in such form and in such manner as may be specified in the bye-laws.

12.4 Where it comes to the notice of the Commissioner that a registered worker –
(a) has ceased to carry on any activity which would entitle him to be registered as a worker under this Code; or
(b) has died or emigrated for settlement; or
(c) is otherwise not eligible for registration under this Code; or
(d) has been registered more than once,
the Commissioner may, after service of a notice and after providing the worker or his legal heirs an opportunity of being heard, cancel, suspend or deactivate the registration of the worker with effect from the date specified by him in the notice.

13. Registration certificate, Surveys etc.

13.1 The Commissioner-
(a) upon registration of a worker shall issue him a VIKAS Certificate which shall inter-alia contain
his Registration Details and such other information as may be specified in bye-laws
(b) shall maintain such records / register of workers in such form and such manner as maybe
stipulated.

13.2. The Commissioner shall, at such intervals as may be stipulated, get such surveys of un-registered and
registered workers conducted in such manner as may be stipulated, in order to –
(a) facilitate the registration of workers not registered,
(b) verification of registered worker and his category or classification of registration,
(c) updation of particulars provided by registered workers, and
(d) verify the correctness of information provided by workers.

13.3. No change in the status of registration or category of registration shall be made by the registering
authority, suo-moto on the basis of the survey, unless the worker has been provided an opportunity of
being heard.

13A Special Registration of persons for Social Assistance Scheme.

13A.1 Any person who –
(a) is an Indian Citizen,
(b) has not ever been registered as ‘worker’ under section 11,
(c) is not eligible to be registered as ‘worker’ under section 11,
(d) is qualified to be categorized under Socio-Economic Category – IV, and
(e) meets such other eligibility conditions as may be prescribed by rules made by the
concerned State Government.
may apply for Special Registration to the Registering Authority in such manner as may be prescribed in
the bye-laws.

13A.2 If the Registering Authority is satisfied that the applicant -
(a) is qualified to be registered under sub-section (1)
(b) Has been registered with UIDAI or possesses an Aadhar Card, and
(c) Has not been registered under this Code previously,
it shall register the applicant under special registration for such period as may be prescribed

14. Registration of establishments and entities.

14.1. Every establishment to which this code applies for the first time and to which an Entity Registration
Number is not yet allotted shall be required to apply for registration in the prescribed form; containing
such particulars and information and accompanied by such fee, security and other documents as may
be prescribed in the by-laws and within such time as may be stipulated in the regulations.
Provided that the Commissioner may entertain any such application after the expiry of the periods
aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the
application within such period.
Provided further that those establishments who are already registered with Employees’ State
Insurance Corporation or Employees’ Provident Fund Organization and have seeded their PAN in the
registration database will not be required to apply afresh for the registration.
Explanation 1: Where an establishment consists of different departments or has branches, situated in
different States, the establishment shall be required to register separately in each of the state where
its branches are situated.
Explanation 2: The responsibility of applying for registration shall lie with the employer of the
establishment.
Explanation 3. – The State Board may, by order to be published in the official Gazette, specify certain
classes of establishments who may not be required to furnish a security.

14.2. An Own Account Enterprise to whom this code applies, shall, at the time of the registration of the own
account worker under sub-section (6) of section 11, to whom the said own account enterprise belongs,
be required to furnish such particulars of his enterprise in such form as may be prescribed to facilitate
the registration of his entity.

14.3. A household employing domestic workers for the purpose of managing his household, shall, at the time
of furnishing the first return-cum-challan in accordance with sub section (2) of section 37, be required
to furnish such particulars in such form as may be prescribed to facilitate the registration of the household.
Explanation: The furnishing of the return-cum-challan by the Household along with the particulars as
may be prescribed shall be sufficient evidence of having complied with the provisions of this section.

14.4. Notwithstanding anything contained in sub-section (1) and (2), an entity shall be required to apply for
registration under this code if :-
(a) it is required to deduct contribution at source under section 42, or
(b) it is a contractor or placement agency, or
(c) It has employed an international worker at any time after the commencement of this code.

14.5. Where –
(a) In respect of an establishment, the forms, evidence and the amount of security submitted by the applicant are complete and in order in accordance with the provisions of the Code,
(b) In respect of an entity other than an establishment the particulars in such form as prescribed are furnished
the Commissioner shall register the entity.

14.6. Where the Commissioner has not registered the establishment within such time as may be stipulated from the date of application, the Commissioner shall, after conducting such inquiries as he deems fit, either—
(a) register the applicant forthwith as a registered establishment; or
(b) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and permitting him to show cause in writing, within such period as may be stipulated as to why his application should not be rejected
PROVIDED that where the Commissioner has not registered the establishment or issued a notice by the required date, the applicant shall be deemed to be registered for the purposes of this Code, and the Commissioner shall issue a certificate of registration to such establishment.

14.7. Where, pursuant to clause (b) of sub-section (6), the applicant furnishes a reply to the notice or fails to respond to the notice issued under clause (b) of sub-section (6) within the time specified in sub-section (6), the Commissioner may, either accept the application and register the establishment, or reject the application for reasons to be recorded in writing.

14.8. Where a registered establishment has furnished a security as a condition of registration, such security shall be required for the continuance in effect of registration, unless otherwise provided by the State Board.

14A Classification of Registered Entities

14A.1 The entities, at the time of registration shall be classified in four categories on the basis of occupational safety and health risk of the entity for its workers:
Provided that the categorization of a registered entity may be changed by the registering authority subsequently, if the occupational safety and health risk in respect of that entity changes.

14A.2 For the purpose of classification of entities under sub-section (1) the Central government may, by rules prescribe classification parameters and methodology on the basis of which the classification shall be made.

14A.3 Classification of entities shall be made in four Categories, that is, Category - A, Category - B, Category - C and Category - D, on the basis of such parameters and on such weightage (of parameters) as may be prescribed.
Explanation – The Category –D has the highest occupational safety and health risk, while Category – A has the lowest occupational safety and health risk. The Categories B and C will be graded in between in similar manner.

14A.3 Notwithstanding the generality of sub-section (2), the Central Government may use any or all of the following parameters (or any other parameter as deemed fit) for classification of entities -
(a) General Facility Design in relation to Occupational health and safety measures such as-
   (i) Integrity of Workplace Structures
   (ii) Compliance to building and factory regulations
   (iii) Illumination, Hygiene and Cleanliness
   (iv) Safe Access, Workspace and exits
   (v) Safe water and Toilet facilities
   (vi) Work-environment and Temperature
   (vii) Ventilation and Fresh Air Supply
(b) Communication and Training relating to OSH such as -
   (i) Workers’ (and Contractor’s) orientation and training measures
   (ii) Visitor Orientation programme
   (iii) Area Signage, Equipment labelling
Hazard Code implementation

(c) Exposure to Hazards in workplaces such as-
   (i) Rotating and Moving Equipment
   (ii) Noise
   (iii) Vibration
   (iv) Electrical connections
   (v) Eye Hazards
   (vi) Welding / Hot Work
   (vii) Industrial vehicles
   (viii) Temperature
   (ix) Working at heights
   (x) Manual handling of load
   (xi) Chemical Hazards
   (xii) Dust, Suspended particulate matter or Poor Air Quality
   (xiii) Fire and explosions
   (xiv) Asbestos containing materials
   (xv) Biological hazards
   (xvi) Radiological Hazards

(d) Protection and prevention measures adopted such as-
   (i) First Aid facilities
   (ii) Fire Precaution measures
   (iii) Personal Protection equipment
   (iv) Creation of Special Hazard Environment / Space
   (v) Measures for lone / isolated worker
   (vi) Monitoring and watch systems for OSH

15. Amendment of registration

15.1. A registered entity shall inform the Commissioner in the prescribed manner within such time as may be stipulated, if he -
   (a) sells or otherwise disposes of his entity or any part of his business or any place of business, or effects or comes to know of any other change in the ownership; or
   (b) discontinues his business or changes his place of business or warehouse, or opens a new place of business, or closes the business for a period of one month or more; or
   (c) changes the name, style, constitution or nature of his business; or
   (d) enters into partnership or other association in regard to his business or
   (e) adds, deletes or changes the particulars of the persons having interest in business; or
   (f) makes any other change in the ownership or management of the entity or other prescribed particulars

and if any such registered entity dies or dissolves or ceases to exist, his legal representative shall, in like manner, inform the said Commissioner

15.2. The Commissioner may, after considering any information furnished under this Code or otherwise received and after making such inquiry as he may deem fit, amend from time to time any registration.

15.3. An amendment of the registration made under sub-section (2) shall take effect from the date of contingency which necessitates the amendment whether or not information in that behalf is furnished within the time specified under sub-section (1).

16. Cancellation of Registration

16.1. Where it comes to the notice of the Commissioner that—
   (a) Registration under this code has been obtained by misrepresentation or suppression of any material fact; or
   (b) a registered entity has ceased to carry on any activity which would entitle him to be registered as an entity under this Code; or
   (c) an incorporated body is closed down or otherwise ceases to exist; or
   (d) the owner of a proprietorship entity dies leaving no successor to carry on the activities; or
   (e) in the case of a firm or association of persons, it is dissolved; or
   (f) for any other reason the registration has become useless or ineffective,
the Commissioner may, after service of a notice and after providing the entity an opportunity of being heard, cancel the registration of the entity with effect from the date specified by him in the notice.
Provided that no notice shall be required in case the cancellation is on the basis of application by the entity.

16.2. The registered entity or the entity’s legal representative in case of clause (c) of sub-section (1), shall apply for cancellation of his registration in the manner and within the time prescribed and the commissioner shall dispose such application within such time as may be prescribed.

16.3. If an entity’s registration which has been cancelled is reinstated as a result of an appeal or other proceeding under this Code, the registration of the entity shall be restored as if his registration had never been cancelled.

16.4. The rejection of application of registration or cancellation of registration shall not affect the liability of any person to pay the contributions due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay the amounts due under this Code.

17. Certificate of Registration, and effect of non-registration

17.1. The Commissioner-
   (a) upon registration of an entity shall issue him a Certificate of Registration which shall inter-alia contain his Entity Registration Number and such other information as may be prescribed;
   (b) shall maintain such records / register in such form and such manner as maybe prescribed.

17.2. The Registered entity shall –
   (a) produce the Certification of Registration whenever demanded by the government or the Central Board or the State Board or any other person who may be so authorized by the Central Board or State Board.
   (b) Quote the Registration Number at the time of filing any return or making any other correspondence with the National Council, Central Board, State Board or any other person so authorized by the National Council or the Central Board or the State Board.

17.3. No employer of an entity to which this code applies, and is required to be registered under section 14, unless registered, shall employ any workers in the entity, after the expiry of such period as may be stipulated from the date on which the entity was liable to be registered: Provided that in case of an entity the registration in respect of which has been cancelled under section 16, no employer of such entity shall employ any workers in the establishment, -
   (a) If no appeal is preferred, after the expiry of limitation period for preferring an appeal under section 123; or
   (b) If appeal is preferred, after the dismissal of appeal.

18. Facilitation Centres

18.1. The State Board shall, through local bodies or through any intermediate agency or on its own, set-up such facilitation centres as may be considered necessary from time to time to perform any or all of the following functions, namely:-
   (a) disseminate information on available social security schemes for workers;
   (b) facilitate filling, processing and forwarding of application forms for registration of workers;
   (c) facilitate workers and establishments to obtain registration under the Code;
   (d) Facilitate amendments, cancellation and deactivation of registration of workers;
   (e) facilitate the enrolment of the registered workers in social security schemes
   (f) disburse benefits under the schemes to workers
   (g) facilitate employers and workers to file returns and contributions
   (h) collect contributions and transfer the same to State social security fund
   (i) receive complaints and grievances and transmit to concerned authorities
   (j) collection of such information as may be authorized by the State Board

18.2. The facilitation centres may collect such transaction charges as may be fixed by the State Board for delivery of services: Provided that the transaction charges shall not be more than such limits as may be fixed by the Central Board through by-laws.
19. **Social Security Funds**

19.1. There shall be established, a Fund for Social Security in accordance with the provisions of this Code, in each of the States and Union Territory, where the concerned State Board has been constituted, to be called as the respective State Social Security Fund.

19.2. There shall be established, a Fund for Gratuity in accordance with the provisions of this Code, in each of the States and Union Territory, where the concerned State Board has been constituted, to be called as the respective State Gratuity Fund.

19.3. The State Social Security Fund and the State Gratuity Fund shall vest in, and be administered by the respective State Board in such manner as may be stipulated.

19.4. 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 State Social Security Fund or the State Gratuity Fund shall be paid into the State Bank of India or such other bank as may be stipulated, to the credit of an account styled the account of the State Social Security Fund or the State Gratuity Fund, as the case may be.

20. **Contribution to be paid by the employers and workers**

20.1. The contribution which shall be paid by the employer to the State Social Security Fund shall be at such rate as may be notified by the Central Government after consultation with the Central Board, not exceeding seventeen and half percent of the wages or wage ceiling whichever is lower, for the time being payable to each of the employees whether employed by him, whether directly or through a contractor.

Provided that, if the Central Government is of the opinion that employer’s contribution is not required to be collected (or is to be collected at a reduced rate) on account of levy of cess on any class of employers, it may, after consultation with the Central Board, by notification in the Official Gazette, and subject to such conditions, as may be specified in the notification, reduce or waive the contribution payable under this sub-section by such employers for such period as may be specified in the notification.

Provided further that the Central Government may notify different rates of contribution payable by the employer under this section for different categories of entities classified under section 14A.

Explanation 1- Contribution shall be payable by every entity in respect of every person employed by the entity irrespective of nature of work, nature of entity or number of days of engagement.

Explanation 2 – Contribution will also be payable if the worker is an international worker.

20.2. The contribution which shall be paid by the employer of establishments to whom the Scheme of Gratuity applies to the State Gratuity Fund shall be two percent of the wages for the time being payable to each of the employees whether employed by him directly or not.

Explanation 1: Contribution shall be payable by every establishment in respect of every person employed by the establishment, irrespective of nature of worker, nature of entity or number of days of engagement.

Explanation 2: In case of workers employed through a contractor, the contribution to State Gratuity Fund shall be paid by the Principal Employer.

20.3. The contribution which shall be payable by the worker to the State Social Security Fund shall be as follows –

<table>
<thead>
<tr>
<th>If the worker is</th>
<th>Rate of contribution to be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Employee not belonging to SEC IV</td>
<td>12.5% of wage or wage ceiling whichever is lower</td>
</tr>
<tr>
<td>(b) Employee belonging to SEC IV</td>
<td>0</td>
</tr>
<tr>
<td>(c) Non-Employees belonging to SEC IV</td>
<td>0</td>
</tr>
<tr>
<td>(d) Non-Employees belonging to SEC III</td>
<td>20% of national minimum wage</td>
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<tr>
<td>---</td>
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</tr>
<tr>
<td>(e)</td>
<td>Non-Employees not belonging to SEC III or IV</td>
</tr>
</tbody>
</table>

Provided that a worker may opt for making voluntary contribution to the State Social Security Fund, over and above the statutory contribution specified in this sub-section:

Provided further that, if the State Government is of the opinion that it is necessary or expedient in public interest so to do, it may after consultation with the state board, by notification in the Official Gazette, and subject to such conditions, as may be specified in the notification, reduce or waive the contribution payable by such workers for such period as may be specified in the notification:

Provided also that if such reduction or waiver is for employees of a particular establishment or class of establishment, any such reduction in or waiver of contribution shall be for a maximum period of five years.

Explanation 1: For the purpose of determining the contribution payable, a non-employee may provisionally assess the liability on the basis of his estimated Gross Income for the year, and make final settlement within three months of the end of the year.

Explanation 3 – Worker’s contribution as specified in this sub-section shall also be payable by an international worker.

20.4. If a worker is classified in Socio-Economic Category –IV (or Category III as the case may be), whereas he was not eligible to be registered in such category, he shall be liable to pay contribution as if he was not registered in the said category – IV (or Category III as the case may be) and was registered in the category he was entitled to.

20.5. In the case of a covered worker who is-
   (a) an Indian citizen, or 
   (b) a citizen or permanent resident of a country whose citizens or permanent residents are excluded from the definition of International Worker under a notification issued by the Central Government under sub-section (64) of Section 2 of this Code,

proceeds to work in another country with which India does not have a Social Security Agreement, 

may if the said worker and the employer so desire, continue to make contributions to the State Social Security Fund or Gratuity Fund as provided in sub-sections (1) or (3), in the same manner and under the same conditions as a covered worker employed in India, for the period that the said worker works in the other country or till the said worker retains the citizenship of India, whichever is earlier.

Provided that in case the employer, referred to in this sub-section, is not willing to pay the employer’s share of contributions, then the said worker may at his option continue to make contributions to the State Social Security Fund as provided in sub-sections (1), or (3), by remitting both the employer’s share of contribution as well as the worker’s share of contributions, in the same manner and under the same conditions as the said worker employed in India, for the period that the said worker works in the other country or till the member retains the citizenship of India, whichever is earlier.

20.6. Where the amount of any contribution payable under this Code, (whether employer’s or worker’s) involves a fraction of a rupee, the same shall be round off to the nearest rupee.

21. Manner of payment of contribution

21.1. The employer shall, in the first instance, for each contribution period, pay both the contribution payable by the employer (employer’s contribution) and also, on behalf of the worker employed by him directly or by or through a contractor, the contribution payable by such employee (worker’s contribution)to the State Social Security Fund.

Provided that a household may, in respect of domestic workers employed by him, after informing the Commissioner in such manner as may be stipulated, opt to pay consolidated contribution in advance on quarterly or half-yearly basis in respect of contribution periods of subsequent quarter
or half year as the case may be.

Explanation – If a worker is employed by more than one employer, each employer shall deposit the contributions in respect of wage paid by him.

21.2. Own account worker shall pay the worker’s contribution to the State Social Security Fund in respect of each contribution period:

Provided that a worker who is also the owner or proprietor of an establishment, he shall pay both the employer’s as well as the employee’s contribution to the State Social Security Fund.

Provided further that such own account worker or class of own account workers as may be prescribed, may, after informing the Commissioner in such manner as may be stipulated, opt to pay consolidated contribution in advance on quarterly or four-monthly or half-yearly basis in respect of contribution periods of subsequent quarter or four-months or half year as the case may be.

21.3. The employee’s contribution paid by the employer under sub-section (1) may be deducted from the wage or remuneration payable to the employee in respect of the contribution period for which the said contribution was due and paid:

Provided that no such deduction shall be made from any wages other than such as relate 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.

Explanation - In respect of employees employed by a contractor, the contractor may deduct the employee contribution from the wage payable to the employee, which is paid by the principal employer.

21.4. The contribution period in relation to a worker shall be the month in respect of which all contributions shall be payable under this section.

21.5. The contributions payable under this section in respect of each contribution period shall ordinarily fall due on such date of the subsequent month as may be prescribed including cases where an employee is employed for part of the month.

Provided that in respect of own-account workers who have opted for payment of consolidated contribution in accordance with the proviso to sub-section (2), the contributions payable shall fall due on the first day of the quarter or four-month or half-year as the case may be.

Provided further that in respect of workers that are employed by an entity for a period (or periods) that is less than a full month (whether on daily, or hourly or fixed time basis), the contribution shall fall due on the last day of the month or on termination of employment, whichever is earlier.

21.6. Notwithstanding any contract to the contrary, no employer shall be entitled to deduct the employer’s contribution from any wages payable to an employee or otherwise to recover it from him.

21.7. Any sum deducted by the employer from wages under this section 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.

21.8. The employer shall bear the expenses of remitting the contribution to the Social Security fund or meeting any other obligation under the Code. In case of an own account worker, he himself shall bear the expenses of remitting the contribution to the Social Security fund or meeting any other obligation under the Code.

21.9. The contribution received in the State Social Security Fund shall, as soon as may be practicable, appropriated to the worker’s Social Security Account in respect of whom the contribution was paid:

Provided that where the contribution received cannot be assigned to any particular worker, it shall be appropriated to suspense account.

21.10. The Quarters/ four-month periods / Half year periods for the purpose of this section shall be –

(a) Quarter – January to March; April to June; July to September; and October to December.

(b) Four Month Periods: April to July; August to November; December to March

Half year periods: April to September; October to March

22. Contribution Augmentation Funds

22.1. The Central Government or the State Government –

(a) Shall by notification establish a Contribution Augmentation Fund for the workers who belong to Socio-Economic Category IV;

(b) may, by notification, establish one or more Contribution Augmentation Funds for such class of employees or workers as may be specified in the notification.
22.2. Notwithstanding the generality of sub-section (1), the Central Government may establish the following Contribution Augmentation Funds under each State Board-
(a) Building and other construction workers Contribution Augmentation Fund
(b) Iron Ore Mine workers Contribution Augmentation Fund
(c) Aluminum ore Mine workers Contribution Augmentation Fund
(d) Manganese ore Mine workers Contribution Augmentation Fund
(e) Chrome Ore Mine workers Contribution Augmentation Fund
(f) Copper Ore Mine workers Contribution Augmentation Fund
(g) Zinc Ore Mine workers Contribution Augmentation Fund
(h) Mica Mine workers Contribution Augmentation Fund
(i) Limestone Mine workers Contribution Augmentation Fund
(j) Dolomite Mine workers Contribution Augmentation Fund
(k) Beedi Workers Contribution Augmentation Fund
(l) Audio-visual workers Contribution Augmentation Fund
(m) Domestic workers Contribution Augmentation Fund
(n) Salt Workers Contribution Augmentation Fund
Provided that the government may establish one fund for more than one class of workers.

22.3. The Appropriate Government may, after due appropriation by Parliament or the State Legislature, as the case may be, by law make grants to the respective Contribution Augmentation Funds from time to time and the moneys so received shall be credited to the respective funds.

22.4. The Contribution Augmentation Funds shall vest in and be administered by the respective State Boards.

22.5. The State Board, shall, from time to time, credit to the State Social Security Fund, such State-contributions, on behalf of such workers as may be specified by the Appropriate Government by general or special orders from time to time, by debiting the same from such Contribution Augmentation Fund as may be specified in the order.

22.6. The State Board, in consultation with their respective Advisory Committees where constituted, shall apply the Contribution Augmentation Funds to meet the expenditure incurred towards-
(a) payment of any State-contribution, premium or charges or part thereof for or on behalf of such workers to any Scheme framed under this Code,
(b) reimbursement any contribution (or part thereof) made by an employer to the State Social Security Fund in respect of such workers,
(c) any other expenditure which the National Council may allow to be defrayed from the Fund.

22.7. The income from investment of surplus moneys in the Contribution Augmentation Funds, if any, shall also be credited to the respective Contribution Augmentation Funds.

22.8. The State Board may accept grants, donations and gifts from the Central or any State Government, Local authority, or any individual or body whether incorporated or not, and credit the same to the State Social Security Fund or such fund as may be appropriate. ESIC 26(2)

22.9. The grant, donation or gifts received under sub-section (8) shall, if the donor has specified –
(a) the workers or class of workers for whom the donation etc. is made, be credited to the Social Security accounts of such workers and in such proportion as may be specified by the donor; or
(b) the Scheme for which the donation has been made (without specifying the workers or class of workers), shall be credited to the said specified Scheme Fund and, if required, shall be apportioned as per the provisions of the Schemes or Rules framed thereunder.

23. Social Security Reparation fund

23.1. There may be established, a Fund in each of the States and Union Territory, to be called as the respective State Social Security Reparation fund.

23.2. The State Social Security Reparation fund shall vest in, and be administered by the respective State Board in such manner as may be stipulated.

23.3. The Social Security Reparation fund shall be expended, only for the following purposes –
(i) Any reparation awarded to a worker for failure to provide any service to him or deficiency in the services provided to him
(ii) Payment of benefit to any employee who has become disentitled to such benefit on account of failure or neglect on the part of any principal employer to deposit any contribution or perform his obligations under any provisions of this code.
Payment of the difference of entitled benefit and benefit actually received by an employee who was restricted such lower scale of benefit on account of failure or neglect on the part of any principal employer to deposit any contribution or perform his obligations under any provisions of this code.

Collection of information to detect defaulters

Expenses towards conduct of special audit under section 118

Explanation – Any payment of benefits to an employee under clause (ii) or (iii) from the reparation fund shall be subject to recovery of such amount from the concerned employer under section 28, and such recoveries, whenever made, shall be credited to the Reparation Fund.

24. Schemes for Social Security

24.1. The Central government shall, after consultation with the National Council and after previous publication in the manner prescribed make one or more schemes for the provision of social security for workers or employees generally or for any class or classes of workers, international workers.

Provided that the Schemes framed in respect of International workers shall be subject to Social Security Agreements executed between India and the concerned Country:

Provided further that if no social Security agreement is executed between India and a Country, the Schemes framed for International workers shall not be applicable to the international workers of that country.

24.2. The State Government may, after consultation with the National Council, and after previous publication in the manner prescribed, make one or more supplementary schemes for the provision of social security for any class or classes of workers, who are not covered or not adequately covered by the schemes drawn up under sub-section (1).

24.3. The Appropriate Government, in framing the schemes under sub-section (1) or (2) as the case may be, specify –

(a) the entities or class of entities; or establishments or class of establishments to which the said Scheme shall apply or not apply; and

(b) workers or class of workers; or employees or class of employees who can be covered under the scheme.

(c) Eligibility and conditions for availing the benefits of the Scheme.

Explanation: The Appropriate government may frame different schemes for different class of workers for the same purpose.

Illustration: Government may frame two pension schemes, one for employees having wage below an income threshold and another pension scheme for employees having wage above the said income threshold.

24.4. Nothing in this section shall affect the right of an employee to receive better terms of social security under any award or agreement of contract with the employer.

24.5. Notwithstanding the generality of sub-section (1), The Central Government may, by notification in the Official Gazette, frame following Schemes, for the purpose mentioned against each–

<table>
<thead>
<tr>
<th>Name of the Scheme</th>
<th>Benefits</th>
<th>Situations under which benefits shall be provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Pension Scheme</td>
<td>Superannuation Pension and Retirement Pension</td>
<td>Upon cessation of employment due to superannuation or retirement.</td>
</tr>
<tr>
<td></td>
<td>family pension to family members</td>
<td>upon death of the pensioner</td>
</tr>
<tr>
<td>(b) Dependents’ benefit Scheme</td>
<td>Dependents’ benefits to dependents of a scheme member</td>
<td>upon death of the scheme member during work life</td>
</tr>
<tr>
<td>(c) Disablement benefit Scheme</td>
<td>disablement benefit to a scheme member</td>
<td>A scheme member who meets with an accident during service or work life</td>
</tr>
<tr>
<td>(d) Sickness Benefit Scheme</td>
<td>providing for periodical cash payments to scheme member</td>
<td>in case scheme member contracts sickness that requires confinement.</td>
</tr>
</tbody>
</table>
### Labour Code on Social Security 2018

| (e) Maternity Benefit Scheme | providing periodical or other payments in the form of maternity assistance | in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage to a woman scheme member. |
| (f) Medical Benefit Scheme | provision of medical treatment and attendance to the scheme members and their immediate family | Any condition of the scheme member or his immediate family which requires medical treatment and attendance |
| (g) Unemployment Benefit Scheme | Providing unemployment allowance to a scheme member Providing measures for re-employment of persons rendered unemployed | in case of loss of job or earning due to lay-off, retrenchment or any other eventuality specified in the scheme. |
| (h) Provident Fund Scheme | Providing a Provident fund benefit to the scheme member wherein the scheme member’s contribution can be invested and made available in case of providence. | Upon any eventuality specified in the scheme |
| (i) International workers’ pension scheme | (a) superannuation pension, or retirement pension to the international workers; | Upon cessation of employment due to superannuation or retirement. |

Provided that the Central government may notify composite schemes covering one or more benefits and prescribe single consolidated contribution/ premium for the consolidated scheme.

#### 24.6
Subject to the provisions of the Code,-

- (a) the provisions specified in Part-I of Schedule – III shall mutatis-mutandis apply to all the Schemes framed under sub-section (1) or (2);
- (b) a scheme framed under sub-section (1) or (2) may provide for all or any of the matters specified in Part – II of Schedule III; and
- (c) a Scheme framed under sub-section (1) or (2) may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.

#### 24.7
The Appropriate Government, may by notification in the official gazette, add to, amend, resend or vary, either prospectively or retrospectively, any scheme framed by it:

Provided that where there is a likely to be an impact on the financial viability of the Scheme on account of any proposed amendment, an actuarial assessment of the likely impact shall be made by a professional agency and considered by the appropriate government before amending the Scheme.

#### 24.8
Any Scheme, framed by the Central Government under sub-section (1), including any amendment made under sub-section (7) shall be laid, as soon as may be after it is made or modified, 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 scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be:

- provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under the scheme.

#### 24.9
Any Scheme, framed by the State Government under sub-section (2) including any amendment made under sub-section (7) shall be laid, as soon as may be after it is made or modified, before the State Legislature, 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, the state legislature agree in making any modification in the scheme or both Houses agree that the scheme should not be
made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be;
Provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under the scheme.
Provided further that in case of Union Territories without legislature, the Scheme shall be laid before the Parliament in the manner specified in sub-section (8)

### 25. Scheme Funds

#### 25.1.
There shall be established, as soon as may be after framing of a Scheme under Section 24, a Fund for each of the scheme so framed, into which there shall be credited, from time to time, in respect of every worker who is a scheme member,-

| (a) | such sums from the contributions or donations received from time to time into the State Social Security Fund on behalf of the said scheme member (whether made by the employer, worker, or the Government) as specified in the said Scheme; |
| (b) | such sums as are payable by the employers of establishments which has been permitted to operate Alternate Coverage Mechanism under sub-section (3) of section 95; |
| (c) | the net assets of the corresponding scheme under Employees’ Provident Fund and Miscellaneous Provisions Act 1952 or Employees’ State Insurance Act 1948 as on the date of establishment of the Fund of the said scheme: |

Provided that the net assets of the Schemes under Employees’ Provident Fund and Miscellaneous Provisions Act 1952 or Employees’ State Insurance Act 1948 shall be distributed to various states in accordance with the regulations.

#### 25.2.
The contributions (including State Contributions) received in the worker’s social security fund account from time to time shall be apportioned to Social Security Schemes in accordance with the following priority-

| (a) | In the first instance, where a State-contribution from any Contribution Augmentation Fund is made into the worker’s social security account, and the appropriate government making the state contribution has specified the Social security Scheme or schemes for which the State-contribution has been made, the Contribution or premium or charges towards the such Social Security Scheme or schemes shall be apportioned; |
| (b) | Thereafter, Contribution or premium or charges towards mandatory schemes of which he is a scheme member shall be apportioned; |
| (c) | Thereafter, Contribution or premium or charges towards other Schemes of which he is a scheme member, or in Schemes where he is a scheme member and wishes to make voluntary contributions subject to the provisions of such schemes, as per the priority and apportionment decided by the worker: |

Provided that where the worker fails to exercise the option under clause (c), the amount credited to the worker’s social security fund shall be apportioned in such schemes and in such priority as may be stipulated:

#### 25.3.
The Scheme Funds shall vest in and be administered by the State Board in such manner as may be specified in the Scheme.

#### 25.4.
The Scheme fund shall be expended, only for the following purposes—

<p>| (i) | Purposes specified in the respective Scheme framed under sub-sections (1) or (2) of section 24. |
| (ii) | defraying the cost (including all expenses) of auditing the accounts of the respective Scheme and of the valuation of its assets and liabilities or conducting actuarial evaluations of the respective Scheme |
| (iii) | where the scheme administration is managed or Scheme benefits or services are extended by an intermediate agency, state government or local authority in accordance with any agreement entered into by the Board, towards payment of charges to the Intermediate agency, state government or local authority. |
| (iv) | payment of any sums under any contract entered into by the State Board for the purposes of implementation of the Scheme |
| (v) | payment of sums under any decree, order or award of and Court or Tribunal against the Board or any of its officers or servants 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 Board in respect of the concerned scheme; |
| (vi) | defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken for implementation of the scheme |
| (vii) | such other purposes authorized by the Regulations. |</p>
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<td>25A.1</td>
<td>National Stabilisation Fund can be established, administered by the Central Board.</td>
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<td>Unclaimed amounts confiscated under section 108 are credited to the National Stabilisation Fund.</td>
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<td>25A.3</td>
<td>Upon Actuarial evaluation of any Scheme Fund, excess scheme assets can be credited to the National Stabilisation Fund.</td>
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<td>The Central Government may provide grants to the National Stabilisation Fund.</td>
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<td>25A.5</td>
<td>The National Stabilisation Fund can be expended for specified purposes.</td>
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<td>25B.1</td>
<td>Surplus from schemes shall be credited to the Central Board for professional management of investment.</td>
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<td>25C.1</td>
<td>The State Government may make Social Assistance Schemes.</td>
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<td>25C.2</td>
<td>Benefits from Social Assistance Schemes shall be paid from the Social Assistance Fund.</td>
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<td>26.</td>
<td>Assistance or Benefit not assignable or attachable.</td>
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26.1. The right to receive any payment of any assistance or benefit under this Code shall not be transferable or assignable. 

26.2. No cash assistance or benefit payable under any scheme framed under this Code shall be liable to attachment or sale in execution of any decree or order of any Court.
### 26.3. ESIC 62
No gratuity payable under any scheme framed under this Code or no gratuity payable to an employee employed in establishment which has been permitted to operate Alternate Coverage Mechanism in section 94 shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

### 26.4. ESIC 63
Amount standing to the credit of any covered worker in the Social Security Fund, Gratuity Fund or any Scheme Fund 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 the worker, and neither the official assignee appointed under the Presidency Towns Insolvency Act, 1909 (3 of 1909) nor any receiver appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to have any claim on, any such amount.

### 26.5. ESIC 65
Any amount standing to the credit of a covered worker in the Social Security Fund, Gratuity Fund or any scheme fund at the time of his death and payable to his dependants or nominee under the Scheme, subject to any deduction authorised by the said Scheme, vest in the dependant or the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the worker and shall also not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the worker during his life, and neither the official assignee appointed under the Presidency Towns Insolvency Act, 1909 (3 of 1909) nor any receiver appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to have any claim on, any such amount.

### 27. ESIC 66
**Certain Restrictions and prohibitions on Scheme Beneficiaries.**

#### 27.1. ESIC 67
Save as may be specified in the disablement benefit scheme, no person shall be entitled to commute for a lump sum any disablement benefit admissible under this Code.

#### 27.2. ESIC 68
Save as may be provided in the schemes, 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.

#### 27.3. ESIC 69
An scheme member 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.

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

Provided that where a person is entitled to more than one of the benefits, he shall be entitled to choose which benefit he shall receive.

#### 27.4. ESIC 70
If the Commissioner is satisfied that the benefits under this Code are being misused by a scheme member or a group of scheme members, then the Commissioner may, by order, disentitle such persons from such of the benefits as it thinks fit:

Provided that no such order shall be passed unless an opportunity of being heard is given to the concerned establishment, scheme members and the trade unions registered under the Trade Unions Act, 1926 (16 of 1926) and recognized in respect of the establishment.

### 28. ESIC 71
**Allowing of Benefits even when contribution is not received.**

#### 28.1. ESIC 72
If any Employer (including Principal Employer) fails to —

a. register an employee or update particulars of the employee upon his employment, or

b. neglects to pay any contribution which under this Code he is liable to pay in respect of any employee

and by reason thereof such person becomes disentitled to any benefit or entitled to a benefit on a lower scale, the Commissioner may, on being satisfied that the contribution should have been paid by the Employer, pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Commissioner shall be entitled to recover from the Employer or Principal Employer the sum of —

(i) the net present value of the long term and short term benefit paid to the employee or the dependants of the deceased employee, and

(ii) the cost of medical benefit and medical treatment, and

(iii) The compensation awarded by the consumer court under Consumer Protection Act, 1986 or any other court and legal expenses thereon, and

(iv) contribution that was payable by the employer.

Explanation-1: Any interest or damages that are attracted on the non-payment or short payment of the contribution shall be assessed and recovered under the provisions of Section 117 and Section 121.

Explanation-2: The rate of discount for the purpose of calculating the Net Present Value shall be such as may be prescribed.
### 28.2. The amount due under this section shall be recovered under the provisions of Section 137

### 29. Priority of payment of contributions etc. over other debts.

#### 29.1. Where any employer is adjudicated insolvent or, being a company, an order for winding up or dissolution is made, the amount due -

(a) from the employer in relation to an establishment to any contribution payable under this Code or administrative charges payable or damages recoverable under section 121, or any charges payable by him under any other provision of this Code;  
(b) from the employer in relation to an establishment which has been permitted to operate Alternate Coverage Mechanism in respect of any contribution to the social security fund in so far as it relates to Alternately Covered Employees, under the rules of any scheme, framed under this code –  
(i). any contribution payable by him towards the Scheme Fund under sub-section (3) of section 95, or  
(ii). any damages recoverable under section 121 or  
(iii). any charges payable by him to the appropriate Government under any provision of this Code, or  
(iv). Any accumulations required to be transferred by him under sub-section (4) of section 96, or  
(v). Any amount payable under any of the conditions specified under section 94, shall where the liability therefore has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under section 49 of the Presidency Towns Insolvency Act, 1909 (3 of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (5 of 1920) or under section 530 of the Companies Act, 1956 (1 of 1956), are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

#### 29.2. Without prejudice to the provisions of sub-section (1), any amount due from an employer, whether in respect of the employee's contribution deducted from the wages of the employees or the employer's contribution, the amount so due shall be deemed to be the first charge on the assets of the establishment, and shall, notwithstanding anything contained in any other law for the time being in force, be paid in priority to all other debts.


#### 30.1. For the purpose of the Indian Income Tax Act, 1961, as amended from time to time, the State Social Security Fund, The State Gratuity Fund and the Scheme Funds shall be deemed to be a recognised funds within the meaning of Fourth Schedule of that Act:

Provided that nothing contained in the said Schedule shall operate to render ineffective any provision of the Scheme under which the Fund is established, which is repugnant to any of the provisions of that Chapter or of the rules made thereunder.

### 31. Portability of worker’s social security account

#### 31.1. If a worker whose social security account is maintained by a State Board of a state (source state) moves to another state (destination state) for work, the said worker may, by an application to the Registering Authority in the destination state, –

(a) request for continuance of his social security account in the source state, or  
(b) Request for transfer of his social security account to the destination state where he works or to the State of his permanent residence:

Provided that if no request is made, the social security account shall be continued to be maintained in the source state.

#### 31.2. The manner, form and procedure for submission of application under sub-section (1) shall be such as may be specified in by-laws.

#### 31.3. Where a worker works in a State and the social Security Account is maintained by another state,

(a) The State Board of the State where the worker is working shall remit the contributions (including State-Contributions) made to the Social Security Account of the worker (whether employer’s, employee’s or from Contribution Augmentation Fund) to the State where his account is maintained:  
Provided that the state board shall be authorized to retain such percentage of contributions (and/or State-Contributions) as may be stipulated, for the purpose of providing medical benefits to the worker.

(b) The worker shall be entitled to claim all the benefits of the schemes, except medical benefits for himself, only from the State Board where his account is maintained.
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<tr>
<td><strong>Explanation</strong></td>
<td>The immediate family members shall be provided medical benefits, if entitled under the medical benefit scheme, in the state where the social security account of the worker is maintained.</td>
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<td>(c) The worker shall be entitled to claim or avail medical benefits available in the Medical benefit scheme, from the state where he works.</td>
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<td><strong>31.4.</strong></td>
<td>Where a worker requests for transfer of his social security account from one state (first state) to another (second state),-</td>
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<td></td>
<td>(a) The state board of first state shall, within a period of one month, transfer such amount from the various scheme funds, in respect of the concerned worker as may be stipulated, to the scheme funds in the state board of second state.</td>
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<td>(b) The worker shall be provided benefits (subject to entitlement) of the schemes of which he is a scheme member by the state board of second state as if he was a member of the scheme continuously in the second state, from the date of such transfer of funds under clause (a): Provided that the scheme member shall be provided to benefits of the schemes (subject to entitlement) from the state board of the first state till such time the funds are transferred under clause (a)</td>
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<tr>
<td><strong>31.5.</strong></td>
<td>The manner and procedure for transfer of funds under sub-section (4) shall be such as may be specified in by-laws.</td>
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PART E
Cess and Contribution Augmentation Funds

32. Levy of Cess on buildings and other construction

32.1. Central Government may by notification levy and collect Cess for the purpose of social security of building and other construction workers, at such rate as specified in Schedule II, of the cost of construction incurred by the landlord:
Provided that the rate of Cess shall not exceed two percent:
Provided further that no cess shall be levied on construction, where the total cost of construction is less such amount as may be stipulated.

32.2. The Cess levied under sub-section (1) shall be levied and collected from the landlord who shall be liable to pay the cess amount on the construction that has been executed by him directly, or through a contractor or works contractor and he shall pay the same within thirty days from the date of completion of the construction work.

32.3. The Central Board may, through by-laws, specify rules and schedule of rates to assess the cost of construction of a building.

32.4. Where the actual cost of construction is less than the assessed amount under sub section (3), the cess shall be payable on such assessed amount.

32.5. Notwithstanding the provisions of sub-section (2), where the duration of construction work exceeds one year, cess shall be paid within thirty days of completion of one year from the date of commencement of work and every year thereafter, on the cost of construction incurred during the relevant period.

32.6. The cess levied under sub section (1) shall be collected from every landlord 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 work by such local authority is required, as may be prescribed, and the said amount shall be credited to the Building and Other Construction workers Contribution Augmentation Fund.

32.7. The proceeds of the cess collected under sub-section (6) shall be paid by the local authority or the State Government collecting the cess to the state Board after deducting such collection charges not exceeding one percent, as may be prescribed.

32.8. The landlord may pay in advance an amount of cess calculated on the basis of the estimated cost of construction and such amount paid in advance shall be adjusted in the final assessment.

32.9. The landlord may pay in advance an amount of cess calculated on the basis of the estimated cost of construction and such amount paid in advance shall be adjusted in the final assessment.

33. Levies of Cess

33.1. The Central Government, may, by notification in the Official Gazette levy a cess at such rate not exceeding two per cent on the turnover of such establishments or class of establishments as may be specified in the notification.

33.2. The cess levied under sub-section (1) shall be collected by the Commissioner from every employer of the establishments liable to pay cess in such manner and within such time as may be prescribed.

33.3. The proceeds of the cess collected under sub-section (2) shall be credited to such Contribution Augmentation Fund set up by the State Government as may be specified in the notification issued under sub-section (1).

33.4. Notwithstanding anything contained in sub-section (1) or sub-section (2), the cess leviable under this Code including payment of such cess in advance may, subject to final assessment to be made, be paid on the basis of the self-assessment of the turnover by the employer or entity concerned.

33.5. The employer of establishment liable to pay cess shall within six month of the closure of the financial year, make final assessment of the turnover of the immediately preceding financial year and make the final settlement of the total cess to be paid.

34. Exemption from levy of Cess

34.1. If the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the social security of such person for whom any particular Cess is being collected, it may in consultation with the concerned State Government, by notification, direct that the provisions of this Code concerning levy and collection of such Cess shall not apply or shall apply to such State or part thereof subject to such exceptions and
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<tr>
<td><strong>34.2.</strong></td>
<td>The Central Government may in consultation with the State Government, by notification, and subject to such conditions as may be specified in the notification, exempt any employer or class of employers in a State from the payment of any or all cess payable under Part E.</td>
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<td><strong>35.</strong></td>
<td>Deleted</td>
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<td><strong>36.</strong></td>
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### PART F

**Obligations**

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| 37.1.   | Save as provided in sub-section (2), every employer, including principal employer, contractor, and works contractor shall deliver or cause to be delivered, to the State Board or to such person authorized by by-laws, such returns for such periods, within such time, in such form, verified in such manner and containing:  
  (a) such particulars relating to persons employed by him or to any establishment in respect of which he is the principal employer or contractor,  
  (b) such particulars relating to contracts and works contracts where he is liable to pay Cess under sub-section (2) of section 32, and  
  (c) such other particulars, as may be specified in the by-laws.  

Explanation - The return by an employer shall also include particulars in respect of the worker who is also the owner or proprietor of the entity. |
| 37.2.   | Every -  
  (a) own account worker,  
  (b) head of household, that employs domestic help for running the household,  
  (c) employer of establishment belonging to unorganised sector  
  (d) landlord, and  
  (e) any entity liable to pay cess under this Code.  

shall deliver or cause to be delivered, to the State Board or to such person authorized by by-laws, such return-cum-challan for such periods, within such time, in such form, verified in such manner and containing such particulars relating to himself as may be specified in by-laws made in this behalf.  

Explanation - If a person is required to furnish return under this sub-section but is not required to be registered under section 14, such person shall use his own VIKAS as the 'Employer code' for furnishing return under this sub-section. |
| 37.3.   | The person responsible for deducting contributions at source shall, prepare such returns for such periods, containing such particulars and in such form and verified in such manner as may be specified in the by-laws, and deliver or cause to be delivered, to the State Board or to such person authorized in the by-laws, within such time as may be specified in the by-laws. |
| 37.4.   | Where in respect of any person or entity the Commissioner has reason to believe that a return should have been submitted under sub-section (1) or sub-section (2), but has not been so submitted, the Commissioner may require him or person in charge of the entity to furnish such particulars as it may consider necessary for the purpose of enabling him to decide whether the person or entity was required to furnish return under this provision. |
| 37.5.   | Where the Commissioner considers that the return delivered or caused to be delivered under subsection (1) or (2) is incorrect or incomplete or otherwise defective, he may intimate the defect to the person responsible for payment of contribution or Cess or deduction of contribution at source, as the case may be, and give him an opportunity of rectifying the defect within such period as may be specified in by-laws or within such further period not exceeding 30 days which, on an application made in this behalf, the Commissioner may, in his discretion, allow; |
| 37.6.   | If the defect is not rectified to the satisfaction of Commissioner within the said period specified in sub section 5 then, notwithstanding anything contained in any other provision of this Code, such return shall be treated as an invalid return and the provisions of this Code shall apply as if such person had failed to deliver the return. |
| 37.7.   | Every employer, including principal and contractor, shall maintain such registers or records in respect of persons employed by him or to any establishment in respect of which he is the principal or contractor, as may be required in the by-laws. |
| 37.8.   | Every landlord, contractor or works contractor shall maintain such registers or records in respect of construction work undertaken or executed or contracted by him in respect of which Cess under sub-section (1) of section 32 is payable, as may be required in the by-laws. |
| 37.9.   | Every person required to make deduction of contribution at source shall maintain such registers or records in respect of works contracts awarded by him or to any works contractor in respect of which he is the principal or contractor, as may be required in the by-laws. |
| 37.10.  | The Commissioner or any other authority specified by the State Government in this behalf may |

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require any person to furnish, for the purposes of this Code, such statistical and any other information as it may think fit for the purpose of implementation of the provisions of this code or schemes, and upon such requisition, the person called upon to furnish the information shall furnish the information, within such time and in such manner as may be directed by the concerned authority:
Provided that no person shall be called upon to furnish any information to which he is not the custodian or supervisor.

38. **Administrative Charges**

| 38.1. | There shall be established, a State Administrative Fund in accordance with the provisions of this Code, in each of the States and Union Territory, which shall vest in, and be administered by the respective State Board in such manner as may be stipulated. |
| 38.2. | Every –
   (a) Employer; and
   (b) Own account worker except those who ,are classified in Socio-Economic Category – III or Socio-Economic Category - IV, shall, pay to the State board, along with the contribution payable, and in the same manner in which the contribution is paid, administrative charge of such percentage of the total contribution due and payable, as may be prescribed:
   provided that the administrative charges shall not exceed five percent of total contribution due and payable.
   Explanation- “total contribution” means the sum of employer’s and worker’s contribution due and payable in respect of workers, and includes voluntary contribution paid by any worker. |
| 38.3. | Whenever any amount is credited to any Contribution Augmentation Fund created under Section 22(1), administrative charges at the rate specified in sub-section (2) shall be deducted from the said amount and credited to the Administrative fund. |
| 38.4. | Administrative charges shall become due on the same date as the contribution becomes due. |
| 38.5. | The Administrative Charges shall be credited to the State Administrative Fund in the first instance. |

39. **Interest**

| 39.1. | The employer or any person shall be liable to pay simple interest at the rate of twelve percent per annum or at such higher rate as may be prescribed in this behalf on any amount due from him under this code from the date of which the amount has become so due till the date of its actual payments
   Provided that higher interest prescribed shall not exceed the lending rate of interest charged by any scheduled bank.
   Explanation. — In this sub-section ‘scheduled bank’ means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934). |
| 39.2. | If any contribution (employer’s as well as workers’), Cess or administrative charges payable by any person is not paid by him on the date on which such contribution, cess or administrative charges has become due, he shall be liable to pay interest as per sub-section (1) |
| 39.3. | If any person, or company who is required to deduct any sum in accordance with the provisions of Section 42, does not deduct the whole or any part of the contribution or after deducting fails to pay the contribution as required by or under this Code, he or it shall be liable to pay –
   (a) simple interest as per sub-section (2) on the amount of such contribution from the date on which such contribution was deductible to the date on which such contribution is deducted;
   and
   (b) at one and one-half per cent for every month or part of a month on the amount of such contribution from the date on which such contribution was due to the date on which such contribution is actually paid,
   and such interest shall be paid before furnishing the return in accordance with the provisions of sub-section (3) of Section 37. |
| 39.4. | Any interest due under this section shall be recoverable in the same manner as recovery of contribution or other charges under Section 137. |

40. **Repayment of Benefits improperly received**

| 40.1. | Where any person has received any benefit or payment under this Code when he is not lawfully entitled thereto, he shall be liable to repay to the State Board the value of the benefit or the amount of such payment, along with interest under section 39:
   Provided that in the case of death of the person his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands. |
| 40.2. | The Commissioner may, after conducting such inquiry as deemed fit, and after giving the affected |

| 40.1. | Where any person has received any benefit or payment under this Code when he is not lawfully entitled thereto, he shall be liable to repay to the State Board the value of the benefit or the amount of such payment, along with interest under section 39:
   Provided that in the case of death of the person his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands. |
| 40.2. | The Commissioner may, after conducting such inquiry as deemed fit, and after giving the affected |
persons an opportunity of being heard, by order, determine if a person has improperly received any benefits under the Code, amount to be repaid and the value of any benefits received other than cash payments.

40.3. The amount recoverable under this section may be recovered under the provisions of Section 137 [ESIC 70(3)]

41. Refunds

41.1. Subject to the other provisions of this section and the rules, the Commissioner shall refund to a person the amount of contribution, damages and interest, if any, paid by such person in excess of the amount due from him.

41.2. Before making any refund, the Commissioner shall first apply such excess towards the recovery of any other amount due under this Code and any amount remaining thereafter shall be refunded to the person, within one month after the date on which the return was furnished and claim for the refund was made.

41.3. The Commissioner may, as a condition of the payment of a refund, demand security from the person, within such period as may be specified in the by-laws from the date on which the return was furnished or claim for the refund was made, and when such security is furnished to the satisfaction of the Commissioner, he shall grant refund within such period as may be specified in the by-laws from the date he furnishes the security.

41.4. For calculating the period for payment of refund in clause (3), the time taken to –

(a) furnish the security under sub-section (3) to the satisfaction of the Commissioner; or

(b) furnish the additional information sought for the purpose of refund; or

(c) furnish returns under section 37;

shall be excluded.

41.5. No amount of worker’s contribution shall be refunded to an establishment under this section unless the Commissioner is satisfied that the establishment has refunded the worker’s contribution to the employee if deducted from him.

41.6. Where a person is entitled to a refund and any proceeding under this Act, and a proceeding of Assessment of dues under section 117 is pending against him, and the Commissioner is of the opinion that it may not be possible to recover the amount later, the Commissioner may for reasons to be recorded in writing, either obtain a security equal to the amount to be refunded to the person or withhold the refund till such time the proceeding is concluded.

41.7. Where a refund is withheld under sub-section (6) of this section, the person shall be entitled to interest at the same rate as specified in section 39 of this Act if as a result of the appeal or further proceeding, or any other proceeding, he becomes entitled to the refund.

42. Contribution deduction at source in case of works contract

42.1. Any person other than individual or Hindu Undivided Family responsible for paying any sum to any works contractor for carrying out any works contract in pursuance of a contract between the said person and the works contractor shall, at the time of credit of such sum to the account of the works contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to

(a) twenty five per cent of the value of the cost towards labour, in case labour component is invoiced separately; or

(b) four percent of the whole of invoice value payable to the works contractor, in case the labour component is not invoiced separately.

Provided that no deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the works contractor, if the value of the works contract does not exceed such amount as may be stipulated.

Explanation 1: If multiple works contracts are executed for performing a single work, they shall be clubbed together to determine liability of deduction and payment of contribution at source.

Explanation 2: For removal of doubts, all establishments awarding works contract to any works contractor will be required to deduct contribution at source.

42.2. Where any sum referred to in sub-section (1) is credited to any account of the State Board, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such sum to a works contractor, such crediting shall be deemed to be credit of such sum to the works contractor to the account of the payee and the provisions of this section shall apply accordingly.

42.3. The person deducting contributions in accordance with the foregoing provisions shall, within such
### Obligation of Principal Employers and Contractors

43.1. The principal employer shall be obliged to ensure that in respect of every employee, whether employed by him directly, or through a contractor, all the contributions and administrative charges are paid to the respective funds.

Explanation: - For the purpose of this section all contributions mean the employer’s contributions, worker’s contributions, gratuity contributions and any other contribution or charges payable under this Code.

43.2. The Principal Employer may, pay the contribution in respect of employees employed by him, or through a contractor, and deduct the amount so paid in accordance with sub-section (4)

43.3. Where in case of any employee, whole or any part of the contribution as required by or under this Code is not paid, and the principal employer was required to ensure payment of contributions under sub-section (1), then, such principal employer, shall, without prejudice to any other consequences which he may incur, be deemed to be an employer in default in respect of such contribution.

Explanation: The Principal Employer and the Contractor/sub-contractor shall be jointly and severally liable for payment of contributions.

43.4. The Principal Employer who has paid or proposes to pay contribution, in respect of an employee employed by or through a contractor shall be entitled to recover the amount of the contribution and administrative charges so paid under sub-section (1) from the contractor either by deduction from any amount payable by him to the contractor under any contract or as a debt payable by the contractor.

Explanation 1: - For the purpose of this sub-section, the entity to whom the Principal Employer has given a contract to undertake whole or part of the work, shall be deemed to be the contractor,

<table>
<thead>
<tr>
<th>Explanation 1</th>
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<tbody>
<tr>
<td>The Principal Employer who has paid or proposes to pay contribution, in respect of an employee employed by or through a contractor shall be entitled to recover the amount of the contribution and administrative charges so paid under sub-section (1) from the contractor either by deduction from any amount payable by him to the contractor under any contract or as a debt payable by the contractor.</td>
</tr>
</tbody>
</table>
whether such entity undertakes the work directly by employing employees or by further sub-contracting the said work or part of said work to another entity.

Explanation 2- Where an entity A to whom the Principal employer has given a contract to undertake whole or part of the work, and such entity A further sub-contracts the said work or part of said work to another entity B, entity A shall also be deemed to be the Principal employer in respect of its relation to entity B.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>43.5</td>
<td>The principal employer deducting contributions in accordance with the sub-section (4) shall, within such period as may be stipulated from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any sum, furnish to the contractor to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate in such form as may be specified in the by-laws, to the effect that contribution and other charges has been deducted, and specifying the amount so deducted, the employees on account of whom the contribution and other charges is deducted, the rate at which the contribution has been deducted, and such other particulars as may be stipulated.</td>
</tr>
<tr>
<td>43.6</td>
<td>The contractor shall furnish, in such form as may be specified in the by-laws, relevant details of employees, employed by or through him for the Principal Employer, to the principal employer before settlement of any amount payable to him by the principal employer.</td>
</tr>
<tr>
<td>43.7</td>
<td>No employer in relation to an establishment shall, by reason only of his liability for the payment of any contribution to the Social Security Fund or any charges under this Code or the Scheme reduce whether directly or indirectly, the wages of any employee or the total quantum of benefits in the nature of old age pension, gratuity, provident fund or life insurance to which the employee is entitled under the terms of his employment, express or implied.</td>
</tr>
</tbody>
</table>

44. Liability in case of transfer of establishment -

44.1 Where an employer, in relation to an establishment, transfers that establishment in whole or in part, by sale, gift, lease or license or in any manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the contribution and other sums due from the employer under any provision of this Code or the Scheme as the case may be, in respect of the period up to the date of such transfer:

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

Provided further that in case of transfer of the establishment as a result of public auction by the Central Government or the State Government or the local authorities or other authorities constituted by the Central Government or the State Government or public financial institution, and the authorities so auctioning remit the dues contribution and other sums due from the employer on the date of transfer from the proceeds of the auction, the liability shall not be transferred.

45. Returns, etc. to be confidential

45.1 All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Code, or in any record of evidence given in the course of any proceedings under this Code, other than proceedings before a criminal court, shall, save as provided in sub-section (2), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no court shall, save as aforesaid, be entitled to require any Official of the National Council, Board or Intermediate Agency to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

45.2 Nothing in this section shall apply to the disclosure –

(a) of any of the particulars referred to in sub-section (1) of this section for the purposes of investigation or prosecution under this Act or the Indian Penal Code 1860 (45 of 1860) or any other enactment for the time being in force;

(b) of such facts to an officer of the Central Government or any State Government as may be necessary for verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it;

(c) of any such particulars where such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand;

(d) of any such particulars to a civil court in any suit or proceeding to which the Government or any authority under this Code is a party and which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorising any authority to exercise any powers thereunder;

(e) of any such particulars by any public servant where the disclosure is occasioned by the
lawful exercise by him of his powers under the Indian Stamp Act, 1899 (2 of 1899) to impound an insufficiently stamped document;

(f) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment;

(g) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for purpose of audit of tax receipts or refunds;

(h) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs;

(i) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Government may, by general or special order, direct; or

(j) of any information relating to a class of establishments or class of transactions, if, in the opinion of the Commissioner it is desirable in the public interest to publish such information.

<table>
<thead>
<tr>
<th>45A</th>
<th>Obligation not to disclose or access the information otherwise than as provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>45A.1</td>
<td>No person shall intentionally disclose, transmit, copy or otherwise disseminate any information collected in the course of implementing the provisions of this code or regulations made thereunder, to any person not authorized under this code or in contravention of any agreement entered into in pursuance to the provisions of this code.</td>
</tr>
</tbody>
</table>

| 45A.2 | No person except as authorized by appropriate Social Security Organization, shall intentionally – |
| | a. Access or secure access to data |
| | b. Download copy or extract any data in removable storage medium |
| | c. Introduce or cause to introduce virus or other computer containment in data of Social Security Organizations. |
| | d. Damage or cause to damage data |
| | e. Disrupt or cause disruption of access to data |
| | f. deny or cause a denial of access to any person who is authorised to access the data. |
| | g. Destroy delete or alter any information in any removable storage media or diminish its value or utility or affect it injuriously by any means. |
| | h. Steal conceal destroy or alter or cause any person to steal, conceal, destroy or alter any computer source code authorized to be used under the act within an intention to cause damage. |

Explanation: For the purposes of this section, the expressions “computer contaminant”, “computer virus” and “damage” shall have the meanings respectively assigned to them in the Explanation to section 43 of the Information Technology Act, 2000, and the expression “computer source code” shall have the meaning assigned to it in the Explanation to section 65 of the said Act.
## PART G
### Gratuity

<table>
<thead>
<tr>
<th>46.</th>
<th>Application of Gratuity Scheme</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>46.1.</strong></td>
<td>The Gratuity Scheme and the provisions of this part shall apply to –</td>
</tr>
<tr>
<td></td>
<td>(a) All establishments which employ such minimum number of employees as may be prescribed.</td>
</tr>
<tr>
<td></td>
<td>Provided that different minimum number may be prescribed for different class of establishments.</td>
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<tr>
<td></td>
<td>(b) All employees employed by the establishment referred to in clause (a), whether employed directly or through contractor.</td>
</tr>
<tr>
<td></td>
<td>Explanation: An establishment to which this Code has become applicable shall continue to be governed by this Section notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below the minimum number prescribed under clause a.</td>
</tr>
<tr>
<td><strong>PGA 1(3)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>46.2.</strong></td>
<td>An employee to whom the Gratuity scheme applies shall be entitled to receive by way of Gratuity, an amount as specified in Section 47, on the termination of his employment due to superannuation, or retirement or resignation, or death or disablement due to accident or disease after completion of continuous service for not less than five years.</td>
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<td></td>
<td>Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of an employee is due to death or permanent disablement as a result of an employment injury or occupational disease.</td>
</tr>
<tr>
<td><strong>PGA 4(1)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>46.3.</strong></td>
<td>The Gratuity shall be paid in one lump sum immediately after the termination of service.</td>
</tr>
<tr>
<td><strong>PGA 4(1)p</strong></td>
<td></td>
</tr>
<tr>
<td><strong>46.4.</strong></td>
<td>In the case of death of the employee, the Gratuity payable to him shall be distributed amongst his dependents in the same manner as if it was to be paid and distributed as employee compensation under section 64.</td>
</tr>
<tr>
<td><strong>PGA 4(5)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>46.5.</strong></td>
<td>Nothing this part shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.</td>
</tr>
<tr>
<td><strong>PGA 4(5)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>46.6.</strong></td>
<td>The Gratuity payable to an employee whose services have been terminated for any act, willful omission or commission or negligence causing any damage or loss to, or destruction of, property belonging to the employer shall be forfeited to the extent of the damage or loss so caused.</td>
</tr>
<tr>
<td><strong>PGA 4(6)(a)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>46.7.</strong></td>
<td>The Gratuity payable to an employee may be wholly or partially forfeited by a reasoned order of the Commissioner if his services have been terminated for riotous and disorderly conduct or any other act of violence on his part or for any act which constitutes an offence involving moral turpitude provided that such offence is committed by him in the course of his employment.</td>
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<tr>
<td></td>
<td>Provided that no such order shall be passed by the Commissioner except after giving the concerned parties an opportunity of being heard.</td>
</tr>
<tr>
<td><strong>PGA 4(6)(b)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>47.</strong></td>
<td>Gratuity Amount payable</td>
</tr>
<tr>
<td><strong>47.1.</strong></td>
<td>The amount of Gratuity shall not be less than rate of half of deemed wage for every completed year of service or any part thereof in excess of six months.</td>
</tr>
<tr>
<td></td>
<td>Provided that in the case an employee has not completed six months of service in a year but has completed three months of service in a year, the employer shall pay the gratuity at the rate of one-fourth of deemed wage for such year.</td>
</tr>
<tr>
<td><strong>PGA 4(2)</strong></td>
<td></td>
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<tr>
<td><strong>47.2.</strong></td>
<td>Deleted</td>
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<tr>
<td><strong>PGA 4(2)p</strong></td>
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<tr>
<td><strong>47.3.</strong></td>
<td>The amount of Gratuity payable to an employee shall not exceed such amount as may be prescribed.</td>
</tr>
<tr>
<td><strong>PGA 4(3)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>48.</strong></td>
<td>Liability of Principal Employer and Contractor in case of Gratuity</td>
</tr>
<tr>
<td><strong>48.1.</strong></td>
<td>The Principal employer shall have the liability to pay the Gratuity in the first instance.</td>
</tr>
<tr>
<td></td>
<td>Explanation: If an employee meets the qualifying continuous service, serving for a Principal employer, the said principal employer shall pay the Gratuity.</td>
</tr>
<tr>
<td><strong>PGA 4(3)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>48.2.</strong></td>
<td>In case where Principal employer is not liable under sub-section (1) and the employee has rendered the qualifying continuous service under the contractor, the contractor shall be liable for payment of Gratuity.</td>
</tr>
<tr>
<td><strong>PGA 4A</strong></td>
<td></td>
</tr>
<tr>
<td><strong>49.</strong></td>
<td>Withdrawal from State Gratuity Fund to meet Gratuity liability</td>
</tr>
<tr>
<td><strong>49.1.</strong></td>
<td>The Commissioner may, on notice from an employer in such form, and subject to such conditions as may be stipulated, sanction from the amount standing to the credit of the employer in the State Gratuity Fund, a withdrawal for settling his liability towards payment of gratuity in respect of any of</td>
</tr>
<tr>
<td><strong>49.2.</strong></td>
<td>When a withdrawal is sanctioned in terms of sub-section (1), the amount shall directly be credited to the account of the employee concerned to whom gratuity is due, and the said amount shall be deemed to have been paid by the said employer.</td>
</tr>
<tr>
<td><strong>49.3.</strong></td>
<td>No withdrawal under this section shall be granted unless the Commissioner is satisfied that the withdrawal sought is against a bonâ-fide gratuity claim.</td>
</tr>
</tbody>
</table>

### 50. Continuous service - For the purposes of this Part,

**50.1.** 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 Code;

Explanation: An employee shall be deemed to have been in continuous service of the Principal Employer so long as he has served continuously for the same principal employer, whether or not through same or different contractors.

**50.2.** Where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of sub-section (1), 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 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 sub-section (2) 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 (20 of 1946), or under the Industrial Disputes Act, 1947 (14 of 1947), or under any other law applicable to the establishment;

(ii) he has been on leave with full wages;

(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.

**50.3.** Where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of sub-section (1), 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.

**51. Determination of the amount of gratuity.**

**51.1.** As soon as gratuity becomes payable, the employer shall, whether an application for the same has been made or not, determine the amount of gratuity and give notice in such manner as may be prescribed to the person to whom the gratuity is payable and also to the Commissioner specifying the amount of gratuity so determined within a period of 15 days from the date the gratuity becomes due.

**51.2.** The Commissioner shall, if sufficient amount is available in the Gratuity Fund Account of the employer, arrange to pay the amount of gratuity from the Gratuity Fund of the employer who is liable to pay the gratuity within thirty days from the date of receipt of notice under sub section (1): Provided that if sufficient amount is not available in the gratuity fund account of the employer who is liable to pay the gratuity, the commissioner shall by order direct the employer to pay the gratuity.
to the employee directly from his own funds and the employer shall pay within fifteen days of receipt of such order.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>51.3.</td>
<td>Notwithstanding anything contained in sub-section (1) and (2) it shall be the responsibility of the employer to arrange to pay the amount of gratuity within sixty days from the date it becomes payable to the person to whom the gratuity is payable.</td>
</tr>
<tr>
<td>51.4.</td>
<td>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, interest in accordance with section 39: 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 Commissioner for the delayed payment on this ground.</td>
</tr>
<tr>
<td>51.5.</td>
<td>If there is any dispute as to the amount of gratuity payable to an employee under this Part 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 Commissioner such amount as he admits to be payable by him as gratuity and raise a dispute under sub-section (7). Provided that deposit of the said amount with the Commissioner shall not be necessary if sufficient money is available in the gratuity fund account of the employer.</td>
</tr>
</tbody>
</table>
| 51.6.  | The Commissioner shall pay the amount the employer admits to be payable by him under sub-section (5)---
  (i) to the applicant where he was the employee; or
  (ii) where the applicant is not the employee, in the manner specified in section 64. |
| 51.7.  | Where there is a dispute with regard to any matter or matters specified in sub-section (5), the employer or employee or any other person (who is entitled to receive gratuity benefits) raising the dispute may make an application to the Commissioner for deciding the dispute. |
| 51.8.  | The Commissioner shall, after due inquiry and after giving the parties to the dispute an opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the Commissioner shall arrange to pay such amount from the account of the employer with whom the employee was employed, if sufficient money is available in the said account or direct the employer to pay such amount, as the case may be. |
| 51.9.  | For the purpose of conducting an inquiry under sub-section (8), the Commissioner shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:---
  (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. |
| 51.10. | Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860). |
| 52.    | Recovery of Gratuity |
| 52.1.  | If the amount of gratuity payable under this Part is not paid by the employer, within the time specified under this Code, to the person entitled thereto, the same shall be recovered in the manner specified in section 137. |
### Part H
#### Maternity Benefits

<table>
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<tr>
<th>53.</th>
<th>Obligations of Employers and Rights of Woman in case of Maternity. —</th>
<th>MBA 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>53.1.</td>
<td>No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her confinement, stillbirth, miscarriage or medical termination of pregnancy.</td>
<td>MBA 4(1)</td>
</tr>
<tr>
<td>53.2.</td>
<td>No woman shall be forced or obliged to work by any other person or in any entity during six weeks immediately following the day of her confinement, stillbirth, miscarriage or medical termination of pregnancy.</td>
<td>MBA 4(2)</td>
</tr>
<tr>
<td>53.3.</td>
<td>No pregnant woman worker shall, on a request being made by her in this behalf, be required by her employer to do during the period of ten weeks, before the date of her expected delivery, 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.</td>
<td>MBA 4(3)</td>
</tr>
<tr>
<td>53.4.</td>
<td>Every woman worker delivered of a child who returns to duty after such confinement shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work four breaks of the stipulated duration for nursing the child until the child attains the age of fifteen months.</td>
<td>MBA 11</td>
</tr>
</tbody>
</table>
| 53.5. | No deduction from the normal and usual daily wages of a woman worker entitled to maternity benefit under the provisions of this Code shall be made by reason only of—  
(a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3);  
(b) breaks for nursing the child allowed to her under the provisions of sub-Section (4). | MBA 13 |
| 53.6. | No employer shall, while making recruitment for the same work or work of a similar nature, or in any condition of service subsequent to recruitment such as promotions, training or transfer, make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force | |

<table>
<thead>
<tr>
<th>54.</th>
<th>Maternity Benefit Scheme</th>
<th>ESIC 50</th>
</tr>
</thead>
<tbody>
<tr>
<td>54.1.</td>
<td>There shall be a Maternity Benefit scheme framed under sub-section (1) of section 24 of this Code for providing periodical or other payments in the form of maternity assistance to the woman worker in case of pregnancy, confinement, on account of confinement arising out of childbirth (including premature birth), stillbirth, miscarriage or sickness arising out of pregnancy or childbirth, adoption of a child, or receiving a commissioned child through surrogacy.</td>
<td></td>
</tr>
<tr>
<td>54.2.</td>
<td>The qualification of a woman worker to claim maternity Benefit the conditions subject to which such benefit may be given and the manner in which the benefits can be claimed shall be such as may be specified in the Maternity Benefit Scheme framed under sub-section (1) of Section 24.</td>
<td></td>
</tr>
</tbody>
</table>
| 54.3. | The Scheme of Maternity Benefit shall apply to—  
(a) All entities that are required to pay contribution under sub-section (1) of Section 20;  
(b) All non-employees that are required to pay contribution under sub-section (3) of section 20;  
(c) Such other persons, in respect of whom, the State-contribution to the Social Security Fund and subscription to the Maternity Benefit Scheme is made from the Contribution Augmentation Fund, by the State Board under sub-section (5) of Section 22. | |
| 54.4. | Following persons shall be covered under the Maternity Benefit Scheme—  
(a) All employees employed by the establishment (including the owner-cum-worker) to whom the Maternity Benefit Scheme applies, whether employed directly or through contractor;  
(b) The non-employees to whom the Maternity Benefit Scheme applies; | |
| 54.5. | Subscription to the Maternity Benefit Scheme shall be compulsory for every worker covered under sub-section (2), irrespective of his or her entitlement, gender, ability or intention to avail the benefits of Maternity Benefit Scheme. | |

| 55. | Deleted |
| 56. | Deleted |
| 57. | Entitlement, Amount and period of Maternity Benefit |
| 57.1. | Every woman worker shall be entitled to the payment of maternity benefits at such rates as may be specified in the Maternity Benefit Scheme.  
Provided that in case of adoption of child, the woman worker shall be entitled to maternity |
benefits only if the child is less than twelve month of age on the date of adoption.

57.2. The period for which maternity benefit shall be due to a woman worker shall be such as may be specified in the Maternity benefit scheme.

57.3. The maximum period for which any woman worker shall be entitled to maternity benefit shall be

<table>
<thead>
<tr>
<th>In case a woman</th>
<th>Entitlement</th>
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<tbody>
<tr>
<td>has less than two surviving children at the time of confinement</td>
<td>twenty six weeks of which not more than eight weeks shall precede the date of her expected delivery</td>
</tr>
<tr>
<td>has two or more surviving children at the time of confinement.</td>
<td>twelve weeks of which not more than six weeks shall precede the date of her expected delivery</td>
</tr>
<tr>
<td>Legally adopts a child or is a commissioning mother</td>
<td>twelve weeks from the date the child is handed over to the mother</td>
</tr>
</tbody>
</table>

Provided that where a woman worker dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:
Provided further that where a woman worker, having been delivered of a child, dies during her confinement or during the period immediately following the date of her confinement, for which she is entitled for the maternity benefit, leaving behind in either case the child, the maternity benefit shall be paid for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child:

57.4. If a woman worker entitled to maternity benefit dies before receiving such maternity benefit or amount, or where she was entitled to maternity benefit under the second proviso to sub-section (2), the maternity benefit shall be paid to the person nominated by the woman worker and in case there is no such nominee, to her legal representative.

57.5. The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid to the woman worker on production of such proof as may be specified in by-laws that the woman worker is pregnant, and the amount due for the subsequent period shall be paid periodically to the woman worker subject to the production of such proof as may be specified in by-laws that the woman worker has been delivered of a child.

58. Entitlement of maternity benefit and leave in certain cases

58.1. In case of miscarriage, or medical termination of pregnancy, a woman worker shall, on production of such proof as may be specified in by-laws, be entitled to maternity benefits at the rates specified in the maternity benefit scheme, for such period, as may be specified in the maternity benefit scheme, immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.

58.2. In case of tubectomy operation, a woman worker shall, on production of such proof as may be specified in by-laws, 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.

58.3. A woman worker suffering from illness arising out of pregnancy, confinement, premature birth of child, still birth, miscarriage, medical termination of pregnancy or tubectomy operation shall, on production of such proof as may be specified in by-laws, be entitled, in addition to the period of absence allowed to her under sub-section (1) or sub-section (2), to leave with wages for a maximum period of one month.

59. Dismissal during absence or pregnancy.

59.1. When a woman worker absents herself from work in accordance with the provisions of this Part, 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.

59.2. The discharge or dismissal of a woman worker at any time during her pregnancy, if the woman worker but for such discharge or dismissal would have been entitled to maternity benefit referred to in Section 57, shall not have the effect of depriving her of the maternity benefit: Provided that in case of any gross misconduct, the employer may, by order in writing communicated to the woman worker, dismiss her from service and inform the Commissioner of such dismissal within such time and such manner as may be prescribed.

60. Power of Commissioner to direct payments and recoveries.
<table>
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<tr>
<th>Clause</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td><strong>60.1.</strong></td>
<td>Any woman worker claiming that her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Part, may make a complaint to the Samajik Suraksha Mitra.</td>
</tr>
<tr>
<td><strong>MBA 17(1)</strong></td>
<td></td>
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<tr>
<td><strong>60.2.</strong></td>
<td>The Commissioner may, of his own motion or on receipt of a complaint referred to in sub-section (1), or on the basis of report from Samajik Suraksha Mitra, make an inquiry or cause an inquiry to be made and if satisfied that she has been discharged or dismissed during or on account of her the employer has unjustly dismissed her from service in violation of the provisions of this Part, may direct reinstatement of the women and payment of her dues, and further, may also pass such orders as are just and proper according to the circumstances of the case.</td>
</tr>
<tr>
<td><strong>MBA 17(2)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>60.3.</strong></td>
<td>If any Employer or Principal Employer or the contractor, fails or otherwise neglects to cover his employees under the Maternity Benefit Scheme or defaults in the payment of contributions he is liable to pay in respect of such employees and by reason thereof any women under his employment becomes disentitled to maternity benefits, provisions of section 28 shall apply accordingly.</td>
</tr>
<tr>
<td><strong>60.4.</strong></td>
<td>Any amount payable by an employer under this part shall be recoverable in the manner provided in section 137.</td>
</tr>
</tbody>
</table>
### PART I

#### Pension schemes—Retirement, Dependent and Disablement Benefits

<table>
<thead>
<tr>
<th>60A.</th>
<th>Provision of Pension in cases of Retirement, death or disability</th>
</tr>
</thead>
</table>
| 60A.1 | There shall be one or more Pension scheme(s) framed under sub-section (1) of section 24 of this code to provide:-  
(a) Retirement or Superannuation pension and Disablement benefit to the entitled workers to whom the said scheme applies; and  
(b) Dependents’ benefit or Family Pension to the entitled dependents of a deceased worker who was a member of the said scheme. |
| 60A.2 | The determination of the respective pension scheme through which a worker would be covered, qualification of a scheme member or his dependents, as the case may be, to claim retirement, disablement or dependent Benefits, the conditions subject to which such benefits may be given, the rates and period thereof shall be such as may be specified in the respective Pension scheme(s) framed under sub-section (1) of Section 24. |
| 60A.3 | The Pension scheme shall apply to –  
(a) All entities that are required to pay contribution under sub-section (1) of Section 20;  
(b) All non-employees that are required to pay contribution under sub-section (3) of section 20;  
Such other persons, in respect of whom, the State-contribution to the Social Security Fund and subscription to the Pension scheme is made from the Contribution Augmentation Fund, by the State Board under sub-section (5) of Section 22. |
| 60A.4 | Following persons shall be covered under the Pension scheme-  
(a) All employees employed by the establishment (including the owner-cum-worker) to whom the Pension scheme applies, whether employed directly or through contractor;  
(b) The non-employees to whom the Pension scheme applies. |
| 60A.5 | Subscription to the Pension Scheme shall be compulsory for every worker covered under sub-section (3), irrespective of his or her entitlement, gender, ability or intention to avail the benefits of the said Schemes. |
| 60A.6 | No worker shall be covered for disability benefit or dependent benefit from a retrospective date even after payment of contributions for all previous periods for which the contribution was not paid. Explanation - In case a worker was not covered (or entitled) for disability benefit or dependent benefit on the date on which the personal injury occurred, the coverage (or entitlement) can not be enabled by post-facto payment of contributions in respect of past periods. |
| 60A.7 | If any employee becomes disentitled from availing benefits under the Pension Scheme on account of non-coverage by the employer, the provisions of section 28 shall apply accordingly. |
| 60A.8 | An employee or his dependent, entitled to dependent benefit or disablement benefit under the Pension scheme shall not be entitled to receive or recover, whether from the employer or from any other person, any compensation or damages under section 65 or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the scheme member as an employee under this section. |

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### 60B Review of Dependent or Disablement benefit

| 60B.1 | Any decision awarding disablement benefit or dependent benefit under the respective Schemes may be reviewed at any time by the Commissioner if he 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 the Scheme due to any birth or death or due to the marriage, re-marriage, or cessation of infirmity of, or attainment of the age of eighteen years by, a claimant. |
| 60B.2 | Subject to the sub-section (2), the Commissioner may, on such review as aforesaid, direct that the disablement benefit or dependent benefit be continued, increased, reduced or discontinued. |

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### 61 Compensation to be paid by employer in certain cases

| 61.1 | If personal injury is caused to an employee due to an accident or occupational disease sustained out of and in the course of his employment and the employee or his dependents are ineligible to receive the disablement benefit or the dependent benefit, as the case may be, on account of-  
(a) Failure or negligence of the employer in payment of the required contribution, or  
(b) Non-completion of qualifying service as specified in the scheme,  
the employer shall be liable to pay compensation in accordance with the provisions of this Code:  
Provided that the employer shall not be so liable in respect of any personal injury which does not result in the total or partial disablement of the employee for a period exceeding three days: |
Provided further that such compensation shall be calculated in accordance with the provisions of section 63.

Explanation 1 - where the employer has covered his employees for the Disablement Benefit and Dependent Benefit under the relevant Scheme framed under sub-section (1) of section 24, and the concerned employee is entitled to the benefits under the said Schemes, the employer shall be absolved of the liability to pay the compensation to the employee under this section.

Explanation 2 - Every employer liable for the payment of compensation under this section to an employee shall, notwithstanding the application of any scheme providing for applicability of Disablement Benefit or Dependent Benefit to the establishment, continue to be so liable until the concerned employee becomes qualified to claim the disablement benefit or dependent benefit, as the case may be, under the said schemes, by whatever name called.

| 61.2. | If an accident is attributable to wilful misconduct of the employee, no compensation shall be payable in terms of the provisions of this code, unless-
|       | (a) The accident results in permanent total disablement; or
|       | (b) The employee dies in consequence thereof leaving a dependent wholly financially dependent upon him:
|       | Provided that the employer shall pay the cost of medical aid incurred on account of such accident, unless the concerned employee is covered under the medical benefit scheme framed under sub-section (1) of section 24.
|       | Explanation: For an action to constitute wilful misconduct, there must be deliberate breach of an order or rule that must have been given or framed for securing safety of workmen as such. |
| 61.3. | For the purpose of this part, an accident arising in the course of employee’s employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment. |
| 61.4. | Where an employer who is liable to pay compensation transfers his assets before any amount due in respect of any compensation, the liability wherefore accrued before the date of the transfer, has not been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property. |
| 61.5. | Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury 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 injury if he has instituted a claim to compensation in respect of the injury before a Commissioner; |
| 61.6. | No person—
|       | (a) shall claim compensation for a personal injury from more than one employer.
|       | (b) who has availed Disablement Benefit or Dependent Benefit, as the case may be, under whichever scheme under this code, shall, for the same injury, claim compensation from the employer. |
| 61.7. | Any contract or agreement whether made before or after the commencement of this Code, whereby an employee relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Part. |
| 61.8. | If any question or dispute arises in any proceedings under this Part—
|       | (a) 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
|       | (b) entitlement of a person to receive compensation, or
|       | (c) as to the amount or duration of compensation (including any question as to the nature or extent of disablement),
|       | the question or the dispute shall be settled by the Commissioner. |
| 61.9. | No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this section required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Part. |

62. **Compensation in case of occupational diseases**

| 62.1. | If an employee contracts any disease specified in the fifth Schedule as an occupational disease peculiar to the employment he is employed in, and where the work involves exposure to the risk concerned, contracting of such disease shall be deemed to be a personal injury by an accident arisen out of, and in the course of the employment, within the meaning of Section 61. |
| 62.2. | If a person, who having served under any employer has, within a period of two years after the cessation of such employment, contracts any disease specified in the fifth Schedule, and such disease is an...
occupational disease peculiar to that employment, and where the work involved exposure to the risk concerned, contracting of the said disease shall be deemed to be an injury by accident arisen out of, and in the course of the employment, within the meaning of Section 61.

62.3. If an employee contracts any disease, and that disease is directly attributable to a specific injury by accident arising out of and in the course of his employment, contracting of the said disease shall be deemed to be an injury by accident arisen out of, and in the course of the employment, within the meaning of Section 61.

62.4. The liability to pay compensation in case of occupational disease shall primarily be of the current employer, if liable under sub-section (1):
Provided that in cases where any previous employer(s) are also liable under sub-section (2), the current employer shall be entitled to a reimbursement of 50% of the compensation paid to the employee from the immediate previous employer of the said employee, who is liable under sub-section (2).

62.5. Save as provided by sub-sections (1), (2) and (3), no compensation under this Chapter shall be payable to an employee in respect of any other disease.

62.6. Where the accident is the contracting of a disease in respect of which the provisions of this section are applicable, the accident shall be deemed to have occurred —

| (a) | In case where the employee becomes continuously absent from work in consequence of the disablement caused by the disease | On the first day of such absence |
| (b) | 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, | On the day the employee gives notice of the disablement to his employer |
| (c) | In case where an employee who, having been employed in an 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 | On the day on which the symptoms were first detected |

62.7. 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, add any disease in the fifth Schedule, which shall be deemed for the purposes of this section to be an occupational disease. Provided that in case of a notification by the State Government, the said disease shall be an occupational disease in respect of only that State.

63. Amount of Compensation and interest thereupon

63.1. Subject to the provisions of this Chapter, the amount of compensation shall be as specified in the following table, namely:

<p>| (a) | where death results from the injury | An amount equal to fifty percent of the deemed wage of the worker multiplied by the relevant factor |
| (b) | where permanent total disablement results from the injury | An amount equal to sixty percent of the deemed wage of the worker multiplied by the relevant factor |
| (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 board) permanently caused by the injury; |
| (d) | where temporary disablement, whether | a half-monthly payment of the sum equivalent to twenty-five per cent of deemed wage of the person, |</p>
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<th>Section</th>
<th>Description</th>
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| 63.2   | 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 period is shorter:  
   Provided that—  
   (a) there shall be deduction 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  
   (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of such wages which he is earning after the accident.  
   Explanation. - Any 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 within the meaning of clause (a) of the proviso. |
| 63.3   | 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. |
| 63.4   | Any half-monthly payment payable under this Code, either under an agreement between the parties or under the order, may be reviewed by the Commissioner, on the application either of the employer or of the employee accompanied by the certificate of a medical board that there has been a change in the condition of the employee or, subject to rules relating to this Part, on application made without such certificate. |
| 63.5   | Any half-monthly payment may, on review under sub-section (4), subject to the provisions of this Part, 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. |
| 63.6   | 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. |
| 63.7   | 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 Commissioner such sum as may be prescribed 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. |
| 63.8   | Notwithstanding anything contained in sub-section (1), if an accident has occurred outside India, and some compensation has been awarded to the employee in accordance with the law of the country in which the accident occurred, Commissioner may, after conducting such enquiry as he may deem fit, by order, reduce the amount of compensation payable to the employee under sub-section (1) by such amount of compensation awarded to the employee in accordance with the law of that country:  
   Provided that no order under this sub-section shall be passed unless the employee, or their dependents in case of deceased employee is given an opportunity of being heard. |
<p>| 63.9   | The compensation to an employee shall be paid within fifteen days of the date of occurrence of the injury. |</p>
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<tr>
<td>63.10</td>
<td>Where any employer is in default in paying the compensation due under this Part within the period specified in sub-section (9)), the Commissioner shall-&lt;br&gt;- (a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification, on the amount due; and&lt;br&gt;- (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 by way of damages:&lt;br&gt;Provided that an order for the payment of damages shall not be passed under clause (b) without giving an opportunity to the employer to show cause why it should not be passed:&lt;br&gt;Provided further that the interest and the damages payable under sub-section (1) shall be paid to the employee or his dependent, as the case may be.&lt;br&gt;Explanation: For the purposes of this sub-section, “scheduled bank” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934, (2 of 1934).</td>
</tr>
<tr>
<td>63.11</td>
<td>Save as provided by this Part, no lump sum or half-monthly payment payable under this Part shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the employee by operation of law, nor shall any claim be set off against the same.</td>
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<tr>
<td>63.12</td>
<td>The compensation payable shall be subject to such minimum and maximum amounts as Central Government may, by notification, fix, and accordingly the amount of compensation shall be determined on the basis of –&lt;br&gt;- (a) the said minimum amount, if the compensation calculated as per sub-section(1) is less than the said minimum amount; and&lt;br&gt;- (b) the said maximum amount, if the compensation calculated as per sub-section (1) is more than the maximum amount:&lt;br&gt;Provided that the Central government may fix different minimum or maximum amounts for different nature of injury.</td>
</tr>
<tr>
<td>64.</td>
<td><strong>Distribution of compensation.</strong>-</td>
</tr>
<tr>
<td>64.1.</td>
<td>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 person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:&lt;br&gt;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 Commissioner from such compensation and repaid to the employer.</td>
</tr>
<tr>
<td>64.2.</td>
<td>Any other sum amounting to not less than such amount as may be prescribed, which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.</td>
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<tr>
<td>64.3.</td>
<td>The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.</td>
</tr>
<tr>
<td>64.4.</td>
<td>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 Commissioner or made to the employee, as the case may be, without prejudice to the right of the employee to make any further claim.</td>
</tr>
<tr>
<td>64.5.</td>
<td>On the deposit of any money under sub-section (1), as compensation in respect of a deceased employee the Commissioner shall, if he thinks necessary, cause notice to be published or to be served on each dependent in such manner as may be specified in by-laws, calling upon the dependents to appear before him on such date as he may fix for determining the distribution of the compensation.</td>
</tr>
<tr>
<td>64.6.</td>
<td>Compensation deposited in respect of a deceased employee shall, subject to any deduction made under sub-section (1), be apportioned among the dependents of the deceased employee or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependent.</td>
</tr>
<tr>
<td>64.7.</td>
<td>Where any compensation deposited with the Commissioner is payable to any person, other than a person under legal disability, the Commissioner may pay the compensation to the person entitled thereto.</td>
</tr>
<tr>
<td>64.8.</td>
<td>Where any lump sum deposited with the Commissioner is payable to a person under a legal disability,</td>
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</tbody>
</table>
such sum may be invested, applied or otherwise dealt with for the benefit of such person during his
disability, in such manner as the Commissioner may direct; and where a half-monthly payment is
payable to any person under a legal disability, the Commissioner 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 Commissioner thinks best fitted to
provide for the welfare of the employee.

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| 64.9.  | If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependent
exists, he shall credit the said sum to the National Stabilization Fund and on application by the
employer; furnish a statement showing in detail all disbursements or credits made. |
| 64.10. | Where, on application made to him in this behalf or otherwise, the Commissioner 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 Commissioner 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
Commissioner may make such orders for the variation of the former order as he thinks just in the
circumstances of the case:
Provided that no such order prejudicial to any person shall be made unless such person has been given
an opportunity of showing cause 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. |
| 64.11. | Where the Commissioner varies any order under sub-section (10) 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 hereinafter provided in
section 137 |
| 65.    | Notice of Claim for Compensation or benefits - |
| 65.1. | Every person who sustains personal injury caused due to accident or occupational disease arising out of
and in the course of his employment shall give notice of such injury to his employer in such manner and
containing such particulars as may be specified in by-laws, as soon as practicable after the happening of
the injury.
Provided that any such notice required to be given by an employee or person may be given by some
other person acting on his behalf. |
| 65.2. | Every such notice shall be given to the employer or to other official under whose supervision the
employee is employed at the time of occurrence of the personal injury or any other person designated
for the purpose by the employer. |
| 65.3. | 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. |
| 65.4. | The State Board may, by notification, require that any employer or class of employers shall maintain at
their premises at which employee are employed an accident notice-book, in such form (including in
electronic form), as is specified in the notification, which shall be readily accessible at all reasonable
times to any injured employee employed on the premises and to any person acting bona fide on his
behalf. |
| 65.5. | Every such employer who is required to maintain accident notice book under sub-section (4) shall —
(i) Enter in the said accident notice book, particulars of such accidents within the premises of the
establishment causing personal injury to any employee or any other person;
(ii) keep the accident notice book readily accessible in which the appropriate particulars of any
accident causing personal injury to an employee arising out of and in the course of his
employment can be entered;
(iii) preserve every such book for such period as may be prescribed:
Provided that it shall not be necessary for the employer to enter in the said Accident Book particulars of
any employment injury caused by an Occupational Disease specified in the Fifth Schedule to the Code.
However, an employee can make such entry in accident notice book. |
| 65.6. | An entry of the appropriate particulars of the accident made in a book kept for that purpose shall, if
made as soon as practicable after the happening of the accident, be deemed to be notice of the
accident for the purpose of this section.
Explanation: Any failure by the employer to make entry in the accident book shall not vitiate the claim
of the employee for compensation. |
| 65.7. | In case of personal injury to a non-employee covered under disablement benefit scheme or dependent
benefit scheme the concerned worker or any of his dependent shall send a report of accident to the
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>66.1.</td>
<td>Upon receipt of notice under Section 65, and where the concerned employee is covered under disablement benefit scheme or dependent benefit scheme, the employer shall examine the eligibility of the employee to receive benefits under the said Scheme and thereafter send claim (or claims) on behalf of the concerned employee or his dependent or any other person authorized by the claimant to the commissioner in such manner and in such form and within such time as may be prescribed.</td>
</tr>
<tr>
<td>66.2.</td>
<td>In case of a non-employee, the worker or his dependent or any other person authorized by the claimant may submit the claim directly to the commissioner in such manner and in such form and within such time as may be specified in the Scheme.</td>
</tr>
<tr>
<td>66.3.</td>
<td>No claim for benefits under disablement benefit scheme or dependent benefit scheme shall be entertained by the commissioner unless notice has been given to the commissioner in the manner specified in sub-section (1) or sub-section (7) of section 65 (if applicable) and the claim is preferred within a period of three years from the date of occurrence of the personal injury. Provided that the commissioner 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 in this sub-section, 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.</td>
</tr>
<tr>
<td>66.4.</td>
<td>Where an accident occurs in respect of which liability to pay compensation by the employer arises and the employer fails to pay the due compensation, a claim for such compensation may, subject to the provisions of this section, be made before the commissioner.</td>
</tr>
<tr>
<td>66.5.</td>
<td>Subject to the provisions of sub-section (5), no application for the settlement of any matter by a Commissioner, other than an application by a dependent or dependents 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.</td>
</tr>
</tbody>
</table>
| 66.6. | An application under sub-section (3) to a Commissioner may be made in such form as may be stipulated, and shall contain, in addition to any particulars which may be stipulated, the following particulars, namely:—

(i) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(ii) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(iii) the names and addresses of the parties; and

(iv) except in the case of an application by dependents for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to. |
| 66.7. | If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the commissioner. |
| 67. | Medical examination. |
| 67.1. | Where an employee has given notice of an accident, he, shall, if the employer or the Commissioner, 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 authorized by the State Board, submit himself for such examination, and any employee who is in receipt of a half-monthly payment under this Code shall, if so required, submit himself for such examination from time to time: Provided that an employee shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules relating to this Part, or at more frequent intervals than may be stipulated. |
| 67.2. | If an employee, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by an authorized medical practitioner or in any way obstructs the same, his right to compensation (or benefits) 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. |
| 67.3. | 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 without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination. |
| 67.4. | 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 Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased employee.

67.5. 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 (2) of section 62, the waiting period shall be increased by the period during which the suspension continues.

67.6. Where an injured employee has refused to be attended by an authorized medical practitioner whose services have been offered to him by the employer (or commissioner) 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 an authorised 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 authorised medical practitioner, whose instructions he had followed, and compensation (or benefits), if any, shall be payable accordingly.

68. Liabilities of Principal employer etc.

68.1. The principal 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 where compensation is claimed from the principal employer, this Part shall apply as if references to the principal employer were substituted for references to the contractor except 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.

68.2. Where the principal employer is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, contractor, or any other person from whom the employee could have recovered compensation:
Provided that where a contractor who is himself a principal employer is liable to pay compensation or to indemnify a principal employer under this section, he shall be entitled to be indemnified by any person standing to him in the relation of an employee.

68.3. Nothing in this section shall be construed as preventing an employee from recovering compensation from the contractor instead of the principal employer.

68.4. This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal employer has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

68.5. 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 this section shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

69. Insolvency of employer.

69.1. Where any employer has entered into a contract with any insurers in respect of any liability under this Part 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 to the employer.

69.2. If the liability of the insurers to the employee is less than the liability of the employer to the employee, the employee may prove for the balance in the insolvency proceedings or liquidation.

69.3. 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 premia), 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.

69.4. There shall be deemed to be included among the debts which under section 53 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) or under section 320 of the Companies Act, 2013 (18 of 2013), are in the distribution of the property 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 whereof 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 those Part shall have effect accordingly.

69.5. 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, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

69.6. 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).

69.7. This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

70. Special provisions relating to accidents occurring outside the Indian territory -

70.1. The provisions of this section shall apply, subject to the modifications specified in this section, in case of employees who are –

(i). masters of ships or seamen or,
(ii). captain and other members of crew of aircraft,
(iii). persons recruited by companies registered in India and working as such abroad
(iv). persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 (59 of 1988) as drivers, helpers, mechanics, cleaners or other employees

70.2. 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 –

(a) In case of accident where the person injured is a seaman, but not the master of the ship, 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 not the captain of the aircraft the captain of the aircraft
(c) In case of persons recruited by companies registered in India and working as such abroad, The local agent of the company
(d) persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees The local agent of the owner of the motor vehicle, in the country of the accident

Provided that where the accident happened and the disablement commenced on board the ship or aircraft, as the case may be, it shall not be necessary for any seaman or members of the crew of aircraft to give any notice of the accident.

70.3. The claim of compensation shall be made within -

(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.
(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 where the Commissioner 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.

70.4. 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.

| 70.5. | 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. | 15(4) |
| 70.6. | No compensation shall be payable under this Part in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, or under War pensions and Detention Allowances (Indian Seaman) Scheme, 1942, made by the Central Government. | 15(5) |
| 70.7. | 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 Part in respect of any personal injury, if—  
(a) an application has not been made for payment in respect of the injury under any of the schemes referred to in the preceding clause, and  
(b) the State Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and  
(c) the proceedings under this Part are commenced within one month from the date on which the said certificate of the State Government was furnished to the person commencing the proceedings. | 15(6) |

### 71. Return and Information to be furnished by employers

| 71.1. | Every employer shall give notice of any accident occurring on his premises, for which a compensation is liable to be paid by him under this part, within such time of occurrence of accident, in such form, in such manner, and give such report containing such details and to such authority as may be specified in the by-laws: Provided that the notice of a fatal accident shall be given within 48 hours of such accident. | ECA 10B(1) |
| 71.2. | Every employer liable to be registered under Section 14 shall, furnish true and correct annual return of accidents, injuries, compensation liabilities, compensation paid, and such other particulars as may be specified in the by-laws, in such manner, in such form, and within such time as may be prescribed, and to such authorities as may be specified in the by-laws: Provided that the State government by notification, may require any employer or class of employer to furnish special return for such periods and by such time as may be specified in the notification. | ECA 16 ECA 10B(2) |
| 71.3. | Where a Commissioner receives information from any source that an employee has died or has been disabled permanently 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 employer requiring him to submit, within such time as may be specified in the notice, a statement, in the form specified in by-laws, giving the circumstances attending the death or injury of the employee, and indicating whether, in the opinion of the employer, he is or is not liable to pay compensation (with grounds thereof), along with such other information the Commissioner may deem fit. | ECA 10A(1) |
| 71.4. | Where the employer fails to submit reply to the notice or where the employer disclaims liability, the Commissioner may, after conducting such inquiry as he may think fit, and after giving the concerned persons an opportunity of being heard, make an award determining the total amount payable by the employer or any other person(s) to liable pay compensation, or, as the case may be, determine that no compensation is to be paid. | ECA 10A(4) |
| 71.5. | Where any sum has been deposited or paid by an employer as compensation payable in respect of an employee whose injury has resulted in death or permanent disability, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit or payment within | ECA 22A(1) |
71.6. If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit or pay the deficiency.

72. Delegation, Venue of proceedings and transfer.-

72.1. Where any matter under this Part is to be done by or before a Compensation Officer, the same shall, subject to the provisions of this Part and to any rules made relating thereto, be done by or before the Compensation officer having jurisdiction for the area in which—

(a) the accident took place which resulted in the injury; or
(b) the employee or in case of his death, the dependent claiming the compensation ordinarily resides; or
(c) the employer has his registered office:

Provided that no matter shall be processed before or by a Compensation officer, other than the Compensation officer having jurisdiction over the area in which the accident took place, without his giving notice in the manner specified by the Central Board to the Compensation officers having jurisdiction over the area and the State Government concerned:

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 Compensation officer 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.

72.2. If a Compensation officer, other than the Compensation officer with whom any money has been deposited under section 64, proceeds with a matter under this Part, the former may for the proper disposal of the matter call for transfer of any records or money remaining with the latter and on receipt of such a request, he shall comply with the same.

72.3. If a Compensation officer is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other Compensation officer, whether in the same State or not, he may, subject to rules relating to this Part, order such matter to be transferred to such other Compensation officer either for report or for disposal, and, if he does so, shall forthwith transmit to such other Compensation officer all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that the Compensation officer shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependents of a lump sum without giving such party an opportunity of being heard.

72.4. The Compensation officer to whom any matter is so transferred shall, subject to rules relating to this Part, inquire thereinto 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.

72.5. On receipt of a report from a Compensation officer to whom any matter has been transferred for report under sub-section (3), the Compensation officer by whom it was referred shall decide the matter referred in conformity with such report.

72.6. The State Board may transfer any matter from any officer to any other office appointed by it.

73. Procedures & Recovery

73.1. The Commissioner shall dispose of the matter relating to compensation under this Code within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.

73.2. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects and the Commissioner 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 (2 of 1974).

73.3. Any appearance, application or act required to be made or done by any person before or to a Commissioner (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 registered trade union or by an Inspector appointed under sub-section (1) of section 8 of the Factories Act, 1948 (63 of 1948), or under sub-section (1) of section 5 of the Mines Act, 1952, (35 of 1952), 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 Commissioner, by any other
| 73.4. | The Commissioner 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 written and signed by the Commissioner with his own hand and shall form part of the record: Provided that, if the Commissioner 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 sign the same, and such memorandum shall form a 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. | ECA 25 |
| 73.5. | All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Code, be in the discretion of the Commissioner. | ECA 26 |
| **74. Decisions by Medical Board.** | | |
| 74.1. | The Commissioner may refer 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, for determination by a medical board constituted in accordance with the by-laws. | ESIC 54 |
| 74.2. | The case of any employee is referred by the Commissioner to a medical board for determination under sub-section (3) and if, on that or any subsequent reference, the extent of loss of earning capacity of the employee 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. | ESIC 54A(1) |
| 74.3. | Any amount payable by any person as compensation under this Part, whether under an agreement for the payment of compensation or otherwise, shall be recovered as per the provisions of section 137. | ECA 31 |
| 74.4. | A Commissioner 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. | ESIC 82 |
| 74.5. | Any decision under this Part of a medical board may be reviewed at any time by the medical board if it is satisfied that since the making of the assessment there has been substantial and unforeseen aggravation of the result of the relevant injury: Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of opinion that having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it. | ESIC 55 |
| 74.6. | The medical board shall conduct periodical medical examination of the persons receiving disablement benefit every five years for the purpose of assessing the improvement or aggravation of disability. Provided that no such periodical medical examination shall be conducted after the beneficiary has reached the age of sixty years. | |
| 74.7. | 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 result of the relevant injury: Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of opinion that having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it. | ESIC 55 |
| 74.8. | Except with the leave of a tribunal, an assessment shall not be reviewed under sub-section (7) 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. | |
| 74.9. | 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 of question notwithstanding that the assessment under review was final; | |
| 74.10. | The provisions of section 120 shall apply to an application for review under this 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 section and to a decision of the medical board in connection with such case. | |
| 75. | DELETED | |
| 76. | DELETED | |
| 77. | DELETED | |
### PART J

**Sickness Benefits and Medical Benefits**

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<th>Section</th>
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<tr>
<td>78.1</td>
<td>No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit, nor shall he, except as provided under the Scheme, dismiss, discharge or reduce or otherwise punish an employee during the period he is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the Scheme to arise out of confinement rendering the employee unfit for work.</td>
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<td>78.2</td>
<td>No notice of dismissal or discharge or reduction given to an employee during the period specified in sub section (1) shall be valid or operative.</td>
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</table>
| 79.1 | The Scheme of Sickness Benefit shall apply to—
(a) All entities that are required to pay contribution under sub-section (1) of Section 20;
(b) All non-employees that are required to pay contribution under sub-section (3) of section 20; Such other persons, in respect of whom, the State-contribution to the Social Security Fund and subscription to the Sickness benefit Scheme is made from the Contribution Augmentation Fund, by the State Board under sub-section (5) of Section 22 |
| 79.2 | Following persons shall be covered under the Sickness Benefit Scheme—
(a) All employees employed by the establishment (including the owner-cum-worker) to whom the scheme of Sickness Benefit applies, whether employed directly or through contractor;
(b) The non-employees to whom the scheme of Sickness Benefit applies; |
| 79.3 | Subscription to the Sickness Benefit Scheme shall be compulsory for every worker covered under sub-section (2), irrespective of his or her entitlement, gender, ability or intention to avail the benefits of the Sickness Benefit Scheme. |
| 79.4 | No worker shall be covered under the Sickness benefit Scheme from a retrospective date, even after payment of contributions for all previous periods for which the contribution was not paid. |
| 80.1 | The qualification of a scheme member to claim sickness benefits, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be specified in the Sickness Benefit Scheme framed under sub-section (1) of Section 24 |
| 80.2 | Whenever in any particular year, the incidence of sickness benefits in any State is found to exceed the subscriptions, the amount of such excess, if it can-not be borne from the previous years' surpluses of the Sickness Benefit Scheme, shall be paid by the State Government to the State Board: Provided that the Central Government may, on receipt of a request from the State Government, waive the recovery of the whole or any part of the incidence of the scheme which is to be borne by the State Government, and bear the same on behalf of the State Government. |
| 81.1 | A person who is in receipt of sickness benefit—
(a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution specified in the Scheme, 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 is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf in the Scheme; and
(d) shall allow himself to be examined by any such medical officer or such other person authorized by the State Board in this behalf. |
| 82.1 | Where the Commissioner considers that the incidence of sickness among scheme members is excessive by reasons of—
(a) insanitary working conditions in an establishment or the neglect of the owner or occupier of the establishment to observe any health regulations enjoined on him by or under any enactment, or
(b) insanitary conditions of any tenements or lodgings occupied by scheme members and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings |
82.2. If the Labour Commissioner is of opinion that a prima facie case for inquiry is disclosed, he may appoint a competent person or persons to hold an inquiry into the matter.

82.3. If upon such inquiry it is proved to the satisfaction of the labour commissioner that the excess in incidence of sickness among the scheme members is due to the default or neglect of the owner or occupier of the establishment or the owner of the tenements or lodgings, as the case may be, the labour commissioner 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 State Board.

82.4. 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.

82.5. 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.

83. Application of Medical Benefit Scheme

83.1. The Scheme of Medical Benefit shall apply to —

(a) All entities that are required to pay contribution under sub-section (1) of Section 20;
(b) All non-employees that are required to pay contribution under sub-section (3) of section 20;
(c) Such other persons, in respect of whom, the State-contribution to the Social Security Fund and subscription to the Medical benefit Scheme is made from the Contribution Augmentation Fund, by the State Board under sub-section (5) of Section 22.

That are situated in areas where the Medical benefit scheme is applicable under sub-section (3).

83.2. Following persons and the members of their immediate family are eligible to be covered under the Medical Benefit Scheme—

(a) All employees employed by the establishment (including the owner-cum-worker) to whom the scheme of Medical Benefit applies, whether employed directly or through contractor;
(b) The non-employees to whom the scheme of Medical Benefit applies;

83.3. The Medical Benefit Scheme shall be applicable in such areas as may be specified in the Scheme.

83.4. Subscription to the Medical Benefit Scheme shall be compulsory for every worker covered under sub-section (2), in areas where Scheme is applicable.

83.5. No worker shall be covered under the Medical benefit Scheme from a retrospective date, even after payment of contributions for all previous periods for which the contribution was not paid.

84. Medical Benefit Scheme

84.1. The qualification of a scheme member to claim medical benefits, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be specified in the Medical Benefit Scheme framed under sub-section (1) of Section 24.

84.2. A scheme member or a member of his immediate family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

84.3. 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 scheme member or treatment as in-patient in a hospital or other institution.

84.4. A person shall be entitled to medical benefit during any period for which subscription to the Medical Benefit scheme are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the Medical Benefit Scheme:

Provided that a person in respect of whom contribution ceases to be payable under the Code may be allowed medical benefit for such period and of such nature as may be provided in the Medical Benefit Scheme:

Provided further that a scheme member who ceases to be in insurable employment on account of permanent disablement shall continue, subject to payment of contribution and such other conditions as may be specified in the Medical Benefit Scheme, to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement:
Provided also that a scheme member who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, he and his spouse shall be eligible to receive medical benefits subject to payment of such charges as may be specified in by-laws and such other conditions as may be specified in the Medical Benefit Scheme:
Provided also that a scheme member who has expired, his or her spouse shall be eligible to receive medical benefits subject to payment of such charges as may be specified in by-laws and such other conditions as may be specified in the Medical Benefit Scheme.

84.5. The State Board shall provide for scheme members, and where such benefit is extended to their families, their families residing in the State, reasonable medical, surgical and obstetric treatment:
Provided that the State Board may, with the approval of the State Government, arrange for medical treatment at clinics of an intermediate agency on such scale and subject to such terms and conditions as may be agreed upon.

ESIC 58(1)

85. Obligations of State Governments in respect of Medical Benefit Scheme

85.1. Whenever in any particular year, the incidence of medical benefits in any State is found to exceed the subscriptions, the amount of such excess, if it can-not be borne from the previous years’ surpluses of the Medical Benefit Scheme, shall be paid by the State Government to the State Board:
Provided that the Central Government may, on receipt of a request from the State Government, bear whole or any part of such excess on behalf of the State Government.

ESIC 58(2)

85.2. The State Government may, with the previous approval of the Central Board, establish or designate any organisation (by whatever name called) to act as Intermediate Agency for the purpose of providing for certain benefits to employees in case of sickness, maternity and employment injury.

ESIC 58(5)

85.3. The organisation referred to in sub-section (2) shall have such structure and discharge functions, exercise powers and undertake such activities as may be stipulated.

ESIC 58(6)

86. Establishment and maintenance of hospitals, etc., by the State Board. –

86.1. The State Board shall, establish and maintain in the State, such hospitals, dispensaries and other medical and surgical services as it may deem fit for the benefit of scheme members and where such medical benefit is extended to their families, their families.

ESIC 59

86.2. The State Board may enter into agreement with any other State Board, local authority, or any Intermediate Agency in regard to the provision of such medical treatment and attendance for such scheme members and their families, as may be specified in the agreement and sharing the cost thereof.

86.3. The State Board may also enter into agreement with any local authority, local body or intermediate agency for commissioning and running any of its hospitals through third party participation for providing medical treatment and attendance to scheme members and their families.

87. Usage of Medical Facilities by non-members of Medical benefit Scheme

87.1. State Government may, by notification, and subject to such conditions and restrictions as may be specified in the notification, allow such non-members and the members of their families of such non-members for availing such medical facility in such hospital established by the State Board in any area which is under-utilised, for such period and on payment of such user charges as may be specified in the notification.

ESIC 73B

87.2. The user charges collected from the non-members shall be credited to Medical Benefit Scheme Fund.

ESIC 73C

87.3. The Notification issued by the State Government under sub-section (1) may provide for all or any of the following matters, namely: —
(i). the non-members who may be covered under this notification;
(ii). the time and manner in which the medical facilities may be availed by the non-members or their immediate family;
(iii). the form in which the non-member shall furnish particulars about himself and his immediate family whenever required as may be specified by the State Board;
(iv). The amount of user charge(s) required to be paid
(v). any other matter which is to be provided and may be necessary or proper for the purpose of implementing the notification.
(vi). time period for which the notification shall be valid

ESIC 73D
### PART K
**Intermediate Agencies**

#### 88. Licensing of Intermediate Agencies

**88.1.** The Director General may, by granting a License under this Code, permit any organization or person to act as an intermediate agency for all or any of the following purposes:

<table>
<thead>
<tr>
<th>Type of intermediate agency</th>
<th>For the purposes of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Fund manager Agency</td>
<td>management of accumulations in a social security fund in accordance with the regulations;</td>
</tr>
<tr>
<td>(b) Point of presence Agency</td>
<td>receiving contributions and instructions and transmitting them to the Trustee Bank or Record keeping agency;</td>
</tr>
<tr>
<td>(c) Service delivery Agency</td>
<td>providing any service to the scheme member;</td>
</tr>
<tr>
<td>(d) Benefit disbursement Agency</td>
<td>paying out benefits to the scheme members;</td>
</tr>
<tr>
<td>(e) Record keeping Agency</td>
<td>Receiving instructions from scheme members, transmitting instructions to board and fund managers</td>
</tr>
<tr>
<td>(f) Facilitation Agencies</td>
<td>To augment the registration process, dissemination of information to the stakeholders, increase public awareness and outreach</td>
</tr>
</tbody>
</table>

Provided that the Intermediate agencies shall also discharge such duties and perform such functions, as may be assigned to it under the conditions of License and as may be stipulated.

Explanation – The services provided by the licensed Intermediate Agencies to the workers or entities shall be deemed to have been provided on behalf of the concerned State Board.

**88.2.** The intermediate agency, for grant of license, shall satisfy the eligibility norms as may be stipulated, including minimum capital requirement, past track record, ability to provide guaranteed returns, cost and fees, geographical reach, customer base, information technology capability, human resources and such other matters as may be stipulated.

**88.3.** An Intermediate Agency shall function in accordance with the terms of its License and the Regulations.

**88.4.** The Intermediate Agency shall appoint in the Governing Body of the Intermediate Agency at least one member nominated by the State Board.

**88.5.** No intermediate agency, to the extent regulated under this Code, shall commence any activity relating to a social security scheme except under and in accordance with the conditions of a License by the Director General in accordance with the provisions of this Code and the Regulations.

**88.6.** Every application for grant of a License as intermediate agency shall be in such form and manner and shall be accompanied by such fees as may be stipulated.

**88.7.** The Director General may, after considering the application and subject to such terms and conditions as it may specify, grant a License as an intermediate agency for the purpose specified in the license.

### 89. Cancellation and Suspension of License

**89.1.** The Director General, on receipt of report from State Board or otherwise, and after making such inquiry as may deem necessary, may by order, suspend or cancel a License in such manner as may be stipulated:

- Provided that no order under this sub-section shall be made unless the person concerned has been given an opportunity of being heard.
- Provided further that no such enquiry would be necessary if there is sufficient documentary evidence with the Central Board regarding the non-fulfillment of any of the eligibility conditions specified under section 88(2)

### 90. Investigation into affairs of Intermediate Agency

**90.1.** Where the State Board has a reasonable ground to believe that any intermediate agency -

(a) has violated any of the provisions of this Code or the rules or the regulations or the by-laws or the terms of its license; or

(b) Carried our any activity in a manner detrimental to the interest of the scheme
members; it may, at any time, by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediate agency and to report thereon to the State Board.

90.2. Any person, directed to make an investigation, may examine on oath any person associated with the intermediate agency in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

90.3. Notes of any examination under sub-section (2) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

91. Search and seizure

91.1. Where the Commissioner, in consequence of information in its possession, has reason to believe that—
(i). any person who has been required to produce, or cause to be produced, any books, accounts or other documents in his custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents; or
(ii). any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which will be useful for, or relevant to, an investigation; or
(iii). a contravention of any provision of this Code has been committed or is likely to be committed by an intermediate Agency; or
(iv). any claim which is due to be settled by the intermediate agency, has been or is likely to be rejected or settled at a figure higher than a reasonable amount; or
(v). any claim which is due to be settled by an Intermediate Agency, has been or is likely to be rejected or settled at a figure lower than a reasonable amount; or
(vi). any illegal fees and charges have been transacted or are likely to be transacted by an Intermediate Agency; or
(vii). any books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to an Intermediate Agency are likely to be tampered with, falsified or manufactured; or
(viii). A Fund Manager Agency has failed to manage the scheme funds in accordance with the regulations
(ix). irregularity has been committed or likely to be committed in delivery of service under a Scheme,
(x). An intermediate agency has failed to discharge the functions assigned to it in accordance with the terms of license

he may authorise any officer of the State Board, not below the rank equivalent to that of a Gazetted Officer of the Government (hereafter referred to as the authorised officer), to—
(i). enter and search any building or place where he has reason to suspect that such books, accounts or other documents, or any books or papers relating to any claim, rebate or commission or any receipts, vouchers, reports or other documents are kept;
(ii). break open the lock of any box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;
(iii). seize all or any such books, accounts or other documents, found as a result of such search;
(iv). place marks of identification on such books, accounts or other documents or make or cause to be made extracts or copies therefrom.

91.2. The authorised officer may requisition the services of any police officer or of any officer of the State Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) and it shall be the duty of every such police officer or officer to comply with such requisition.

91.3. The authorised officer may, where it is not practicable to seize any such book, account or other document, serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

91.4. The authorised officer may, during the course of the search or seizure, examine on oath any
person who is found to be in possession or control of any books, accounts or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Code.

91.5. The books, accounts, papers, receipts, vouchers, reports, or other documents seized shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the State Board for such retention is obtained: Provided that the State Board shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports, or other documents for a period exceeding thirty days after all the proceedings under this Code, for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant, are completed.

PFRDA 17(5)

91.6. The person from whose custody the books, accounts, papers, receipts, vouchers, reports, or other documents are seized may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

PFRDA 17(6)

91.7. If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports or other documents seized objects for any reason to the approval given by the State Board under sub-section (5), he may make an application to the Appellate Tribunal stating therein the reason for such objection and requesting for the return of the books, accounts, papers, receipts, vouchers, report or other documents; and thereupon the Tribunal may, after giving the applicant an opportunity of being heard, pass such order as it thinks fit.

PFRDA 17(7)

91.8. The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall apply, so far as may be, to every search and seizure made under this Code.

PFRDA 17(9)

91.9. The powers under this section shall be exercised by the Director General in respect of a fund manager agency and the provisions of this section shall mutatis mutandis apply.

92. Maintenance and Furnishing of Records

92.1. Without prejudice to the provisions contained in sections 210, 211, 212, 214, 215, 217, 220 and 223 of the Companies Act, 2013, it shall be the duty of Managing Director, Directors, all officers and other employees and agents including former Managing Director, Directors, all officers, employees and agents of a Company, in case of a company and every intermediate agency to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the Intermediate Agency or such person, which are in their custody or power.

PFRDA 16(2) Section 217 (1) and 217 (6) of Companies Act 2013

92.2. The Investigating Authority may require any Intermediate Agency to furnish such information to, or produce such books, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or register, or other documents, or record is relevant or necessary for the purposes of its investigation.

PFRDA 16(3)

92.3. The Investigating Authority may keep in its custody any books, registers, other documents and record produced for six months and thereafter shall return the same to the intermediate agency by whom or on whose behalf the books, registers, other documents and record are produced:

Provided that the Investigating Authority may call for any book, register, other documents and record if they are required again:

Provided further that if the person on whose behalf the books, registers, other documents and record produced require certified copies of the books, registers, other documents or record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents or, as the case may be, record to such person or on whose behalf the books, registers, other documents and record were produced.

PFRDA 16(4)

93. Powers to ensure compliance

93.1. If at any time the State Board has reason to believe that an intermediate agency is acting in a manner likely to be prejudicial to the interest of subscriber, it may, after giving the intermediate agency an opportunity of being heard, make a report to the Central Board

PFRDA 19(1)

93.2. If the Central Board, -

(a) after considering the report made under sub-section (1), or

(b) suo-moto, after conducting an inquiry,

comes to the conclusion that the persons in control of any intermediate agency to the extent regulated under this Code are indulging in any activity which is in contravention to the
provisions of this Code, rules, regulations or by-laws, it may supersede the governing board or board of directors or management of the intermediate agency in accordance with the Regulations.

93.3. In case the governing board or board of directors or management of the intermediate agency is superseded under sub-section (2), the Central Board may, by order, appoint an administrator to manage the affairs of the intermediate agency under the direction and control of the Central Board, in such manner and as may be specified by the order.

93.4. If the Central Board, -
(a) after considering the report made under sub-section (1), or
(b) suo-moto, after conducting an inquiry,
comes to the conclusion that it is necessary to the protect the interest of the scheme members, it may-
(i). secure the fund managed by an intermediate agency, including moneys, assets and properties owned by or under the control of the intermediate agency;
(ii). retain, preserve, take interim custody, or sell any asset or property owned by or under the control of the intermediate agency;
(iii). Take such other interim measure as may appear to the Central Board to be just and necessary,
And the Central Board shall have power to make such orders including order for attachment of assets of the intermediate agency as it deem fit in this regard.

93.5. The Central Board or the State Board may, by order, for reasons to be record in writing, in the interest of subscribers, take any of the following measures, pending investigation or inquiry, namely:—
(i). restrain any person from participating in any scheme;
(ii). restrain any office bearer of an intermediate agency from acting as such;
(iii). impound and retain the proceeds under the scheme in respect of any activity which is under investigation;
(iv). attach, after passing an order, on an application made for approval, by the Judicial Magistrate of first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediate agency or any person or agency associated with the scheme in any manner involved in violation of any of the provisions of this Code or the rules or the regulations or the by-laws made thereunder:
Provided that only the bank account or accounts or any transaction entered therein, relating to the proceeds actually involved in the violation of any of the provisions of this Code or the rules or the regulations or the by-laws made thereunder shall be allowed to be attached;
(v). direct any intermediate agency or any person or agency associated with the scheme in any manner not to dispose of or alienate an asset forming part of any activity which is under investigation:
Provided that the Central Board or the State Board shall, either before or after, passing such orders, under this section, give to such agencies or persons concerned an opportunity of being heard.

93.6. If after making, or causing to be made, an inquiry, or receipt of report from state Board, the Central Board is satisfied that it is necessary—
(i). in the interests of subscribers or orderly development of Social Security scheme; or
(ii). to prevent the affairs of any intermediate agency or other persons or agencies associated with the scheme being conducted in a manner detrimental to the interests of scheme members; or
(iii). to secure the proper management of any such intermediate agency or person or agency,
it may issue such directions to such intermediate agencies or person associated with a scheme, as it may deem fit:
Provided that the Central Board shall, either before or after passing such orders, give an opportunity of being heard to such agencies, or persons concerned.
# PART L
## Alternate Coverage Mechanism

<table>
<thead>
<tr>
<th>Conditions to be met (column 1)</th>
<th>Schemes in respect of which alternate coverage mechanism may be permitted (column 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the rules of its provident fund with respect to the rates of contribution to the employees are not less favourable than those specified in the provident fund scheme and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under this Code or any Scheme in relation to the employees in any other establishment of a similar character;</td>
<td>all or any of the provisions of Provident Fund Scheme</td>
</tr>
<tr>
<td>(b) employees are in receipt of gratuity not less favourable than the benefits conferred under the Gratuity Scheme under this Code</td>
<td>all or any of the provisions of the gratuity scheme</td>
</tr>
</tbody>
</table>

Provided that prior to granting any such permission, the State Government shall consult the State Board which shall forward its views on the said proposal to the State Government within such time as may be prescribed.

Provided further that no establishment shall be eligible to apply for permission to operate the alternate coverage mechanism unless such establishment employs at least one hundred employees and has complied as a covered establishment under this Code without any violation for a continuous period of five years immediately before the date of application

Explanation 1-Where an establishment is permitted to operate alternate coverage mechanism in respect of any scheme or provision thereof, the establishment and the employees thereof shall be deemed to have been exempted from the provisions of the said scheme.

Explanation 2: The alternate coverage mechanism, if permitted, shall be operated in respect of all employees employed by the establishment whether employed directly or through a contractor.

### 94.2.
Notwithstanding anything contained in sub-section (1), the Central Government may exercise the powers to permit the operation of alternate coverage mechanism under sub-section (1) in relation to an establishment that is —

(i) belonging to, or under the control of, the Central Government; or
(ii) having branches in more than one State; or
(iii) a major port, mine, oilfield, railway company, air transport service, telecommunication service, banking and insurance company:

Provided that prior to granting any such permission, the Central Government shall consult the Central Board which shall forward its views on the proposal to the Central Government within such time limit as may be prescribed.

### 94.3.
An application for permission to operate the alternate coverage mechanism under this section shall be made to the Commissioner of the Labour Department of the State Government or the Chief Labour Commissioner (Central) as the case may be in such form, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed.

### 94.4.
When an employer is permitted to operate the alternate coverage mechanism in respect of the
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>94.5.</td>
<td>When an employer is permitted to operate the alternate coverage mechanism in respect of the provident fund scheme under sub-section (1) or sub-section (2), the employer’s or the employee’s contribution payable to the State Social Security fund under section 20 may be reduced by such percentage as may be stipulated, for the period such permission is in force.</td>
</tr>
<tr>
<td>95.</td>
<td>Obligations of an establishment permitted to operate the alternate coverage mechanism</td>
</tr>
<tr>
<td>95.1.</td>
<td>Where permission to operate the alternate coverage mechanism has been granted to an establishment under section 94,</td>
</tr>
</tbody>
</table>

- (a) the employer shall establish a Board of Trustees for the administration of the respective scheme fund consisting of such number of members as may be specified in the Scheme; |
- (b) the terms and conditions of service of members of the Board of Trustees shall be such as may be specified in the Scheme; |
- (c) The Board of Trustees constituted under clause (b) shall – |
  - (i) maintain detailed accounts to show the contributions credited, withdrawals made, and interest accrued in respect of each employee; |
  - (ii) submit such returns to the Commissioner or any other officer as the State or Central Government as the case may be, may direct from time to time; |
  - (iii) invest the Scheme fund monies in accordance with the directions issued by the Central Government from time to time; |
  - (iv) transfer, where necessary, the Scheme fund account of any employee; and |
  - (v) perform such other duties as may be specified in the Scheme or schemes in respect of which the alternate coverage mechanism has been permitted. |
| 95.2. | Where in respect of any person employed in an establishment which has been permitted to operate the alternate coverage mechanism under section 94, the employer in relation to such establishment – |

- (a) shall, in relation to the Scheme to which any such person is entitled, maintain such accounts, submit such returns, make such investment in accordance with directions of Central Government, provide for such facilities for inspection, as the Appropriate Government may direct. |
- (b) shall not, at any time after the permission to operate alternate coverage mechanism has been granted, without the leave of the Appropriate Government, reduce the total quantum of benefits in the Scheme to which any such person was entitled at the time the permission was granted; and |
- (c) shall, where any such person leaves his employment and obtains re-employment in another establishment to which this Code applies, transfer within such time as may be stipulated, the amount of accumulations to the credit of that person in the provident fund (or any other Scheme) of the establishment left by him to the credit of that person’s account in the provident fund (or respective Scheme) of the establishment in which he is re-employed or, as the case may be, in the Provident Fund or Scheme Fund established under this Code, and applicable to the establishment. |
| 95.3. | The employer of an establishment permitted to operate alternate coverage mechanism shall, notwithstanding any such permission granted under section 94, pay to the Fund constituted under such Scheme in respect of which no such permission is granted, such portion of the employer’s contribution as well as the employee’s contribution within such time and in such manner as may be specified in the respective Schemes. |
| 96. | Violation of Conditions of permission to operate the alternate coverage mechanism |
| 96.1. | Where the Board of Trustees established under clause (a) of sub-section (1) of Section 95 contravenes, or makes default in complying with, any provisions of clause (c) of that sub-section, the Trustees of the said Board shall be deemed to have committed an offence under sub-section (1) of section 156 and shall be punishable with the penalties provided in that sub-section. |
| 96.2. | If an employer permitted to operate the alternate coverage mechanism under section 94 contravenes or makes default in complying with any of the provisions of this Code or conditions of the grant of such permission, he shall be punishable under this Code as if the said establishment had not been so permitted under the clause (a) of sub-section (1) of section 94; |
| 96.3. | Any permission to operate the alternate coverage mechanism granted under section 94 may be cancelled by the authority which granted it, by order in writing, if an employer fails to furnish correct and complete return or comply with any of the conditions imposed under that section; |
| 96.4. | Where any permission to operate the alternate coverage mechanism granted under section 94 is provided for such facilities for inspection, as the Appropriate Government may direct. |
cancelled, the amount of accumulations to the credit of every employee to whom such permission applied, in all the Scheme Funds of the establishment in which he is employed together with any amount forfeited from the employer’s share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service shall be transferred within such time and in such manner as may be stipulated to the credit of his account in such scheme funds as may be specified by the State Board by general or special order.

96.5. Commissioner and the State Board shall have the same powers in relation to an establishment permitted to operate the alternate coverage mechanism as they respectively have in relation to intermediate agencies under sections 90, 91, 92 and 93.

97. Deleted

98. Transfer of accounts –

98.1. Where an employee employed in an establishment to which this Code applies leaves his employment and obtains re-employment in another establishment to which this Code does not apply, the amount of accumulations to the credit of such employee in the Provident fund, or as the case may be, in the provident fund of the establishment left by him shall be transferred, within such time as may be specified by the Central Government in this behalf, to the credit of his account in the provident fund of the establishment in which he is re-employed, if the employee so desires and the rules in relation to that provident fund permit such transfer.

98.2. Where an employee employed in an establishment to which this Code does not apply leaves his employment and obtains re-employment in another establishment to which this Code applies, the amount of accumulations to the credit of such employee in the provident fund of the establishment left by him may, if the employee so desires and the rules in relation to such provident fund permit, be transferred to the credit of his account in the Provident Fund or as the case may be, in the provident fund of the establishment in which he is re-employed.
### PART M
Finance and Accounts

<table>
<thead>
<tr>
<th>99.</th>
<th>Accounts</th>
<th>ESIC 33</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.1</td>
<td>Each of the Social Security Organisations shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may, after consultation with the Comptroller and Auditor-General of India, specify.</td>
<td>EPF 5A (5)</td>
</tr>
<tr>
<td>99.2</td>
<td>Individual accounts shall be prepared in respect of Social Security fund, Gratuity Fund, Administrative Fund, each of the Scheme Funds and each of the Contribution Augmentation Funds, annually, within six months of the end of the financial year.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>100.</th>
<th>Audit</th>
<th>ESIC 34</th>
</tr>
</thead>
</table>
| 100.1 | The accounts of the –
  (a) Social Security Organisations;
  (b) Any establishment which has been permitted to operate Alternate Coverage Mechanism under section 94;
  (c) An Intermediate Agency where the Central government is of the opinion that such audit is necessary and expedient in public interest 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 or establishment or Intermediate agency as the case may be, to the Comptroller and Auditor-General of India. | EPF 5A (6) |
| 100.2 | The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Social Security Organisations or establishment or Intermediate agency as the case may be, 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 inspect any of the offices of the concerned Social Security Organisation or establishment or Intermediate agency as the case may be. | EPF 5A(7) |
| 100.3 | The accounts of the Social Security Organisations 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 appropriate government along with the comments of the concerned Social Security Organisation which shall forward the same to the appropriate government along with its comments on the report of the Comptroller and Auditor-General. | EPF 5A(8) |

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<tr>
<th>101.</th>
<th>Budget Estimates</th>
<th>ESIC 32</th>
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<tr>
<td>101.1</td>
<td>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.</td>
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<td>101.2</td>
<td>The budget shall contain provisions adequate in the opinion of the appropriate Government for the discharge of the liabilities incurred by the Social Security Organisations and for the maintenance of a working balance.</td>
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<tr>
<td>101.3</td>
<td>Separate Budget estimates shall be prepared in respect of Social Security fund, Gratuity Fund, Administrative Fund, each of the Scheme Funds and each of the Contribution Augmentation Funds.</td>
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<tr>
<th>102.</th>
<th>Social Audit</th>
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<td>102.1</td>
<td>The State Boards shall get social audits of the Schemes conducted in such manner as may be prescribed, at least once in five years through such agencies as may be empanelled by the Central Board.</td>
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<td>102.2</td>
<td>The procedure of conducting Social Audits, its formats and measurement indicators and methodologies shall be such as may be stipulated.</td>
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<th>103.</th>
<th>Annual Report</th>
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<tr>
<td>103.1</td>
<td>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 concerned Social Security Organisation. Explanation - The annual report shall also contain report of the activities financed from the Contribution Augmentation Funds.</td>
<td>EPF 5A(9)</td>
</tr>
<tr>
<td>103.2</td>
<td>The appropriate Government shall cause a copy of the annual report, Budget, the audited accounts and any social audit reports together with the report of the Comptroller and Auditor-General of</td>
<td>ESIC 36</td>
</tr>
</tbody>
</table>
104. **Valuation of assets and liabilities.** —

104.1. Each of the Social Security Organisations shall, at intervals of three years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the appropriate Government: Provided that it shall be open to the appropriate Government to direct a valuation to be made at such other times as it may consider necessary.

104.2. The valuation of assets and liabilities shall be done separately for each of the Fund maintained by the respective Board.

105. **Sharing of Revenues of State Administrative Fund.**

105.1. The Administrative Charges credited into the State Administrative Fund shall be shared between the Central Board and State Board in such proportion and in manner as may be stipulated.

105.2. The Commissioner shall credit to the accounts of Central Board, its respective share of administrative charges in respect of a month within such time as may be stipulated.

105.3. Subject to and in accordance with the by-laws framed in this regard, the State Board shall from time to time, from their own share of Administrative Fund, release grants to the Local bodies to defray Capital and recurrent expenditure for—
   (a) Procurement of equipment, consumables and machinery,
   (b) creation of infrastructure,
   (c) salaries and allowances of Samajik Suraksha Mitras and other staff deployed to carry-out the functions assigned in this Code, and
   (d) other administrative expenses required by them to carry out their functions under this Code.

106. **Holding of property etc.**

106.1. The Social Security Organisations 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 the purposes for which the said Social Security Organisation is established.

106.2. Subject to such conditions as may be prescribed, the Boards may, from time to time invest any moneys 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.

107. **Writing off of losses.**

107.1. Subject to the conditions as may be prescribed, where the State Board is of opinion that the amount of contribution, interest and damages due to the Board is irrecoverable, the Board may sanction the writing off finally of the said amount.

108. **Unclaimed amounts**

108.1. The Commissioner, and the Board of Trustees of Alternately Covered Establishment shall, by 30th April every year, notify in the manner stipulated, such details as may be stipulated, of amounts that has become “unclaimed amount” in the preceding financial year, inviting claims and objections within such time as may be specified in the notification:
   Provided that a minimum period of six months shall be provided for filing claims and objections.

108.2. The Commissioner (or the Board of Trustees of Alternately Covered Establishment as the case may be) may, after considering the claims and objections that may be received, by order, confiscate the unclaimed amount so notified under sub-section (1), if no claimant could be found for the said amounts, debit the amount from the suspense account or the concerned scheme fund as the case may be, and credit the same into the National Stabilisation Fund constituted under Section 25A.

108.3. The unclaimed amounts confiscated under sub-section (2) shall be notified in the official gazette, within such time and in such form as may be prescribed.

108.4. No claim or liability against the State Board or the establishment which has been permitted to operate Alternate Coverage Mechanism shall be maintainable in respect of unclaimed amounts that have been confiscated under sub-section (2).
# Part N
## Officers and staff of social security organisations

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<th>109.</th>
<th>Appointment of Officers of National Council</th>
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<tr>
<td><strong>109.1.</strong></td>
<td>There shall be a Regulator General of Social Security of India who shall be appointed by the Central Government and shall work under the general superintendence and control of the National Council, and shall be the member secretary and executive head of the National Council.</td>
<td>EPF 5D(1) ESIC 16</td>
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<td><strong>109.2.</strong></td>
<td>The Central Government may also appoint a Social Security Advisor, a Financial Advisor-cum-Chief Accounts Officer, and a Chief Vigilance Officer to assist the Regulator-General in the discharge of his duties.</td>
<td>SD(2)</td>
</tr>
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<td><strong>109.3.</strong></td>
<td>The National Council may appoint subject to section 112.8, as many Additional Secretaries, Joint Secretaries, Senior Deputy Secretaries, Deputy Secretaries, Assistant Secretaries and such other officers and employees as it may consider necessary for the efficient functioning of the Board: Provided that the maximum scale of pay of officers appointed under this sub-section shall be such, as may be prescribed.</td>
<td>SD(3)</td>
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<td><strong>109.4.</strong></td>
<td>No appointment to the post of the Regulator-General, Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer or any other post under the National Council, carrying a scale of pay equivalent to the scale of pay of any Group ‘A’ or Group ‘B’ Gazetted post under the Central Government, shall be made except after consultation with the Union Public Service Commission: 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 (ii) a member of Indian Social Security Service, or (iii) in the service of the Central Government or a State Government or the National Council, in a Group ‘A’ or Group ‘B’ post.</td>
<td>SD(4)</td>
</tr>
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<td><strong>109.5.</strong></td>
<td>The method of recruitment, salary and allowances, discipline and other conditions of service of the Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer and Chief Vigilance Officer shall be such as may be prescribed and such salary and allowances shall be paid out of the Fund of National Council.</td>
<td>SD(6)</td>
</tr>
<tr>
<td><strong>109.6.</strong></td>
<td>The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Secretaries, Joint Secretaries, Senior Deputy Secretaries, Deputy Secretaries, Assistant Secretaries and such other officers and employees of the National Council shall be such as may be specified by the National Council 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 National Council 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.</td>
<td>SD(7)*</td>
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<td><strong>109.7.</strong></td>
<td>In determining the corresponding scales of pay of officers and employees under sub-section (6), the National Council 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 National Council shall refer the matter to the Central Government whose decision thereon shall be final.</td>
<td>SD(7)*</td>
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<tr>
<td><strong>109.8.</strong></td>
<td>Save as provided in sub-section (9), The Regulator-General shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Regulator General shall be eligible for reappointment if he is otherwise qualified.</td>
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<tr>
<td><strong>109.9.</strong></td>
<td>The Central Government, for the reasons recorded in writing, may at any time remove the Regulator-General from office and shall do so if such removal is recommended by a resolution of the National Council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the National Council.</td>
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## 110. Appointment of Officers of Central Board

| **110.1.** | There shall be a Director General of the Central Board who shall be appointed by the Central Government and shall work under the general superintendence and control of the Central Board and shall be the member secretary and Executive Head of the Central Board. | EPF 5D |
| **110.2.** | The Central Government may also appoint an Investment Advisor, a Financial Advisor-cum-Chief Accounts Officer, an Economic Advisor, a Financial Advisor-cum-Chief Accounts Officer, a Financial Advisor and a Chief Vigilance Officer. |  |
### 110.3. Appointment of Additional Director Generals, Joint Director Generals, Directors, Deputy Directors, Assistant Directors, and such other officers and employees of the Central Board:

The Central Board may appoint, subject to section 112.8, as many Additional Director Generals, Joint Director Generals, Directors, Deputy Directors, Assistant Directors, and such other officers and employees as it may consider necessary for the efficient functioning of the Board:

Provided that the maximum scale of pay of officers appointed under this sub-section shall be such, as may be prescribed.

### 110.4. Appointment of Officers of the Central Board:

No appointment to the post of the Director General, Investment Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance 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' Gazetted post under the Central Government shall be made, except after consultation with the Union Public Service Commission:

Provided that no such consultation shall be necessary with regard to any such appointment –

(a) That is temporary or officiating 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

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

   (iii) A member of Indian Social Security Service

Provided further that any such officiating or temporary appointment shall not confer any claim for a regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the rules for promotion to next higher grade.

### 110.5. Method of Recruitment:

The method of recruitment, salary and allowances, discipline and other conditions of service of Investment Advisor, Financial Advisor-cum-Chief Accounts Officer and Chief Vigilance Officer shall be such as may be prescribed and such salary and allowances shall be paid out of the Administrative Fund.

### 110.6. Method of Recruitment:

The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Director Generals, Joint Director Generals, Directors, Deputy Directors, Assistant Directors, and such 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.

### 110.7. Corresponding Scales of Pay:

In determining the corresponding scales of pay of officers and employees under sub-section (6), 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.

### 110.8. Tenure of Office:

Save as provided in sub-section (9), The Director General shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Director General shall be eligible for reappointment if he is otherwise qualified.

### 110.9. Removal of the Director General:

The Central Government, for the reasons recorded in writing, may at any time remove the Director General from office and shall do so, if such removal is recommended by a resolution of the Central Board passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Central Board.

### 111. Appointment of Officers of the State Board:

#### 111.1. Commissioner of Social Security:

There shall be a Commissioner of Social Security in each State, who shall be appointed by the State Government, shall work under the general superintendence and control of the State Board and shall be the Chief Executive and member secretary of the State Board.

#### 111.2. Financial Commissioner:

The State Government may also appoint a Financial Commissioner, Chief Accounts Officer, and a Chief Vigilance Officer to assist the Commissioner in the discharge of his duties.

#### 111.3. Additional Commissioner:

The State Board may appoint, subject to section 112.8, as many Additional Commissioner, Joint Commissioners, Medical Commissioners, Scheme Commissioners, Investment Commissioners, Deputy Commissioners, Assistant Commissioners, and such other officers and employees as determined by the norms as may be stipulated in the by-laws:

Provided that the maximum scale of pay of officers appointed under this sub-section shall be such,
No appointment to the post of the Commissioner, Financial Commissioner, Chief Accounts Officer, and Chief Vigilance Officer or any other post under the State Board carrying a scale of pay equivalent to the scale of pay of any Group ‘A’ or Group ‘B’ Gazetted post under the Central Government shall be made except after consultation with the State Public Service Commission or such other Agency as the Central Board may nominate in this regard:

Provided that no such consultation shall be necessary with regard to any such appointment –

(a) That is temporary or officiating 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

(ii) in the service of the Central Government or a State Government or the Central Board or the State Board in a Group ‘A’ or Group ‘B’ post, or

(iii) A member of Indian Social Security Service

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 rules for promotion to next higher grade.

The method of recruitment, salary and allowances, discipline and other conditions of service of the Commissioner, Financial Commissioner, Chief Accounts Officer, and Chief Vigilance Officer shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Administrative Fund.

The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Commissioner, Joint Commissioners, Medical Commissioners, Scheme Commissioners, Investment Commissioners, Deputy Commissioners, Assistant Commissioners and such other officers and employees of the State Board shall be such as may be stipulated in the rules as may be prescribed in by-laws:

Provided that where the State Board is of the opinion that it is necessary to make a departure from the said by Laws in respect of any of the matters aforesaid, it shall obtain the prior approval of the State Government.

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

The Financial Commissioner shall be whole-time officer of the State Board and shall not undertake any work not connected with their office without the sanction of the State Government and the State Board.

Save as provided in sub-section (10), The Commissioner or the Financial Commissioner shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Commissioner or the Financial Commissioner shall be eligible for re-appointment if he is otherwise qualified.

The State Government, for the reasons recorded in writing, may at any time remove the Commissioner or the Financial Commissioner from office and shall do so if such removal is recommended by a resolution of the State Board passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the State Board.

Constitution of Indian Social Security Service

With effect from the date of notification of this code, there shall be constituted a Service named Indian Social Security Service consisting of persons appointed to the Service.

Indian Social Security Service (ISSS) would be an Organised Group ‘A; Service under Ministry of Labour & Employment, Government of India, who shall be the Cadre Controlling Authority for the ISSS.

The ISSS shall consist of persons recruited to the Service in accordance with the provisions of this Code and other rules made in this regard.

Recruitment to the ISSS shall be by following methods, namely:-

(a) By an annual competitive examination conducted by Union Public Service Commission

(b) By en-cadrement of Group ‘A’ officers of the Social Security Organizations or predecessor organizations to the ISSS in accordance with rules as may be prescribed.

All appointments to the ISSS shall be made by the Central Government and no such appointment shall be made except after recruitment by one of the methods specified in 112.4

Officers of the Indian Social Security Service (ISSS) may be posted by the Central Government in any of the Social Security Organizations.
### 112.7. The method of recruitment, salary and allowances, discipline and other conditions of service of members of the Service (ISSS) shall be such as may be prescribed.

### 112.8. The ratio of Group “A” posts in Social Security Organisations, that shall be reserved for persons to be appointed from the ISSS shall be such as may be prescribed.

Explanation: Different ratios may be prescribed for the National Authority, Central Board and the State Boards.

### 112.9. The method and procedure for maintaining the ratio specified in sub-section (8) while making appointments to various posts in a Social Security Organisation shall be such as may be prescribed.

### 113. Inspectors.

### 113.1. The State Board may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Code, or the Schemes made under section 24, and may define their jurisdiction.

### 113.2. Any Inspector appointed under sub-section (1) may, for the purpose of –

- (a) inquiring into the correctness of any information furnished in connection with this Code or with any Scheme or
- (b) ascertaining whether any of the provisions of this Code or of any Scheme have been complied with in respect of an establishment to which the Code or any Scheme applies or
- (c) ascertaining whether the provisions of this Code or any Scheme are applicable to any establishment to which the Scheme has not been applied or
- (d) determining whether the conditions subject to which permission to operate Alternate Coverage Mechanism was granted under section 96 are being complied with by the employer in relation to an establishment which has been permitted to operate Alternate Coverage Mechanism, or
- (e) determining whether the conditions subject to which exclusion was granted under sub-sections (4) or (5) of section 1 are being complied with by the employer or the workers in relation to an excluded establishment or excluded worker, or
- (f) Ascertaining that benefits availed under this code by a person was eligible and rightfully entitled.

Carry out any or all of the following -

- (i) require any entity or person to furnish such information as he may consider necessary.
- (ii) at any reasonable time and with such assistance, if any, as he may think fit, enter and search any entity or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the entity;
- (iii) examine, with respect to any matter relevant to any of the purposes aforesaid, the entity, his agent or servant or any other person found in charge of the entity or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the entity;
- (iv) make copies of, or take extracts from, any book, register or other document maintained in relation to the entity and, where he has reason to believe that any offence under this Code has been committed by an employer, seize with such assistance as he may think fit, such book, register or other document or portions thereof as he may consider relevant in respect of that offence;
- (v) exercise such other powers as the Scheme may provide.

Explanation – The powers under this section inter-alia includes powers to conduct inspection of establishments which have been permitted to operate Alternate Coverage Mechanism.

### 113.3. The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

### 114. Samajik Suraksha Mitras

### 114.1. The local bodies shall appoint as many officers as may be authorized by the State Board to act as Samajik Suraksha Mitras under this Code.

### 114.2. The method of recruitment, salary and allowances, discipline and other conditions of service of the Samajik Suraksha Mitras shall be such as may be specified by the State Board in accordance with the Scheme.
114.3. The State Board shall provide grants to the local bodies to meet the salary and allowances to be paid to the Samajik Suraksha Mitras and such grant shall be paid out of the Administrative Fund.

114.4. Any Samajik Suraksha Mitra may-
(a) supply technical information and advise employers and workers about their rights and obligations and concerning the most effective means of complying with the legal obligations.
(b) offer all reasonable assistance to any person, who, due to his or her age, a disability or an inability to read or write, is unable to understand, appreciate or exercise his or her rights, duties or obligations in terms of this Act, in the official language of the state which he or she is likely to understand.
(c) offer all reasonable assistance to workers in registration, updation of registration and formulating their claims, complaints and appeals.
(d) make such enquiries from any employer or worker for the purpose of discharging his functions.
(e) mediate and conciliate between employer and employee to settle the grievance of the worker and promoting compliance of the Code.
(f) make such reports to the Commissioner for the proper discharge of his duties.
(g) for the purpose of conduct of inquiry under sub-section (4) of section 135, -
   (i) require any entity or person to furnish such information as he may consider necessary.
   (ii) At any reasonable time and with such assistance, if any, as he may think fit, enter and search any entity or any premises connected therewith and require any one found in charge thereof to produce before him for examination of accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the entity;
   (iii) Examine, with respect to any matter relevant to any of the purposes aforesaid, the entity, his agent or servant or any other person found in charge of the entity or any premises connected therewith, or whom the Samajik Suraksha Mitra has reasonable cause to believe to be or to have been, an employee in the entity;
   (iv) Make copies of, or take extracts from, any book, register or other document maintained in relation to the entity and, where he has reason to believe that any denial of rights or privileges has been made by an employer;
   (v) examine any third party who may have been a witnesses to the denial of a benefit under the Code (such as the partner/family member of a woman who has been denied maternity leave);

115. Protection

115.1. Any officer and employee appointed under this Code including-
   (i). Regulator-General of Social Security,
   (ii). Director General of the Central Board,
   (iii). Commissioner of the State Board,
   (iv). Members and staff of Tribunal,
   (v). Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer, Additional Secretaries, Joint Secretaries, Senior Deputy Secretaries, Deputy Secretaries, Assistant Secretaries and other officers and employees of National Council
   (vi). Investment Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer, Additional Director Generals, Joint Director Generals, Directors, Joint Directors, Deputy Directors, Assistant Directors, and other officers and employees of the Central Board
   (vii). Financial Commissioner, Chief Accounts Officer, a Chief Vigilance Officer Commissioner, Additional Commissioner, Joint Commissioners, Medical Commissioners, Scheme Commissioners, Investment Commissioners, Deputy Commissioners, Assistant Commissioners, and other officers and employees of the State Board
   (viii). Inspector appointed in section 113
   (ix). Samajik Suraksha Mitra appointed under section 114
   (x). Registration Authority,
   (xi). Establishment Registration Officer
shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

115.2. No suit, prosecution or other legal proceedings shall lie against —
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| 116. Delegation |
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| **116.1.** The National Council may, by general or special order in writing, delegate to the Executive Committee, Regulator-General, or any other officer of the National Council, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Code as it may deem necessary. |
| **116.2.** The Central Board may, by general or special order in writing, delegate to the Director General, or any other officer of the Central Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Code as it may deem necessary. |
| **116.3.** The State Board may, by general or special order in writing, delegate to the Standing Committee, Commissioner, any other officer of the State Board, or any officer in District Administration subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Code as it may deem necessary. Provided that the State Board may delegate certain record keeping functions to local bodies under the overall supervision and financing of the State Board. |
| **116.4.** The Commissioner may, by general or special order, delegate the powers under this sub-section (4) of section 12 to any officer of the State Board or any officers of local authority with such conditions and restrictions as may be specified in the said order. |
| **116.5.** The Commissioner may, by general or special order, delegate his powers regarding registration or de-registration of any establishment under sub-sections (5) to (8) of section 14, Section 14A, and sections 15, 16 and 17, to such officers of the State Board (referred to as establishment registration officer) as may be specified in such order, and define jurisdictions of such officers. |
| **116.6.** The State Board may, by general or special order in writing, delegate to any officer of the local body, subject to such conditions, if any, as may be specified in the order, such of its powers and functions of Commissioner under Section 14, 15, 16 or 17 (except powers under section 14(4)) as it may deem necessary. |
| **116.7.** Wherever the State Board delegates any of the functions to a local body under sub-section (6), it shall provide to the local body, necessary support, Information Technology Infrastructure and finance required for it to carry out such functions. |
| **116.8.** The Commissioner may, by general or special order, delegate his powers under sub-section (1) of section 28, section 37, sub-sections (2) of section 40, section 41, to such officers of the State Board as may be specified in such order, and define jurisdictions of such officers. |
| **116.9.** The Commissioner may, by general or special order, delegate his powers under section 60A, 60B, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, and section 82 to any officer of the State Board (referred to as Compensation Officer), and define jurisdictions of such officers. |
| **116.10.** Subject to such conditions and restrictions as may be prescribed, the Commissioner may, by order, delegate his powers, functions and duties under Sections 117, 118, 119 and 121 to such officers of State Board as deemed fit, and define their jurisdictions (referred to as assessing officers). |
| **116.11.** Subject to such conditions and restrictions as may be prescribed, the Commissioner may, by order, delegate the powers under Section 122 to such officers of State Board as deemed fit, and define their jurisdictions (hereinafter referred to as Appellate Officers): Provided that the Appellate Officer shall be of a higher rank than that of the officers against whose orders the appellate jurisdiction lies. |
| **116.12.** The Commissioner may on receipt of an application from any of the parties to an inquiry under sections 117, 118, 119 and 121, or an appeal under section 122 may, after consideration of the said application, by an order in writing, transfer the said inquiry proceedings being conducted by an Assessing Officer or by an Appellate Officer to another Assessing Officer or Appellate Officer: Provided that the officer to whom the proceedings have been transferred shall proceed with the inquiry from the stage from which the inquiry has already been completed. |
| **116.13.** The Commissioner may, by general or special order, delegate his powers under section 140, to such officers of the State Board or the State Government as may be specified in such order, and |
The Commissioner may, by general or special order, delegate his powers under sub-section (1) of section 159, to such officers of the State Board as may be specified in such order, and define jurisdictions of such officers.

### 116A Duties of Police Officers

It shall be the duty of all police officers to give immediate information to the Commissioner of the commission of, or the attempt to commit any offence under this Code or any rule, regulation or bye-law made thereunder and to assist all officers and employees of the Social Security Organisations in exercise of their lawful duty.
### 117. Assessment of Dues and Resolution of Disputes

<table>
<thead>
<tr>
<th>117.1</th>
<th>Where in respect of any assessee,</th>
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<tbody>
<tr>
<td></td>
<td>(i) No returns are furnished under sub-section (1), (2) or (3) of section 37; or,</td>
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<tr>
<td></td>
<td>(ii) A defective return is not rectified as per sub-section (6) of section 37; or</td>
</tr>
<tr>
<td></td>
<td>(iii) No registers or records are maintained in accordance with sub-section (7), (8) or (9) of section 37; or</td>
</tr>
<tr>
<td></td>
<td>(iv) Fails to furnish any information sought by Commissioner or any other Authority under the provisions of this Code</td>
</tr>
<tr>
<td></td>
<td>(v) Fails to furnish any particulars or information as may be sought by an inspector under sub-section (2) of section 113; or</td>
</tr>
<tr>
<td></td>
<td>(vi) Any inspector or any other officer is prevented in any manner by any person in exercising his functions or discharging his duties; or</td>
</tr>
<tr>
<td></td>
<td>(vii) Commissioner has reasons to believe that the assessee has defaulted in payment of contribution required of him under this Code</td>
</tr>
</tbody>
</table>

The Commissioner may, after making such inquiry as he thinks fit, and on the basis of information available with him, by order -

(a) in a case where a dispute arises regarding the applicability of this Code or any provision of this Code or any Scheme under this Code to any entity or person, decide such dispute; and

(b) assess the amount due from any assessee under any provision of this Code:

Provided that no such order shall be passed in respect of a period beyond five years from the end of the financial year during which the contribution or Cess had become payable, except in cases where the State Board may allow:

Provided further that when an Appellate Officer or the Tribunal refers a case back for a fresh adjudication or order, no such order shall be passed after the expiry of two years from the date of such reference.

<table>
<thead>
<tr>
<th>117.2</th>
<th>The 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 (5 of 1908), for trying a suit in respect of the following matters, namely:-</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a) enforcing the attendance of any person or examining him on oath:</td>
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<td></td>
<td>(b) requiring the discovery and production of documents;</td>
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<td></td>
<td>(c) receiving evidence on affidavit;</td>
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<td></td>
<td>(d) issuing commissions for the examination of witnesses,</td>
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<td></td>
<td>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 45 of 1960.</td>
</tr>
</tbody>
</table>

| 117.3 | No order shall be made under sub-section (1), unless the assessee concerned is given an opportunity of representing his case. |

| 117.4 | Where the assessee, 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, the officer conducting the inquiry may decide the applicability of the Code or assess the amount due from any assessee, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record. |

| 117.5 | Where an order under sub-section (1) is passed against an assessee ex-parte, he may, within three months from the date of communication of such order, apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from appearing when the inquiry was held, the officer shall make an order setting aside his earlier order and shall appoint a 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 officer is satisfied that the assessee had notice of the date of hearing and had sufficient time to appear before the officer.

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. |

| 117.6 | No order passed under this section shall be set aside on any application under sub-section (5) unless |
| 117.7. | Any Return furnished under section 37, or any order made under sub-section (1) shall be sufficient proof of the claim of the Board over such amount specified in the return or the order as the case may be, and for recovery of such amount under section 137. | ESIC 45A(2) |
| 118. | **Special Audit** |  |
| 118.1. | If the Commissioner, having regard to,-  
(a) the nature and complexity of employment in the business of an establishment; or  
(b) volume or complexity of accounts; or  
(c) nature of employer-employee relationship in the establishment; or  
(d) non-regular nature of employment contracts in the establishment; or  
(e) non-production of records and accounts; or  
(f) manner of maintenance of the records or registers; or  
(g) any other reason to be recorded in writing.  
is of the opinion that it is necessary so to do, he may direct the establishment by a notice in writing to get his records including books of accounts, examined and audited by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and verified by such accountant or panel of accountants or professional or panel of professionals and setting forth such particulars as may be specified. |  |
| 118.2. | The provision of sub-section (1) shall have effect notwithstanding that the accounts of the establishment have been audited under any other provision of this Code or any other law for the time being in force or otherwise. |  |
| 118.3. | Every report under sub-section (1) shall be furnished by the establishment to the Commissioner within such period as may be specified by the Commissioner:  
PROVIDED that the Commissioner may, on an application made in this behalf by the establishment and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit:  
PROVIDED FURTHER that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred eighty days from the date on which the direction under sub-section (1) is received by the establishment. |  |
| 118.4. | The expenses of, and incidental to, the examination and audit of records under sub-section (1), (including the remuneration of the accountant or a panel of accountants or professional or panel of professionals) shall be borne by the State Board. |  |
| 119. | **Assessment of escaped amount.** | EPF 7C |
| 119.1. | Where an order assessing the amount due from an assessee under section 117 has been passed and if the Commissioner –  
(a) has reason to believe that by reason of the omission or failure on the part of the assessee to make any document or report available, or to disclose, fully and truly, all material facts necessary for assessing the correct amount due from the assessee, any amount so due from such assessee for any period has escaped his notice;  
(b) has, in consequence of information in his possession, reason to believe that any amount to be assessed under section 117 has escaped from his Assessment for any period notwithstanding that there has been no omission or failure as mentioned in clause a on the part of the assessee, he may, within a period of five years from the date of communication of the order, re-open the case and pass appropriate orders re-assessing the amount due from the assessee in accordance with the provisions of this Code. |  |
| 119.2. | No order re-assessing the amount due from the assessee shall be passed under this section unless the assessee is given an opportunity of representing his case. |  |
| 120. | **Review.** | EPF 7B |
| 120.1. | Any person aggrieved by an order made by the Assessing Officer but for which no appeal has been preferred under this Code, and who, 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 may apply for a review of that order to the officer who passed the order:  
Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground. |  |
| 120.2. | Every application for review under sub-section (1) shall be filed in such form and manner and within |  |
120.3. Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

120.4. Where the officer is of opinion that the application for review should be granted, he shall grant the same:

Provided that no such application shall be granted,—

(a) without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, 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.

120.5. An order of review passed under sub-section (4) shall have same force as the original order under section 117 or 119 as the case may be, and can be subjected to re-Assessment under section 119 or can be appealed against under Section 122.

120.6. No appeal shall lie against the order of the officer rejecting an application for review.

121. Power to determine damages -

121.1. Where an assessee makes default in—

(a) the payment of any contribution to the Social Security Fund or,

(b) the payment of any amount under any of the conditions specified under section 94,

(c) the transfer of accumulations required to be transferred by him under sub-section (4) of section 96 or section 98; or

(d) the payment of any charges payable under any other provision of this Code or Schemes, or

(e) the payment of any cess levied under the Code

the Commissioner may determine from the assessee by way of penalty such damages, not exceeding the amount of arrears, as may be stipulated.

Provided that before levying such damages, the assessee shall be given an opportunity of being heard.

121.2. State Board may reduce or waive the damages levied under sub-section (1) in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), subject to such terms and conditions as may be stipulated.

121.3. If any cess payable by a person under section 33 is not paid to that Government before the date, or, as the case may be, within the period specified therein, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit, impose on the person, by way of penalty such damages, not exceeding the amount of cess in arrears:—

Provided that before imposing any such damages, such person shall be given an 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 damages shall be imposed under this section.

122. Appeal and determination of certain questions

122.1. Any person aggrieved by an order passed by Assessing Officer under—

(a) sub-section (1) of Section 117; or

(b) sub-section (1) of section 119; or

(c) sub-section (1) of section 121

including order of review under section 120, may prefer an appeal to an Appellate Officer in such manner, in such form, within such time and on payment of such fee as may be prescribed.

122.2. Any person aggrieved by an order passed by—

(a) Registration Authority under sub-section (8) of section 11, or an order of cancellation, deactivation or suspension of registration under sub-section (4) of section 12; or

(b) Establishment Registration Officer under sub-sections (5), (6) (7), or (8) of section 14, or sub-section (2) of section 15, or sub-section (1) of section 16.

may prefer an appeal to an Appellate Officer in such manner, in such form, within such time and on payment of such fee as may be prescribed.

122.3. Any person aggrieved by—

(a) an order regarding certificate of deduction passed under section 42(5); or

(b) an order of determination under 40(2); or

(c) an order of forfeiture of Gratuity under section 46(6); or

BOCWCA 11
| (d) an order of sanction (or decline to sanction) withdrawal from gratuity fund under section 49;  | ECA 30 |
| (e) an order determining gratuity payable to an employee under section 51(8); or              | MBA 17(3) |
| (f) an order directing payment (or otherwise) under clause (a) of section 61(2), or         | PGA 7(7) |
| (g) an order on validity of dismissal or discharge of a women during pregnancy under section 60(2) | |
| (h) 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 or  | |
| settlement of any question under section 61(8); or                                        | |
| (i) an order of review of half monthly payments under section 63(4); or                      | |
| (j) an order reducing the compensation payable under section 63(8); or                      | |
| (k) an order directing payment of interest and/ or damage under section 63(10); or         | |
| (l) an order of distribution of compensation under section 64(6) or disallowing any claim  | |
| of a person alleging himself to be such dependent; or                                       | |
| (m) credit of compensation to the prescribed fund under section 64(9); or                   | |
| (n) an order of variation of compensation under section 64(10); or                         | |
| (o) a decision on claim of compensation made under section 66 or                           | |
| (p) an order directing payment of compensation to dependents of diseased employee under    | |
| section 67(4); or                                                                         | |
| (q) an order allowing or disallowing any claim for the amount of an indemnity under the    | |
| provisions of sub-section (2) of section 68; or                                           | |
| (r) an award made under section 71(4) or 71(6); or                                         | |
| (s) order of the Commissioner confiscating any unclaimed amount under section 108; or      | |
| (t) a report of Samajik Suraksha Mitra under section 135(6); or                            | |
| (u) with the measures undertaken or compensation awarded by the Commissioner or           | |
| appropriate authority under section 136(2)                                                | |
| (v) an order of Assessment of dues about moneys invested under section 142(1) may         | |
| prefer an appeal to an Appellate Officer in such manner, in such form within such time and | |
| on payment of such fee as may be prescribed;                                               | |

Provided that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement arrived at between the parties.

---

### 122.4.

If any question or dispute arises as to —

| (i). whether any person is an employee within the meaning of this Code or whether he is liable to pay the employee’s contribution, or whether the employer is liable to pay the employer’s contribution in respect of that employee, or | ESIC 75 |
| (ii). the rate of wages or average daily wages of an employee for the purposes of this Code, or         | |
| (iii). the rate of contribution payable by a principal employer in respect of any employee, or        | |
| (iv). the person who is or was the principal employer in respect of any employee, or                  | |
| (v). the right of any person to any benefit and as to the amount and duration thereof, or            | |
| (vi). claim of recovery of contributions from the Principal Employer, or                             | |
| (vii). claim by a principal employer to recover contributions from any contractor, or                | |
| (viii). claim against principal employer under section 28(1)                                       | |
| (ix). any other matter which is in dispute between a principal employer and an contractor, or       | |
| between any employee and a principal employer or contractor, in respect of any contribution or      | |
| benefit or other dues payable or recoverable under this Code, or any other matter required to be     | |
| or which may be decided for implementation of Schemes, such question or dispute shall be decided by | |
| the Appellate Officer after conducting such inquiry as deemed fit:                                  | |

provided that no application for determination of dispute shall be entertained after a period of three years from the date on which the cause of action arose:

Provided further that no claim shall be made by the Board after five years of the period to which the claim relates,

Explanation 1. — the cause of action in respect of a claim for benefit shall not be deemed to arise unless the person or in the case of dependents’ benefit, the dependents of the scheme member claims or claim that benefit in accordance with the regulations made in that behalf within a period of twelve months after the claim became due or within such further period as the Court may allow on grounds which appear to it to be reasonable;

Explanation 2.- the cause of action in respect of a claim by the Board for recovering contributions.
(including interest and damages) from the principal employer shall be deemed to have arisen on the date on which such claim is made by the Board for the first time.
Explanation 3.- the cause of action in respect of a claim by the principal employer for recovering contributions from an contractor shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be received by the Board.

122.5. Every such application for resolving any question or dispute under sub-section (4) shall be in such form and shall contain such particulars and shall be accompanied by such fee if any, as may be prescribed.

122.6. If in any proceedings before the Appellate Officer under sub-section (4), a disablement question arises and the decision of a medical board or a tribunal has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Commissioner, he shall direct the Commissioner to have the question decided by the Medical Board and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or the tribunal, as the case may be.

122.7. The Appellate Officer shall conduct the inquiry in accordance with the provisions contained in section 117 and shall for the said purposes exercise all such powers as provided under sub-section (2) of that section:
Provided that 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 (45 of 1860):
Provided further that the officer conducting the inquiry shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

122.8. The Appellate Officer may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as he thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Appellate Officer may think fit, for a fresh adjudication or order, as the case may be, after taking into consideration additional evidence, if necessary.

123. Miscellaneous provisions in case of appeals

123.1. The period of limitation for an appeal under this section shall be sixty days from the date of the order of the Commissioner and the provision of section 5 and section 12 of the Limitation Act, 1963 (36 of 1963) shall be applicable to appeals under this section.

123.2. The Appellate Officer shall dispose of the proceedings within such period as may be prescribed.

123.3. The orders so passed by the Appellate Officer shall be deemed to be orders passed under the relevant section under which the order appealed against was passed:
Provided that the order of determination of damages by an Appellate Officer under sub-section (5) shall be deemed to be orders passed under section 117 by the Assessing Officer for the purpose of recovery of the said amount.

123.4. No appeal against the order of Assessment under section 117 or 119 or 120 or 121 shall be entertained unless the appellant has deposited with the Central Board/State Board, the amount due from him as assessed by the Assessing Officer under the relevant section, which is not disputed, in accordance with such procedure as may be prescribed.

123.5. If an assessee, at the time of filing an appeal under sub-section (1) has disputed any amount, and –
(a) subsequently during the course of appeal proceedings admits it as payable, or
(b) the Appellate Officer is of the opinion that the assessee had no cogent evidence to dispute the amount, and had only disputed the amount to avoid or delay payment of the dues,
The Appellate Officer shall, determine from the assessee, by way of penalty such damages, not exceeding the amount which was disputed by the appellant, as may be stipulated:
Provided that before levying such damages, the appellant shall be given an opportunity of being heard.

123.6. No –
(a) Appeal under clause (e), (h) or (k) of sub-section (3) of section 122
(b) Determination of dispute under sub-section (4) of section 122 between a principal employer and the Board in respect of any contribution or any other dues
shall be entertained by the Appellate Officer unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against:
Provided that the Appellate Officer may, for reasons to be recorded in writing, reduce the amount to be deposited under this sub-section up to twenty-five percent of the amount claimed by the Board.

123.7. No Civil Court shall have jurisdiction to decide or deal with any question or dispute under sub-sections (3) or (4) of section 122 or to adjudicate on any liability which by or under this Code is to be
decided by a medical board, or by a Tribunal or by the Appellate Officer.

<table>
<thead>
<tr>
<th>124.</th>
<th>Certain Appeals not maintainable</th>
</tr>
</thead>
<tbody>
<tr>
<td>124.1.</td>
<td>No appeal of any kind shall lie against an order of permission to operate Alternate Coverage mechanism issued under section 94 or an order issued under section 137, 138, 139 and 140.</td>
</tr>
<tr>
<td>124.2.</td>
<td>No appeal shall be maintainable against an order of search or seizure under section 91 or any directions or order of the authorized officer under section 91.</td>
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</table>

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<thead>
<tr>
<th>125.</th>
<th>Appeals to the Tribunal. –</th>
</tr>
</thead>
<tbody>
<tr>
<td>125.1.</td>
<td>Any person aggrieved by an order passed by the Appellate Officer under sub-sections (1), (2) or (3) of section 122 or an order assessing damages under sub-section (5) of section 123, may prefer an appeal to the Tribunal against such order.</td>
</tr>
<tr>
<td>125.2.</td>
<td>If a person or the Board is not satisfied with the decision of the medical board under section 74, the person or the Board may appeal to the Tribunal against such decision.</td>
</tr>
<tr>
<td>125.3.</td>
<td>Any person aggrieved by the decision or order of State Board taking any measures under section 93(5) or issuing any directions to intermediate agency under section 93(6) may appeal to the Tribunal against such order or decision.</td>
</tr>
</tbody>
</table>
| 125.4. | Any person aggrieved by the decision or order of -  
(a) Director General rejecting an application for grant of License as Intermediate Agency or imposing certain conditions while granting license under section 88, or  
(b) Director General cancelling or suspending License under Section 89 or  
(c) Central Board superseding the governing board or board of directors or management of an intermediate agency under section 93(2)  
(d) Central Board attaching assets of intermediate Agency or any other action under section 93(4)  
(e) Central Board taking any measures under section 93(5)  
(f) Central Board issuing any directions to intermediate agency under section 93(6)  
May appeal to the Principal Appellate Tribunal against such order or decision. |
| 125.5. | Every appeal under sub-section (1), (2), (3) or (4) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed. |
| 125.6. | No appeal under sub-section (1), shall be entertained unless the aggrieved person has filed an appeal under section 122 and the same has been disposed of by the Appellate Officer. |
| 125.7. | No appeal under sub-section (1) shall be entertained unless the appellant has deposited with the State Board, the amount due from him as assessed by the -  
(a) Assessing Officer under section 117 or section 119 or section 120 or section 121(as modified by the order of Appeal), or  
(b) Appellate Officer under sub-section (5) of section 123  
in accordance with such procedure as may be prescribed:  
Provided that the Tribunal may, for reasons to be recorded in writing, reduce the amount to be deposited under this section up to twenty-five per cent. of the amount assessed by the Assessing Officer: |
| 125.8. | A Tribunal may, after giving the parties to the appeal, an opportunity of being heard, and after following such procedure as may be prescribed, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary. |
| 125.9. | A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4) and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal:  
Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him an opportunity of being heard. |
| 125.10 | A Tribunal shall send a copy of every order passed under this section to the parties to the appeal. |

<table>
<thead>
<tr>
<th>126.</th>
<th>Appeal and reference to High Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>126.1.</td>
<td>If any person is aggrieved by any decision or order of the Tribunal, and the matter involves substantial question of law, he may file an appeal to the High Court within a period of sixty days from the date of communication of the decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908.</td>
</tr>
<tr>
<td>126.2.</td>
<td>No appeal shall lie against any decision or order made by the Tribunal with the consent of the parties.</td>
</tr>
<tr>
<td>126.3.</td>
<td>The provisions of sections 5 and 12 of the Limitation Act, 1963 (36 of 1963) shall apply to appeals</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
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</tr>
<tr>
<td>126.4.</td>
<td>A Tribunal may submit any question of law for the decision of the High Court and if so shall decide the question pending before it in accordance with such decision.</td>
</tr>
<tr>
<td>126.5.</td>
<td>Where the Board has presented an appeal against an order of the Tribunal, the Tribunal 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.</td>
</tr>
<tr>
<td>127.</td>
<td>Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers. –</td>
</tr>
<tr>
<td>127.1.</td>
<td>A person preferring an appeal to a Tribunal under this Code may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.</td>
</tr>
<tr>
<td>127.2.</td>
<td>The Central Government or a State Government or any other authority under this Code may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before an Appellate Authority or Tribunal.</td>
</tr>
<tr>
<td>128.</td>
<td>Institution of proceedings, etc. —</td>
</tr>
<tr>
<td>128.1.</td>
<td>Subject to the provisions of this Code and any rules made by the State Government, all proceedings before the Appellate Officer or Tribunal shall be instituted before the respective Appellate Officer or Tribunal appointed for the local area in which the worker was working at the time the question or dispute arose.</td>
</tr>
<tr>
<td>128.2.</td>
<td>If the Appellate Officer or Tribunal is satisfied that any matter arising out of any proceedings pending before it can be more conveniently dealt with by any other the Appellate Officer or Tribunal in the same State, it may, subject to any rules made by the State Government in this behalf, order such matter to be transferred to such other he Appellate Officer or Tribunal for disposal and shall forthwith transmit to such other the Appellate Officer or Tribunal the records connected with that matter.</td>
</tr>
<tr>
<td>128.3.</td>
<td>The State Government may transfer any matter pending before any Appellate Officer or Tribunal in the State to any such Appellate Officer or Tribunal in another State with the consent of the State Government of that State.</td>
</tr>
<tr>
<td>128.4.</td>
<td>The Appellate Officer or Tribunal to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.</td>
</tr>
</tbody>
</table>
### PART P

#### Social Security Appellate Tribunal

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>129.</td>
<td>The Central Government may, by notification in the Official Gazette, constitute one or more Appellate Tribunals to be known as the Social Security Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Code and every such Tribunal shall have jurisdiction in respect of assessee situated in such area as may be specified in the notification constituting the Tribunal.</td>
</tr>
<tr>
<td>129.2.</td>
<td>The Appellate Tribunal at National Capital Region of Delhi shall be the Principal Appellate Tribunal.</td>
</tr>
<tr>
<td>129.3.</td>
<td>The Principle Appellate Tribunal shall consist of three members to be appointed by the Central Government out of which one member shall be the Judicial Member and the other two members shall be the Administrative Members.</td>
</tr>
<tr>
<td>129.4.</td>
<td>The other Tribunals shall consist of two members to be appointed by the State Government of which one member shall be the Judicial Member and other member shall be the Administrative Member. Provided that if a Tribunal has a jurisdiction over more than one state, the appointment of the members shall be made by the Central Government.</td>
</tr>
</tbody>
</table>
| 129.5. | A person shall not be qualified for appointment as a Member (Judicial) of the Tribunal, unless he is, or has been, -  
(a) a Judge of a High Court; or  
(b) a District Judge for at least five years. |
| 129.6. | The Judicial Member of the Tribunals shall be appointed by the appropriate Government on the recommendations of the Select Committee consisting of such persons and in such manner as may be prescribed. |
| 129.7. | The qualifications, experience, the method and the manner of appointment of the Administrative Member shall be such as may be prescribed: Provided that a person shall not be qualified for appointment as an administrative member unless he has –  
(a) held the post of Joint Secretary to the Government of India or equivalent, or held for at least five years the post of Director to the Government of India or equivalent; and  
(b) at least five years’ experience in administration of Social Security or Labour Laws. |
| 129.8. | A member of Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall not be eligible for re-appointment. |
| 129.9. | The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the member of the Appellate Tribunal shall be such as may be prescribed: Provided that neither the salary and allowances nor the other terms and conditions of service of the member of an Appellate Tribunal shall be varied to his disadvantage after his appointment. |
| 129.10 | No order of the appropriate Government appointing any person as the Member of the Tribunal shall be called in question in any manner, and no act or proceeding before an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of such Appellate Tribunal. |

#### Resignation and Removal

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>130.1.</td>
<td>The member of Appellate Tribunal may, by notice in writing under his hand addressed to the appropriate Government, resign his office: Provided that the member of the Appellate Tribunal shall, unless he is permitted by the appropriate Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.</td>
</tr>
<tr>
<td>130.2.</td>
<td>A member of the Appellate Tribunal shall be removed from his office by an order made by the President (or the Governor of the State, as the case may be) on the ground of proved misbehaviour or incapacity after an inquiry in which such member of the Appellate Tribunal had been informed of the charges against him and given an opportunity of being heard in respect of those charges.</td>
</tr>
<tr>
<td>130.3.</td>
<td>The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of a member of the Tribunal.</td>
</tr>
</tbody>
</table>
| 130.4. | A vacancy caused to the office of the member of the Tribunal shall be filled-up within a period of three months from the date on which such vacancy occurs. Provided that the process of filling up the vacancy due to arise on account of superannuation or
expiry of term shall be initiated one year before the scheduled date of arising of such vacancy.

### 131. Orders of Tribunals not to be invalid in certain circumstances

131.1 No act or proceedings of the Tribunal shall be invalid merely by the reason of—
   (a) any vacancy in, or any defect in, the constitution of the Tribunal; or
   (b) any defect in the appointment of a person acting as a Member of the Tribunal; or
   (c) any irregularity in the procedure of the Tribunal not affecting the merits of the case.

131.2 If, for any reason, a vacancy arises in the Tribunal, the appropriate Government shall appoint a person in accordance with the provisions of this Code, to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which it was left by the outgoing member of the Tribunal.

### 132. Staff of the Tribunal.

132.1 The State Government shall determine the nature and categories of the officers and other employees required to assist an Appellate Tribunal in the discharge of its functions as it may think fit, and also specify the salaries and all allowances and other conditions of service of such officers and other employees.

Provided that if a Tribunal has a jurisdiction over more than one state, the State government in which the Tribunal is located shall exercise the powers under this sub-section, in consultation with the other state governments where the jurisdiction of the Tribunal lies.

132.2 The State Board (or the concerned State Boards) shall provide the Appellate Tribunal with such officers and other employees as determined by the State Government.

132.3 The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

132.4 Subject to conditions and restrictions as may be prescribed, the State Board (or Boards) shall bear the expenditure Salary, allowances and other Administrative expenditure for the functioning of the Tribunal in such proportion as may be stipulated.

### 133. Procedure of Tribunals.

133.1 A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

133.2 A Tribunal, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 118 and any proceeding before the Tribunal 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 (45 of 1860) and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

133.3 When there is a difference of opinion during adjudication of any matter between the members of the Appellate Tribunal the matter shall be transferred to the Principal Appellate Tribunal for adjudication.

133.4 When there is a difference of opinion during adjudication of any matter between the members of the Principal Appellate Tribunal, the decision by the majority shall prevail.

133.5 Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law except as provided in this code.

### 133A Control over Tribunals

133A.1 The concerned High Court of the state where the Principal Tribunal or Appellate Tribunal is located shall have the supervisory jurisdiction over the respective Tribunal.

133A.2 The Tribunals shall work under the general superintendence and control of the concerned High Court having supervisory jurisdiction over it.
## Part Q
### Compliance

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>134.1.</td>
<td>The Commissioner may, by order, notify a system for inspection of entities, and the inspections shall be conducted in such manner as may be specified in the said order.</td>
</tr>
</tbody>
</table>
| 134.2.  | The inspection system may be designed in way taking in to account inter alia the following factors that are particularly relevant in determining the specific challenges for labour and social security inspection:  
(a) the characteristics of the economic units, with high numbers of small and micro enterprises, own account workers and private households as employers of domestic workers;  
(b) the characteristics of the workplace, such as private homes as workplaces for home-based workers and domestic workers; public spaces as workplaces for street vendors, wastepickers, etc.  
(c) the geographic dispersion of the economic units and workplaces, particularly with respect to covering rural areas;  
(d) the characteristics of the employment relationship, with a strong preponderance of different forms of self-employment, including own-account work, contributing family workers and members of cooperatives;  
(e) the characteristics of the work itself, including long and irregular working hours, irregular incomes, etc. |
| 134.3.  | The Commissioner, while issuing order under this section shall not disclose the parameters and criteria fixed for the inspection system and may change it from time to time. |
| 135.1.  | Subject to the provisions of this Code, every worker shall have the right for coverage under the Social Security System provided under this Code and scheme members and their families shall have access to clear, simple and timely information on the operation of the program. |
| 135.2.  | Any worker, -  
(a) Who has been denied coverage under the Social Security System provided under this Code by an employer, or  
(b) Whose employer or principal employer has failed to deposit the contribution for or on behalf of the worker, or  
(c) Who has been denied any benefit or compensation specified under this code by the employer, or  
(d) Who has not been provided any service or benefit he is entitled to or the service or benefit provided to him is deficient, may make a complaint to the Samajik Suraksha Mitra in such manner as may be specified in by-laws: Provided that any registered trade union or Registered organization or association of workers may also file a complaint on behalf of a worker or group of workers. |
| 135.3.  | All complaints filed by persons or organizations authorised under sub-section (2) shall, be acknowledged by a receipt, issued through such means as may be specified in by-laws, specifying the date, time, place, unique complaint number and particulars of receiver of complaint along with the time-frame in accordance with its Citizens Charter within which the complaint is likely to be redressed. |
| 135.4.  | On receipt of a complaint, or suo-moto on receipt of any information, the Samajik Suraksha Mitra shall conduct an inquiry within such period as may be stipulated to determine prima-facie whether the right of a worker to participate in the Schemes or availing the benefits under the schemes or the Code have been curtailed or denied.  
Explanation – The Samajik Suraksha Mitra, during the course of enquiry may mediate or conciliate between the employer and the employee to settle the grievance of the worker and promote compliance of the Code. |
| 135.5.  | The Samajik Suraksha Mitra, on completion of the inquiry under sub-section (4) shall submit a report to the Commissioner, or such other officer of the State Board authorized by him and furnish a copy of the report to the complainant. |

### Right to Coverage under the Code

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>135.1.</td>
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| 135.2.  | Any worker, -  
(a) Who has been denied coverage under the Social Security System provided under this Code by an employer, or  
(b) Whose employer or principal employer has failed to deposit the contribution for or on behalf of the worker, or  
(c) Who has been denied any benefit or compensation specified under this code by the employer, or  
(d) Who has not been provided any service or benefit he is entitled to or the service or benefit provided to him is deficient, may make a complaint to the Samajik Suraksha Mitra in such manner as may be specified in by-laws: Provided that any registered trade union or Registered organization or association of workers may also file a complaint on behalf of a worker or group of workers. |
| 135.3.  | All complaints filed by persons or organizations authorised under sub-section (2) shall, be acknowledged by a receipt, issued through such means as may be specified in by-laws, specifying the date, time, place, unique complaint number and particulars of receiver of complaint along with the time-frame in accordance with its Citizens Charter within which the complaint is likely to be redressed. |
| 135.4.  | On receipt of a complaint, or suo-moto on receipt of any information, the Samajik Suraksha Mitra shall conduct an inquiry within such period as may be stipulated to determine prima-facie whether the right of a worker to participate in the Schemes or availing the benefits under the schemes or the Code have been curtailed or denied.  
Explanation – The Samajik Suraksha Mitra, during the course of enquiry may mediate or conciliate between the employer and the employee to settle the grievance of the worker and promote compliance of the Code. |
| 135.5.  | The Samajik Suraksha Mitra, on completion of the inquiry under sub-section (4) shall submit a report to the Commissioner, or such other officer of the State Board authorized by him and furnish a copy of the report to the complainant. |

### Actions on Report of Samajik Suraksha Mitra

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>136.1.</td>
<td>The Commissioner, or the concerned authority required to take necessary action on the matter of complaint made under sub-section (2), on receipt of report under sub-section (6) of Section 135 shall</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
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<tr>
<td>136.2.</td>
<td>Where the scheme member has not been provided the service that he is entitled to, or is provided services that are deficient, the Commissioner shall, in addition to action under sub-section (1), pay to the scheme member from the reparation fund constituted under section 23, such reparation as may be prescribed in the by-laws.</td>
</tr>
<tr>
<td>136.3.</td>
<td>The Samajik Suraksha Mitra on receipt of report under sub-section (1) shall inform the complainant of the contents thereof within such period as may be stipulated.</td>
</tr>
</tbody>
</table>
## PART R
### Recovery of Dues

<table>
<thead>
<tr>
<th>137.</th>
<th>Mode of Recovery</th>
<th>EPF 8</th>
</tr>
</thead>
</table>
| 137.1. | Any amount due from any entity, employer, principal employer, landlord, contractor, works contractor, trustees of any establishment which has been permitted to operate Alternate Coverage Mechanism or any other person under any provision of this Code, if the amount is in arrear, be recovered in the manner specified in this section. 
Explanation: The amount due under this sub section inter alia includes 
   a. Contribution due from employer or worker 
   b. accumulations required to be transferred under sub section 2 of section 148 or under sub-section (4) of section 96. 
   c. any damages recoverable under section 121. 
   d. any amount recoverable under section 28. 
   e. any interest due under section 39. 
   f. any dues under Part E (including the damages, interest if any, payable under that part) 
   g. any charges payable by an establishment under any of the conditions specified by the Appropriate Government under section 94. | |
| 137.2. | Where any amount is in arrear, the assessing officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears. | EPF 8B(1)* ESIC 45C |
| 137.3. | The Assessing Officer may forward the certificate referred to in sub-section (2) to the Recovery Officer within whose jurisdiction the employer or person—  
   (a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situated; or  
   (b) resides or any movable or immovable property of the establishment or the employer or the person is situated. | EPF 8C(1) ESIC 45D |
| 137.4. | The Assessing Officer may issue a certificate under sub-section (2), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken. | EPF 8B(2) |

137.5. Deleted

### 138. Powers of Recovery Officer

| 138.1. | The Recovery Officer, on receipt of a recovery certificate, shall proceed to recover the amount specified therein from the establishment, employer or the person, as the case may be, by one or more of the modes mentioned below:-  
   (a) attachment and sale of the movable or immovable property of the establishment, the employer or the person as the case may be;  
   (b) attachment of the bank account of the establishment, the employer or the person as the case may be:  
   (c) arrest of the employer or the person as the case may be, and his detention in prison;  
   (d) appointing a receiver for the management of the movable or immovable properties of the establishment or, the employer or the person as the case may be:  
Provided that the recovery officer shall, before attaching the property of the employer or the person under clause (a), shall satisfy himself by reasons to be recorded in writing that the property of the establishment against whom the recovery is due is insufficient for recovery of the whole amount of arrears specified in the certificate. Provided further that sale of any property of the employer or person under clause (a) shall be effected only after the sale of properties of the establishment has been made and where such sale is insufficient for recovery of the whole of the amount of arrears specified in the certificate. 
Explanation —For the purposes of this sub-section, the person’s movable or immovable property or monies held in bank accounts shall include, any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to any other person otherwise than for adequate consideration, and which is held by, or stands in the name of, such other persons, for recovering any amount due from the person under this Code. | EPF 8B(1)* ESIC 45C |
| 138.2. | Where an establishment or the employer or the person has property within the jurisdiction of more than one Recovery Officers and the Recovery Officer to whom a certificate is sent by the Assessing Officer - | EPF 8C(2) ESIC 45D |
(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 and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the establishment or the employer or the person has property or the employer or the person resides, and thereupon that Recovery Officer shall also 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 Assessing Officer.

139. Validity of Recovery certificate, and amendment thereof.

139.1. When the Assessing Officer issues a certificate to a Recovery Officer under section 137, it shall not be open to the employer or any person to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

139.2. Notwithstanding the issue of a certificate to a Recovery Officer, the Assessing Officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

139.3. The Assessing Officer shall intimate to the Recovery Officer any orders withdrawing or cancelling a certificate or any correction made by him under sub-section (2) or any amendment made under sub-section (7).

139.4. Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Assessing Officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

139.5. Where a certificate for the recovery of amount has been issued, the Assessing Officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

139.6. Where the order giving rise to a demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Code, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Code, the Assessing Officer 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.

139.7. 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 Assessing Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be.

140. Other modes of Recovery

140.1. Notwithstanding the issue of a certificate to the Recovery Officer under section 137, the Commissioner may recover the amount by any one or more of the modes provided in this section.

140.2. If any amount is due from any person A to an employer or a person B who is in arrears, the Commissioner may require such person A to deduct from the said amount the arrears due from such employer or person B under this Code, and such person A shall comply with any such requisition and shall pay the sum so deducted to the credit of the State Board or the officer so authorised, as the case may be:

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 of 1908).

140.3. The Commissioner may, at any time or from time to time, by notice in writing, require any person A –

(a) from whom money is due or may become due to the employer or, the establishment or the Person B as the case may be; or
(b) who holds or may subsequently hold money for or on account of the employer or the establishment or the Person B as the case may be,

to pay to the State Board either forthwith upon the money becoming due or being held or 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 or person B in respect of arrears or the whole of the money when it is equal to or less than that amount.
### 140.4. A notice under sub-section (3) may be issued to any person A who holds or may subsequently hold any money for or on account of the employer or person B jointly with any other person C 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.

### 140.5. A copy of the notice shall be forwarded to the employer or the person B at his last address known to the Commissioner and in the case of a joint account to all the joint holders at their last addresses known to the Commissioner.

### 140.6. Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.

### 140.7. Any claim respecting any property in relation to which a notice under this section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

### 140.8. Where a person A to whom a notice under this section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the employer or the person B or that he does not hold any money for or on account of the employer or the person B, then nothing contained in this sub-section shall be deemed to require such person A 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 A shall be personally liable to the Commissioner to extent of his own liability to the employer or the person B on the date of the notice, or to the extent of the employer’s or person B’s liability for any sum due under this Code, whichever is less.

### 140.9. The Commissioner may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

### 140.10. The Commissioner 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 or any other person to the extent of the amount so paid.

### 140.11. Any person A discharging any liability to the employer or the person B after the receipt of a notice under this sub-section shall be personally liable to the Commissioner to extent of his own liability to the employer or person B so discharged or to the extent of the employer’s or person B’s liability for any sum due under this Code, whichever is less.

### 140.12. If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Commissioner he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 137 and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 138.

### 140.13. The Commissioner 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.

### 140.14. The Commissioner may recover any arrears of amount due from an employer, or establishment or any other person 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 (43 of 1961).

### 141. Application of certain provisions of Income-tax Act.

**141.1.** The provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 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 referred to the arrears of the amount mentioned in section 137 of this Act instead of to the income-tax:—

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.

**141.2.** For the purpose of the Indian Income-tax Act, 1961 all funds under this Code shall be deemed to be a recognised provident fund within the meaning of Chapter I of that Act:

Provided that nothing contained in the said Chapter shall operate to render ineffective any provision of the Scheme under which the Fund is established, which is repugnant to any of the provisions of that Chapter or of the rules made thereunder.

### 142. Mode of Recovering Moneys in certain cases

**142.1.** In case of any body corporate, institution, company, corporation or any other Organisation wherein the Fund has been invested by or on behalf the Boards or by any Trust permitted under Section 95
of the Code commits default in the payment of principal and/or interest and/or maturity proceeds and/or any other amount due or any part thereof which remains outstanding for more than 3 months from its due date, the Director General or Additional Director General or Joint Director General may conduct such enquiry as deems necessary for the purpose of determination of dues.

### 142.2.
For the purpose of inquiry and determination of dues under sub-section (1), the provisions of sub-section (2) of Section 117 shall apply.

### 142.3.
Any amount due as assessed under sub-section (1) may, if the amount is in arrear, be recovered in the manner specified in Section 137 by the Recovery Officer.

Explanation :- Any reference to ‘Assessee‘ in the Section-117 and 137 shall be construed as reference to the body corporate, institution, company, corporation or any other Organisation as mentioned in sub-section (1).”
### PART S
#### Control

<table>
<thead>
<tr>
<th>143.</th>
<th>Calling for and obtaining Information</th>
</tr>
</thead>
</table>
| 143.1. | The appropriate government may at any time require the executive head of a Social Security Organisation—  
(a) to produce any record, correspondence, plan or other document in his possession or under his control;  
(b) to furnish any return, plan estimate, statement, account or statistics relating to the proceedings, duties or works of the Social Security Organisation;  
(c) to furnish or obtain and furnish any report. |

| 143.2. | The appropriate Government or the National Council may depute any person in the service of the said Government or National Council to inspect or examine any department or office or any service or work undertaken by a Social Security Organisation or any property belonging to the Social Security Organisation and to report thereon. |

| 143.3. | The concerned Social Security Organisation and all officers and other employees of the Social Security Organisation shall be bound to afford the person so deputed under sub-section (2) access at all reasonable times to the premises and properties of the Social Security Organisation and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties. |

| 143.4. | The Commissioner of the State Board shall have powers same as that of appropriate government in this section, in respect of calling for and obtaining information from local bodies, the provisions of this section shall mutatis-mutandis apply. |

<table>
<thead>
<tr>
<th>144.</th>
<th>Powers of National Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>144.1.</td>
<td>Where the National Council has a reasonable ground to believe that the activities of the Central Board or State Board are being conducted in a manner detrimental to the interest of the subscriber, it may, at any time, by order in writing, direct any person specified in the order to investigate the affairs of such Central or State Board and to report thereon to the National Council. Provided that such a report shall be submitted within three months from the date of the order. Provided further that the Central or State Board shall comply with all measures taken in pursuance of the inquiry.</td>
</tr>
</tbody>
</table>

| 144.2. | If the National Council finds, after causing an inquiry to be made, that the Central Board or the State Board has violated, or is likely to violate, any provisions of this Code, or any rule or regulation made thereunder, the National Council may pass an order requiring such Central Board or the State Board to cease and desist from committing or causing such violation. Provided that once the National Council has given direction to the Central/State Board, the latter must send a compliance report to the appropriate government once the necessary action has been taken. |

| 144.3. | If at any time the National Council has reason to believe that the Central Board or the State Board is acting in a manner likely to be prejudicial to the interest of subscribers, it may, after giving the Central Board or the State Board, as the case may be, an opportunity of being heard, make a report thereon to the Central Government or State Government. |

<table>
<thead>
<tr>
<th>145.</th>
<th>Power to give directions</th>
</tr>
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</table>
| 145.1. | If, whether on receipt of a report or on receipt of any information of report obtained under section 143 or otherwise, the appropriate Government is of opinion—  
(a) that any duty imposed on the Social Security Organisation by or under this Code has not been performed or has been performed in an imperfect, insufficient or unsuitable manner, or  
(b) that adequate financial provision has not been made for the performance of any such duty, it may direct the Social Security Organisation concerned, within such period as it thinks fit, to make arrangements to its satisfaction for the proper performance of the duty, or as the case may be, to make financial provision, to its satisfaction for the performance of the duty and the Social Security Organisation concerned shall comply with such direction: Provided that, unless in the opinion of the appropriate Government the immediate execution of such order is necessary, it shall before making any direction under this section give the Social Security Organisation concerned an opportunity of showing cause why such direction should not be made. |

| 145.2. | The National Council may, from time to time, give such directions to the Central Board or the State Board. |
Board as it may think fit for the efficient administration of this Code and when any such direction is given, and the direction is not inconsistent with the Code, Rules or Regulations, the Central Board (or the State Board as the case may be) shall comply with such direction.

145.3. The State Government may give the State Board all such directions as it considers necessary in respect of maintenance, operations, standards and services of Hospitals, Dispensaries, and other health institutions vested in the State Board or maintained wholly or partly by grants paid out of the Medical Benefit Scheme Fund and the State Board shall comply with all such directions.

145.4. The State Board may give the local bodies all such directions as it considers necessary for –
(a) proper registration of workers and entities,
(b) verification of the status and category of registered workers,
(c) updating of databases of registered workers and registered entities
(d) efficient management of registration and facilitation services,
(e) proper and efficient management of any other function assigned to the local bodies
and when any such direction is given, and the direction is not inconsistent with the Code, Rules or Regulations, the local bodies shall comply with such direction.

146. Power to provide for enforcement of direction

146.1. If, within the period fixed by a direction made under section 145, any action the taking of which has been directed under that sub-section has not been duly taken, the appropriate Government (or the authority giving the direction as the case may be) may make arrangements for the taking of such action and may direct that all expenses connected therewith shall be defrayed out of such Fund as may be decided by the appropriate government (or the said authority giving directions, as the case may be).

146.2. Order of Precedence for the purpose of the provisions of this Part shall be:-
A. National Council and thereafter Central Board and thereafter a State Board, and
B. Central Government and thereafter a State Government
### Part T
#### Transitionary Provisions

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147.2. All assets of such Schemes or Funds ceased under sub-section (1), shall be divided in such a manner and proportion as may be stipulated, to determine the share of the State Board where the scheme has so ceased, and such share shall vest in and shall stand transferred to the said Scheme Fund mentioned in column A in the table under sub-section (1) of that State. Provided that the funds maintained at the State level shall be transferred to the State Board of the concerned state and shall vest in the concerned State Board, Explanation: The funds so transferred to state Boards shall be managed in the manner specified in Section 25.

147.3. All liabilities under the ceased scheme shall be enforceable against, the Scheme Fund to which the assets have been so transferred under sub-section (2).

147.4. The beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from such Scheme Fund to which the assets have been so transferred under sub-section (2).

147.5. Any dispute arising out of transfer of assets, liabilities and funds under this section to or from any State Board or Central Board shall be determined by the National Council.

147.6. The successor Boards shall be entitled to receive benefits arising out of the decisions taken by the predecessor organisations and the successor Boards shall be liable to bear the financial liabilities arising out of the decisions taken by the predecessor organisations.

148. Special provisions relating to existing provident funds

148.1. Subject to the provisions of section 94, every employee who is a subscriber to any provident fund of an establishment to which this Code applies shall, pending the application of the Provident Fund Scheme to the establishment in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Code had not been passed.

148.2. On the application of Provident Fund Scheme to an establishment, the accumulations in any existing provident fund of the establishment, standing to the credit of the employees who become scheme members of the Provident Fund established under this code shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Provident Fund Scheme, be transferred to the provident fund established under this code, and shall be credited to the accounts of the employees entitled thereto in the Fund. Explanation: The total amount of provident fund accumulations includes interest thereon and includes any balance of interest on investments which happens to be undistributed on the date of the transfer.

149. Transfer of Assets, cash, balances, investments and Liabilities

149.1. The provisions of this Section shall apply in relation to the apportionment of the assets and liabilities of the predecessor organisations (other than those related to Scheme Funds) immediately before the appointed day.

149.2. The apportionment of –
(a) assets and liabilities,
(b) land and all stores
(c) articles and other goods
belonging to the predecessor organisations, would be governed by the regulations and also subject to financial adjustment as may be necessary to secure just, reasonable and equitable apportionment amongst the successor Boards.
Explanation: The expression “land” includes immovable property of every kind and any rights in or over such property, and the expression “goods” does not include coins, bank notes and currency notes.

149.3. Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement of the predecessor organisation and the successor boards, failing which by order by the National Council on the advice of the Comptroller and Auditor-General of India.

149.4. The total of the cash balances in all treasuries or accounts of the predecessor organisations and the credit balances of the predecessor organisations with Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the State Boards in such manner as may be stipulated:

Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit
balances of the two State Boards in the books of the Central Board on the appointed day:

Provided further that such portion of reserves of Administrative Fund of the predecessor organisations, as may be stipulated, shall be transferred to the Central Board, and only the balance shall be divided amongst the State Boards.

149.5. The securities held in respect of the investments made from Cash Balances, Investment Account or from any Fund in the predecessor organisations shall be apportioned to the concerned state Board in the same manner as apportionment of cash balances under sub-section (4):

Provided that the investments of the predecessor organisations immediately before the appointed day in any special fund, the objects of which are confined to a local area, shall belong to the State Board in which that area is included on the appointed day.

**150. Transfer of other matters**

150.1. The right to recover arrears of any amount or contribution, shall belong to the successor Board in which the establishment is situated.

150.2. The liability of the predecessor organisations to refund any contribution or any other amount collected in excess shall be the liability of the successor State Board in whose territories the establishment is situated.

150.3. The right of the predecessor organisations to recover any loans or advances made before the appointed day to any local body, society, worker or other person in an area within a State shall belong to the successor Board having jurisdiction of that area.

150.4. The liability of the predecessor organisations in respect of the provident fund and pensions of the employees of the predecessor organisations on the appointed day shall, as from that day, be the liability of the State Board to which that employee is permanently allotted:

Provided that the liability of the predecessor organisations in respect of pensioners of the predecessor organization shall be apportioned between the successor Boards in such manner as may be stipulated.

**151. Managing of Contracts**

151.1. Where, before the appointed day, the predecessor organisation has made any contract in the exercise of its executive power for any purposes of the said organisation, that contract shall be deemed to have been made in the exercise of the executive power—

(a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of any of the State, then, of that State Board; or

(b) in any other case, of the Central Board,

and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the predecessor organisation, be the rights or liabilities of the successor State Board or the Central Board, as the case may be:

Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor State Boards or in default of such agreement, as the National Council may, by order, direct.

151.2. For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) any liability in respect of expenses incurred in or in connection with any such proceedings.

151.3. This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

**152. Miscellaneous Provisions on transfer of assets and liabilities**

152.1. The benefit or burden of any asset or liability of the predecessor organisations not dealt with in the foregoing provisions of this Part shall pass to the Central Board in the first instance, subject to such financial adjustment as may be agreed upon between the State Boards or, in default of such agreement, as the National Council may, by order, direct.

152.2. Where, by virtue of any of the provisions of this Part, any of the successor Board becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the National Council is of opinion, on a reference made within a period of three years from the appointed day by either of the State Board, that it is just and equitable that
(a) property or those benefits should be transferred to, or shared with, the other successor State Board, or
(b) a contribution towards that liability should be made by the other successor State Board, the said property or benefits shall be allocated in such manner between the two State Boards, or the other State Board shall make to the State Board subject to the liability such contribution in respect thereof, as the National Council may, after consultation with the two State Boards by order determine.

153. Transfer of applications to Tribunals

153.1. All applications which are pending before the –
(a) Employee’s Provident Fund Appellate Tribunal constituted under the Employee Provident Fund and Miscellaneous Provisions Act 1952
(b) Employees’ insurance Court constituted under the Employees’ State Insurance Act 1948
(c) High Court, against orders of Commissioner under section 30 of the Employee Compensation Act 1923
(d) Appropriate government or the appellate authority under section 7(7) of the Payment of Gratuity Act 1972
shall stand transferred to a Tribunal exercising jurisdiction in respect of establishments in relation to which such applications had been made as if such applications were appeals preferred to the Tribunal.

154. Reorganisation of Employees of Employee Provident Fund Organisation, Employees’ State Insurance Corporation and Director General Labour Welfare

154.1. The Central Government, in consultation with the National Council, shall by notification, prepare a Reorganisation Scheme for reorganization and division of posts in various cadres existing in the predecessor organisations and creation of new cadres in the Central Board and State Boards.
Explanation - The Reorganisation Scheme framed under this sub-section shall inter-alia have following components-
(a) Posts and cadres that shall be abolished in the predecessor organisations upon creation of Central Board, and correspondingly, posts that shall be created in the Central Board
(b) Posts and cadres that shall be abolished in the predecessor organisations upon creation of a State Board for a particular State or Union Territory and correspondingly, posts and cadres that shall be created in said State Board
(c) Methodology of allocation of existing employees of predecessor organization to the successor Boards, or National Council

154.2. The successor Social Security Organisation in respect of every existing employee of the predecessor organizations shall be determined by the Central Board in accordance with the Reorganisation Scheme notified by the Central Government under sub-section (1):
Provided that the medical officer and medical and paramedical staff in the medical institutions of Employees’ State Insurance Corporation shall be assigned to the corresponding state’s State Board where the concerned employee is posted as on the date of notification of reorganization scheme:
Provided further that all the employees of Employees State Insurance Scheme under the ESIC Act 1948 shall be assigned to the concerned State Board.
Explanation - Allocation of existing employees of predecessor organization to the successor Boards can be made even before such State Board is created. In such case, the employee so allocated will continue to be employed in the predecessor organization till such time such Board is created.

154.3. Upon creation of a Board, the Central Government, in consultation with the National Council shall by notification, prepare an allocation scheme for –
(a) further allocation of employees allocated to a successor Board (by Reorganisation Scheme) to the new cadres, in the successor Board
(b) Fixing inter-se seniorities of existing officials of predecessor organization upon such allocation

154.4. The initial strength of the cadres created in a Board shall be determined be the Allocation Scheme framed in sub-section (3)

154.5. If a State Board is created in any State before –
(a) Reorganisation Scheme under sub-section (1) is notified, or
(b) successor social security organisation of existing employees of predecessor organizations is determined under sub-section (2),
all employees posted in any establishment of any of the predecessor organizations situated within the territory of the said State-
(i) in respect of whom the successor organization has not been determined in accordance
154.6. Every person who, immediately before the appointed day is holding or discharging duties of any post or office in connection with the affairs of the predecessor organisation in any area which on that day falls within any of the successor State Board shall continue to hold the same post or office in that successor State Board, and shall be deemed on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in, that successor State Board:

Provided that nothing in this section shall be deemed to prevent the Commissioner or the Director General, as the case may be, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

155. Provisions relating to services and service conditions

155.1. Nothing in this section or section 154 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the successor Board under section 154 shall continue to be governed by conditions of service applicable immediately before the appointed day and as may be amended from time to time thereafter.

Provided that the conditions of service of such persons can be varied with the previous approval of the Central Government.

155A Transfer of State Health institutions to the State Board

155A.1 The State Government, by notification, after giving not less than one month’s notice of its intention so to do, may, by a like notification, transfer any Hospital, Dispensary, Health Centers, Clinics, (hereinafter referred to as ‘such health institutions’ being managed by the State Government or any Local Body, to the State Board on as-is-where-is basis, and without any payment on the part of State Board

155A.2 As a consequence of such transfer under sub-section (1), the State Government in consultation with the State Board, shall by notification, prepare a scheme for –

(a) allocation of existing employees of such health institutions to the State Board,
(b) Merger of various Cadres of such health institutions into new or existing cadres of State Board, as applicable, and
(c) Fixing inter-se seniorities of existing staff of such health institutions upon such merger

155A.3 For removal of doubts, any health institution transferred by notification under sub-section (1), upon such transfer will become a health institution of the State Board established under section 86, and shall function primarily for the purpose of providing services to the scheme members (or their immediate family, if applicable), except to the extent notified under section 87.

155B Continuation of Exemptions granted under Employees’ Provident Fund Act 1952 and Employees’ State Insurance Corporation Act 1948

155B.1 Any Exemption granted under section 17 of Employees’ Provident Fund Act 1952 or Section 87 or 88 of Employees’ State Insurance Corporation Act 1948 shall deemed to be a permission to operate Alternate Coverage Mechanism granted under this Code from the corresponding Scheme(s) under this Code for a period until –

(a) validity of the Exemption so granted expires, or
(b) one year from the commencement of applicability of this Code, whichever is earlier.
Part U
Offences and Penalties

156. Punishment for certain offences

156.1. Whoever-
(a) contravenes any provision of any of the sections, sub-sections, clauses, provisos or other provisions of this Code mentioned in the second column of the Table in the Seventh Schedule; or
(b) fails to comply with any order or direction lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisos or other provisions of this code,
shall for such offence, be punishable-
(i). with fine which may extend to the amount, or with imprisonment for a term which may extend to the period, specified in that behalf in the fourth column of the said Table in Seventh Schedule or with both; and
(ii). in the case of a continuing contravention or failure, with an additional fine which may extend to the amount specified in the fifth column of that Table for every day during which such contravention or failure continues after conviction for the first such contravention or failure:

Provided that wherever a penalty of imprisonment is specified in the seventh Schedule, the court trying the offence, is of opinion that lesser term of imprisonment than the minimum specified in the schedule or imposition of a fine in lieu of imprisonment would suffice, the said court may, for the reason to be recorded by it in writing, impose such lesser imprisonment or fine in lieu of imprisonment.

Provided further that any person committing an offence of non-payment of contribution under section 20 or Administrative charges under section 38 shall not cease to be liable to any penalty merely by reason of the fact that he paid the contribution or Administrative charges before the levy of such penalty.

156.2. Whoever –
(a) contravenes any provisions of any Scheme framed under section 24; or
(b) fails to comply with any order or direction lawfully given to him or any requisition lawfully made upon him under any of the provisions of the said Schemes
(c) contravenes any provisions of the Rules or Regulations or by-laws framed under this code
shall for such offence, be punishable –
(i). with imprisonment for a term which may extend to one year, or with fine which may extend to such amount, not exceeding two lakh rupees, or with both, as mentioned in the scheme, the rule, the Regulation or the by-laws as the case may be; and
(ii). in the case of a continuing contravention or failure, with an additional fine which may extend to such amount, not exceeding two thousand rupees per day, as may specified in the said Scheme or rule for every day during which such contravention or failure continues after conviction for the first such contravention or failure.

156.3. Whoever, for the purpose of –
(a) causing any increase in payment or benefit under this Code or Schemes framed under section 24; or
(b) causing any payment or benefit to be made where no payment or benefit is authorised by or under this Code or Schemes; or
(c) avoiding any payment to be made by himself under this Code or enabling any other person to avoid any such payment,
knowingly makes or causes to be made any false statement or false representation, shall for such offence, be punishable with imprisonment for a term which may extend to six months or with fine not exceeding two lakh rupees, or with both:

Provided that in the case of second or subsequent offences, the punishment shall be imprisonment for a term which may extend to one year, and with a fine which may extend to ten lakh rupees:

Provided further that where a scheme member or beneficiary of a Scheme is convicted under this
section, he shall not be entitled for any cash benefit under this Code for such period as may be stipulated.

**156.4.** Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Code or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector or wilfully refuses to provide evidence or statements lawfully required to be given shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one lakh rupees, or with both.

Explanation: Documents include documents and information in electronic form.

**156.5.** Whoever, in any case in which a penalty is not expressly provided by this Code, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Code, shall be punishable with fine which may extend to one lakh rupees, and in case of a continuing failure or contravention, with an additional fine which may extend to two thousand rupees for every day until the continuation of such failure or contravention.

**156.6.** Whoever abets any offence under this code, if the act abetted is committed and no express provision is made by this code for punishment of such abetment, shall, for such offence, be punishable with fine not exceeding two lakh rupees.

Explanation: An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation or in pursuance of the conspiracy, or with the aid, which constitutes the abetment.

**156.7.** Whoever, having been convicted by a court of an offence punishable under this Code, commits the same offence shall be subject for every such subsequent offence to 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 a fine which may extend to five lakh rupees, but shall not be less than two lakh rupees.

**156.8.** The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences mentioned as ‘cognizable’ in the sixth column of the Table in the seventh Schedule, as if it were a cognizable offence-

(a) for the purposes of investigation of such offence; and
(b) for the purposes of all matters other than-

(i) The matters referred to in Section 42 of that Code; and
(ii) arrest of a person, except on the complaint of, or upon information received from, such officer of a Social Security Organisation, not being below such rank as may be prescribed

**157. Offences by companies**

**157.1.** If the person committing an offence under this Code, is a company, every person who at the time the offence was committed was incharge 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:

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 and that he exercised all due diligence to prevent the commission of such offence.

**157.2.** Notwithstanding anything contained in sub-section (1) where an offence under this Code 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, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purposes of this section, -

(a)“Company” means any body corporate and includes a firm, limited liability Partnership registered under Limited Liability Partnership Act, 2008and other association of individuals; and
(b)“Director” in relation to a firm, means a partner in the firm.

**158. Cognizance and trial of offences**

**158.1.** No Court shall take cognizance of any offence punishable under this Code, except on –

a). a report in writing of the facts constituting such offence is made by an Inspector appointed under Section 113. Or

b) a complaint filed by an office bearer of a trade union registered under the Trade Union Act 1926 of which such worker is a member, or

c) a complaint filed by an aggrieved worker or in case of death of the aggrieved worker, his legal heir.
Provided that no inspector shall make the complaint unless he has obtained previous sanction of such officer of Social Security Organizations as may be authorized by the executive head of the social security organizations by general or special order.
Provided further that no complaint under clause b and c shall be filed after expiry of one year from the date on which the offence is alleged to have been committed.

158.2. No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Code.

159. **Power of Commissioner to Compound Offences and make orders**

159.1. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, if any person is charged with an offence, not being an offence punishable with imprisonment under this Code, the punishment may, on an application of the accused person either before or after the institution of the prosecution be compounded by Commissioner on such terms and conditions and on payment of such sums as may be prescribed:

Provided that the sums prescribed shall not, in any case-
- exceed the maximum amount of the fine, and
- be less than the minimum amount of fine (if applicable)

which may be imposed for the offences so compounded:
Provided further that no such offence shall be compounded unless the person has complied with the provisions of this Code or Scheme or any other condition lawfully imposed upon him under the Code or Schemes.
Provided also that failure of compliance with the order of Compounding shall be an offence punishable with fine which shall be fifty percent of the maximum fine prescribed for the offence so compounded.

159.2. Nothing in sub-section (1) shall apply to an offence committed by any person, company or its officer within a period of five years from the date on which a similar offence committed by it or him was compounded under this section.
Explanation.—For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of five years from the date on which the offence was previously compounded, shall be deemed to be a first offence;

159.3. Where a person is convicted of an offence of making default in the payment of any amount to the Board or in the transfer of accumulations required to be transferred by him under sub-section (4) of section 96, the court may, in addition to awarding any punishment, by order in writing require him within a period specified in the order which the court may, if it thinks fit and on application in that behalf may from time to time, extend, such specified period for the payment of the amount or transfer the accumulations, as the case may be, in respect of which the offence was committed.
Provided that no extension shall be made by the court beyond a period of 3 years.

159.4. Where an order is made under sub-section (3), the person shall not be liable under this Code in respect of the continuation of the offence during the period or extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may be, the order of the court has not been fully complied with, the person shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof under sub-section (6) of section 156 and shall also be liable to pay fine which may extend to five thousand rupees for every day after the expiry of the period specified in the order.

159.5. Where a person is convicted for any offence regarding failure to payment of Gratuity, Maternity Benefit or Employee Compensation or payment of any other amount to a worker or to the Board, and such Gratuity, Maternity Benefit or Employee Compensation or any other amount has not already been recovered, the court shall, in addition to any penalty or fine imposed, recover such Gratuity, Maternity Benefit or Employee Compensation or any other amount as if it were a fine and pay the same to the person entitled or the State Board, as the case may be.

MBA 21(2) proviso

160. All the moneys received by way of penalties levied under this code and damages imposed under section 121 shall be credited to the social security reparation fund established in accordance with the provisions of section 23.

161. **Powers of Central Government to index fines**

161.1. The central government may, by notification increase, reduce or otherwise modify – (a) the fines specified in Section 156, or (b) the fines specified in the seventh Schedule, or (c) the maximum limit of the fines specified in section 156, by linking the fine increase or reduction to the change in Consumer Price Index:
Provided that the increase or reduction of fines shall not be more that that is warranted by the change in Consumer Price Index.

### 162. Community Service Order

**162.1.** Subject to the provisions of sub section (2) and notwithstanding the provisions contained in sections 156 to 159 the court trying an offence under this code in respect of an offender, instead of dealing with him in any other way, make in respect of the offence of which he is convicted, an order (in this Act referred to as a “community service order”) under this section.

Provided that nothing in this section shall be construed as preventing a court which makes a community service order from making, in relation to the offence in respect of which the order is made, an order under any other enactment for—

- (a) the revocation of any license,
- (b) the imposition of any disqualification,
- (c) the forfeiture, confiscation, seizure, restitution or disposal of any property, or
- (d) The payment of compensation, costs or expenses.

Provided that no community service order shall be made in respect of offences where the maximum imprisonment specified in the Code is more than two years.

**162.2.** A court shall not make a community service order unless—

- (a) it is satisfied, after considering the offender’s circumstances and a report about him from such an authority as may be specified in the by-laws (including, if the court thinks it necessary, hearing evidence from that authority), that the offender is a suitable person to perform work under such an order and that arrangements can be made for him to perform such work, and
- (b) The offender has consented for community service.

**162.3.** A community service order shall require the offender to perform, in accordance with this Act, unpaid work for such number of hours as may be stipulated

**162.4.** Before making a community service order in respect of an offender the court shall explain to him the —

- (a) The effect of the order and, in particular, the requirements of section 163,
- (b) The consequences which may follow under section 164 if he fails to comply with the Community Service Order.

**162.5.** Where a court makes a community service order and there is in force in respect of the offender at the time of the making of that order another such order (whether made by the same or a different court) the court making the later order may direct in that order that the hours of work specified therein shall be concurrent with or additional to those specified in the earlier order.

### 163. Requirements under community service order

**163.1.** An offender in respect of whom a community service order is in force shall—

- (a) report to a relevant officer as directed by the order of the Court from time to time
- (b) perform satisfactorily for the number of hours specified in the order such work at such times as he may be directed by or on behalf of the relevant officer to whom he is required to report under this sub-section and
- (c) Notify the officer to whom he is required to report under this sub-section of any change of address.

Explanation: - The relevant officers for the purpose of this section shall be specified in the by-laws.

**163.2.** The work to be performed under a community service order shall be performed in the period of two years beginning on the date of the order but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it.

Provided that where it appears to the Court on an application by the offender or on a report by the relevant officer, that it would be in the interests of justice, having regard to circumstances which have arisen since the order was made, to extend this period of two years, the court may, in relation to the order, extend that period.

### 164. Consequences of failure to comply with the Community Service Order

**164.1.** An offender in respect of whom a community service order is in force and the said offender has failed to comply with the requirements of section 163, the court may, having regard to circumstances which have arisen since the order was made, revoke the order and deal with the offender in the manner in which he could have been dealt with for that offence if the Community Service Order had not been made.

**164.2.** Where the Court proposes to exercise its powers under sub section (1), it shall summon the
offender him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

| 164.3. | An offender who fails, without reasonable cause, to comply with a requirement of section 161 shall be guilty of an offence and, without prejudice to the continuance in force of the community service order, shall be liable to a fine not exceeding two lakh rupees but which shall not be less than fifty thousand rupees or with imprisonment which may extend to six months or with both. |
### PART V

**Subordinate Legislations**

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Parameters, and weightage of each parameter, on the basis of which, the categorisation of workers shall be made and the methodology that shall be adopted of categorisation of workers

The form, manner, time, fee, documents required, particulars to be reported, security, for making application for registration of establishment and household

Form and particulars that may be furnished along with return cum challan for registration of household

Manner in which any amendment to registration particulars are to be informed to commissioner.

Time and manner in which application for cancellation of registration is to be made.

Information to be contained in certificate of registration of establishment

Form and manner in which register of registered establishment shall be maintained.

Classes of own account workers that may file consolidated contributions under section 21(2)

Date on which, payment of contribution shall fall due under section 21(5)

Manner in which any amendment to registration particulars are to be informed to commissioner.

Time and manner in which application for cancellation of registration is to be made.

Information to be contained in certificate of registration of establishment

Form and manner in which register of registered establishment shall be maintained.

Classes of own account workers that may file consolidated contributions under section 21(2)

Date on which, payment of contribution shall fall due under section 21(5)

Manner in which any amendment to registration particulars are to be informed to commissioner.

Time and manner in which application for cancellation of registration is to be made.
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(xvii) regulating the performance of work under community service orders,

(xviii) specifying the minimum and maximum hours of work to be done under community service order on any one day

(xix) make provision regarding the reckoning of time worked under community service orders

(xx) provide for records to be kept of the work done under community service orders

166. The State Government may, after consultation with the State Board and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the following provisions—

(i) Horticultural products, that shall fall within the definition of plantation under sub-section (90) of section 2

(ii) The officers of state government who may be appointed as members of State Board under section 3(9)(d)

(iii) Eligibility conditions for a person to be specially registered under sub-section (1) of section 13A.

(iv) Powers and duties of the Commissioner

(v) the establishment of hospitals, dispensaries and other institutions, the allotment of covered persons or their families to any such hospital, dispensary or other institution ;

(vi) the scale of medical benefit which shall be provided at any hospital, clinic, dispensary or institution, the keeping of medical records and the furnishing of statistical returns

(vii) the nature and extent of the staff, equipment and medicines that shall be provided at such hospitals, dispensaries and institutions ;

(viii) the assessing of the money value of any benefit which is not a cash benefit ;

(ix) the conditions of service of the staff employed at such hospitals, dispensaries and institutions ; and

(x) any other matter which is required or allowed by this Code to be prescribed by the State Government.

167. Power to make regulations and by-laws

167.1. Subject to the provisions of this Code, the National Council may make regulations for any matter relating or incidental to regulating the social security schemes and their implementation in India.

167.2. Without prejudice to the generality of the powers of National Council under sub-section (3), such regulations may provide for —

(i) Manner in which applications can be made for registration of workers or special registration under section 13A.

(ii) Manner in which an intermediate agency will perform their functions

(iii) The rate at which the ‘deemed wage’ shall be calculated under clause (d) of subsection (33) of
(iv) guidelines for social security schemes of Central government, State governments and local bodies that are outside the ambit of this Code
(v) The manner of administration of social security funds other than scheme funds, state gratuity fund and administrative fund.
(vi) The duties of medical benefit council
(vii) State Advisory Committees that may be formed under sub-section (3) of section 6
(viii) The period within which the employer shall update registration particulars of any registered worker newly employed by him.
(ix) Categories under which registration of workers shall be done, and eligibility criteria for each category
(x) The Minimum period under clause (c) of sub-section (3) of section 12.
(xi) Form of record or register of workers and manner in which record or register of registered worker shall be maintained
(xii) Banks in which moneys accruing to State Social Security Funds or State Gratuity Fund can be paid.
(xiii) Manner in which the amount credited to worker’s social security account shall be apportioned in schemes.
(xiv) Amount that can be retained by the State Board where the worker is working, in case where the social security account of the worker is maintained by some other state under clause (a) sub-section (3) of section 31.
(xv) Manner of calculating the amount that shall be required to be transferred to the state board of destination states under sub-section (4) of section 31.
(xvi) Manner of distribution of cess amount collected by central governments to the state boards.
(xvii) Form of certificate to be issued under sub-section (5) of section 42 and period within which it shall be issued.
(xviii) the manner and time of payment of contributions deducted at source;
(xix) period within which person deducting contribution at source shall register.
(xx) conditions under which amount can be withdrawn from state gratuity fund.
(xxi) duration of nursing break.
(xxii) distance within which crèche need to be provided by the employer.
(xxiii) form of notice for claiming maternity benefit and employee compensation.
(xxiv) Minimum interval between two medical examinations under sub-section (1) of section 67
(xxv) structure and discharge functions, powers and activities of organisations under section 85
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(xxviii) form and manner of making application for license of intermediate agency.
(xxix) manner of cancellation of license of intermediate agency.
(xxx) time within which an establishment which has been permitted to operate Alternate Coverage Mechanism shall transfer account under sub-section (2) of section 95, or transfer the funds upon cancellation of permission to operate Alternate Coverage Mechanism under sub-section (4) of section 96.
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(xxxv) damages that may be levied under section 121 and sub-section (5) of section 123.
(xxxvi) manner in which administrative funds of predecessor organisations shall be shared.
(xxxvii) manner in which assets and liabilities of predecessor organisations shall be shared.
(xxxviii) period in which a person convicted of an offence under this act shall not avail cash benefits.
(xxxix) Subject to sub-section (2) of section 156, penalties for breach or violation of regulations.

167.3 Subject to the provisions of this Code, the Central Board may make by-laws for any matter relating or incidental to implementing the social security Schemes and specifying other procedural compliances required to implement provisions of this Code.

167.4 Without prejudice to the generality of the powers of Central Board under sub-section (3), such by-laws may provide for matters relating or incidental to—
(i) Form of Registers, records, books of accounts and other documents required to be maintained by employers, establishments, contractors, works contactors, landlords, person liable to pay
cess, own account enterprises, person deducting contribution at source and intermediate agencies; and manner in which such records shall be maintained.

(iii) form and manner in which application for registration (for workers or establishments) shall be made

(iii) form and manner in which application for cancellation, deactivation or reactivation (for workers or establishments, as applicable) shall be made

(iv) Form of Registration card (in case of workers) and registration certificate (in case of establishments)

(v) Maximum transaction fee that may be charged at facilitation centres

(vi) Administrative, and financial and other support that shall be provided by the State-board to registration authorities

(vii) form and manner in which application for transfer of social security account of a worker from one state to another shall be made

(viii) manner and procedure for transfer of amount in social security fund account of a worker when his social security account is transferred from one state to another

(ix) form, manner, periods, method of verification, and time of filing returns (or return-cum-challan); or any other matter relating or incidental to filing of returns (or return-cum-challan)

(x) particulars that should be furnished in the returns, and documents to be submitted along with returns( or return-cum-challan);

(xi) authorities to whom return (or return-cum-challan) is to be furnished.

(xii) the manner and time of payment of contributions (or contributions deducted at source) and any other matter related thereto;

(xiii) collection of contributions (or contributions deducted at source) and its method of accounting

(xiv) the date by which evidence of contributions having been paid is to be received by the State Board;

(xv) authorization to local bodies or intermediate agencies to receive contributions and returns on behalf of State Board

(xvi) duties of intermediate agencies or local bodies so authorized with regards to collection of collection of returns and contributions and transmitting the same to the State Boards.

(xvii) consequential actions in case of failure in performing duties by intermediate agency or local body.

(xviii) Facilities, and standards of services that shall be provided in a crèche

(xix) Proofs required to be produced for claiming maternity benefit

(xx) form, manner, and time of filing notice of accident, and authorities to whom it is to be filed

(xxii) form, manner, and time of filing return of accidents etc. and authorities to whom it is to be filed

(xxiii) particulars to be contained in the report accompanying notice of accident

(xxiv) form, manner, and time of filing return of accidents etc. and authorities to whom it is to be filed

(xxv) consitution of medical board under sub-section (1) of section 74

(xxvi) form and manner of making complaint under sub-section (2) of section 135

(xxvii) mode and means of acknowledging of complaint made under sub-section (3) of section 135

(xxviii) having regard to the convenience of establishments and the interests of employees, specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (5) of section 42 and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

(xxix) for the purposes of giving credit in respect of contribution deducted, for the purposes of giving credit to a works contractor and also the assessment year for which such credit may be given.

(xxx) procedure to be followed by the authorised officer for obtaining ingress into such building or place to be searched where free ingress thereto is not available;

(xxxi) procedure to be followed by the authorised officer for ensuring safe custody of any books, accounts, papers, receipts, vouchers, reports, or other documents seized under this section.

168. Powers to amend Schedules

168.1. The Central Government, by notification, after giving not less than one month’s notice of its intention so to do, may, by a like notification, add, delete or otherwise amend any entry to First Schedule to this Code.

168.2. The State Government, by notification, after giving not less than one month’s notice of its intention so to do, may, by a like notification, delete or otherwise amend to restrict the scope of any entry to First Schedule to this Code.
Explanation- Any State amendment to the First Schedule will not exclude any person or entity from the application of the Code, who, if the amendment had not taken place, was covered under the Code.

168.3. The Central Government, may, by notification, add, delete or otherwise amend any entry to Second Schedule to this Code.

168.4. The State Government, may, by notification, add, delete or otherwise amend any entry to Second Schedule to this Code:
Provided that the State Government shall not delete, or otherwise restrict the scope of any entry which has been notified by the Central Government.

168.5. The Central Government or the State Government, may, by notification, add, delete or otherwise amend any entry to Third Schedule to this Code.

168.6. The Central Government, may, by notification, add, delete or otherwise amend any entry to Fourth Schedule or the Fifth Schedule to this Code.

169. Laying of Subordinate Legislations before the legislature

169.1. Every rule made under this Code by the Central Government shall be laid, as soon as may be after it is made, 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 or both Houses agree that the rule should not be made, the rule 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.

169.2. Every rule made under this Code by the State Government shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

169.3. Every regulation under this Code shall, as soon as may be, after it is made by the National Authority, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 regulation or both Houses agree that the regulation should not be made, the regulation 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 regulation.

169.4. Every by-laws under this Code shall, as soon as may be, after it is made by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid 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 by-laws or both Houses agree that the by-laws should not be made, the by-laws 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 by-laws.

169.5. Every Notification made by the Central Government or the State Government amending any Schedule shall be laid, as soon as may be after it is made, before each House of Parliament (or the State Legislature as the case may be) 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 Notification or both Houses agree that the Notification should not be made, the Notification 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 Notification.

170. Order of Precedence

170.1. The subordinate legislations framed under this part shall have following order of precedence.
(a) Rules made by the Central Government.
(b) Regulations made by the National Council.
(c) Rules made by the State Government.
(d) By laws made by the Central Board.
## PART W
### REPEAL AND SAVINGS

### 171. Repeal

#### 171.1

Save as provided in the Code, on and from the date of commencement of this Code, the following Acts are hereby repealed, in respect of States or parts thereof in which the Code has been made applicable under sub-section (3) of Section 1, namely (hereinafter referred to as repealed Acts):

- **(a)** The Employees State Insurance Act, 1948 (Act No. 34 of 1948);
- **(b)** The Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 (Act No 19 of 1952);
- **(c)** The Employees Compensation Act, 1923 (Act No 8 of 1923);
- **(e)** The Personal Injuries (Compensation Insurance) Act, 1963 (Act No 37 of 1963);
- **(f)** The Maternity Benefit Act, 1961 (Act No 53 of 1961);
- **(g)** The Payment of Gratuity Act, 1972 (Act No 39 of 1972);
- **(h)** The Unorganised Workers Social Security Act, 2008 (Act No. 33 of 2008);
- **(i)** The Mica Mines Labour Welfare Fund Act, 1946 (Act No. 22 of 1946);
- **(l)** The Beedi Workers Welfare Fund Act, 1976 (Act No. 62 of 1976);
- **(o)** The Cine Workers Welfare (Cess) Act, 1981 (Act No. 50 of 1981);
- **(p)** The Beedi Workers Welfare (Cess) Act, 1976 (Act No. 56 of 1976); and

**Explanation** – The repealed Acts mentioned in this sub-section shall continue to be in force in respect of States or parts thereof where this Code has not been commenced, as if they were not repealed.

#### 171.2

Notwithstanding anything contained in sub-section (1), the repealed Acts mentioned in the sub-section (1) will continue to apply to entities and workers to whom this Code is not applicable by virtue of –

- **(a)** any entry in Schedule I, or
- **(b)** The Code not being commenced and made applicable to any class of establishment under sub-section (3) of Section 1.

#### 171.3

Notwithstanding such repeal, anything done or any action taken under the repealed Acts (including any rule, regulation, notification, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code till they are repealed by the Central Government or State Government or the National Authority, as the case may be.

#### 171.4

Any Schemes framed under the repealed Acts mentioned in sub-section (1) shall continue to apply to persons (establishments as well as workers) covered under such schemes, as a Scheme under this Code, until such scheme is repealed by any Scheme framed under Section 24 of this Code.

#### 171.5

The repeal of the said Acts mentioned in sub-section (1) to the extent mentioned in this section, shall not—

- **(a)** revive anything not in force or existing at the time of such repeal; or
- **(b)** affect the previous operation of the repealed Acts and orders or anything duly done or suffered thereunder; or
- **(c)** affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Acts or orders under such repealed Acts:
  
  Provided that any exemption granted shall not continue as privilege if the said order of exemption is rescinded on or after the appointed day; or
- **(d)** affect any levy, duty, cess, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the repealed Acts; or
- **(e)** affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such levy, duty, cess, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry,
verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such levy, cess, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so repealed;

(f) affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said repealed Acts and such proceedings shall be continued under the said repealed Acts as if this Act had not come into force and the said Acts had not been repealed.

171.6. The mention of the particular matters referred to in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal. 10 of 1897.

172. **Power to Remove Difficulties**

172.1. If any difficulty arises in giving effect in the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Code, as appears to it to 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.

172.2. Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Code.

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

173. **Code to override other enactments, etc.**

173.1. The provisions of this Code or any rule or regulation made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Code or in any instrument or contract having effect by virtue of any enactment other than this Code.
# The First Schedule

**List of Entities and Workers to whom code shall not apply**

(see section 1(4) and 1(5))

## Part I

Entities to whom the Code or certain provisions of the Code shall not apply

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<th>Conditions to be fulfilled for the provisions not to apply</th>
<th>Restrictions</th>
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<tr>
<td>Any establishment of the Central Government or State Government including departments of Central Government or State Government as the case may be</td>
<td>The entire Code Provided that the provisions of regulation of the funds constituted under Provident Funds Act 1925 under sub-section (2) of section 3 of the code shall apply.</td>
<td>Code shall not apply in respect of such employees who are entitled to the benefit of contributory Provident Fund, Old age pension and other social security benefits entitled to a regular central / state government servant (as the case may be) in accordance with any Scheme or rule framed by the Central Government or the State Government governing such benefits.</td>
<td>The Code will apply in respect of employees and workers who are not entitled to the government Social Security schemes, including contractual/daily wage employees, as well as employees/workers engaged through a contractor.</td>
</tr>
<tr>
<td>Any institution belonging to or under control of Central Government or State Governments viz.- (a) Authorities (b) Boards (c) Public sector undertakings (d) Local bodies to whom Certificate of exclusion has been granted by the Commissioner after verification of fulfillment of conditions.</td>
<td>Such provisions of the Code as are specified in the certificate of exclusion</td>
<td>Code shall not apply in respect of such employees who are entitled to the benefit of contributory Provident Fund, Old age pension and other social security benefits that are similar or superior to that entitled to a worker or employee under the Code.</td>
<td>The Code will apply in respect of employees and workers who are not entitled to the Social Security schemes of the institution, including contractual/daily wage employees, as well as employees/workers engaged through a contractor.</td>
</tr>
</tbody>
</table>

## Part II

Workers upon whom the Code or certain provisions of the Code shall not apply

<table>
<thead>
<tr>
<th>Description of Workers</th>
<th>Which provisions of Code shall not apply</th>
<th>Conditions to be fulfilled for the provisions not to apply</th>
<th>Restrictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>International workers who is contributing to a social security programme of his country of origin, either as a citizen or resident, with whom India has entered into a social security agreement on reciprocity basis</td>
<td>The entire Code, and Schemes made thereunder</td>
<td>the international worker should be enjoying the status of detached worker</td>
<td>The exclusion of such international shall be for such period and subject to such terms as specified in the social security agreement.</td>
</tr>
<tr>
<td>An Indian employee, working in a foreign country with which India has entered into a social Security Agreement on reciprocity basis</td>
<td>The entire Code and Schemes made thereunder</td>
<td>(a) The employee is eligible to avail the benefits under a social security programme of that country, by virtue of eligibility gained under the said social security agreement (b) the employee should be enjoying the status of detached worker</td>
<td>(a) The exclusion of such employee shall be for such period and subject to such terms as specified in the social security agreement. (b) the exclusion shall be for the period the employee works in the foreign country.</td>
</tr>
</tbody>
</table>
| Foreign nationals pursuing internship in Indian company or an educational institution or a Non Governmental Organisation (NGO) | The entire Code and Schemes made thereunder | The person should hold an Intern visa issued by Government of India | (a) The exclusion for a worker under this provision shall be for a maximum period of one year.  
(b) Exclusion shall not be valid for internship in certain strategic sectors, as notified by Ministry of External Affairs |
The Second Schedule
Items on which Cess may be levied

(see sub-section (1) of section 32)

<table>
<thead>
<tr>
<th>Item</th>
<th>Maximum rate at which Cess may be levied</th>
<th>Cess will be levied on</th>
</tr>
</thead>
<tbody>
<tr>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
</tr>
</tbody>
</table>


## Third Schedule
Provisions of Schemes

(See sub-section (6) of Section 24)

### PART – I
General Provisions of Schemes

Following provisions shall apply generally to all the Schemes framed under sub-section (1) or (2) of Section 24

<table>
<thead>
<tr>
<th>Paragraph No</th>
<th>Paragraph Heading</th>
<th>Description and details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Scheme Fund</td>
<td>There shall be established, a Fund for administering the concerned Scheme in accordance with the provisions of the Code and this Scheme, in each of the States and Union Territory, where the concerned State Board has been constituted, to be called as the respective State &lt;Name of the Scheme&gt; Fund.</td>
</tr>
<tr>
<td>2.</td>
<td>Scheme Fund Account</td>
<td>The account called the&quot;&lt;Name of the Scheme&gt; Fund Account” shall be opened by the Commissioner in such manner as may be specified by the State Board with the approval of State Government.</td>
</tr>
<tr>
<td>3.</td>
<td>Disposal of Fund</td>
<td>Subject to the provisions of the Code and this Scheme, the Scheme Fund shall not, except with the prior sanction of the National Council, be expended for any purpose other than the payments envisaged in the concerned Scheme.</td>
</tr>
<tr>
<td>4.</td>
<td>Guarantee of Scheme benefits</td>
<td>None of the Scheme benefits or other benefits under the Scheme shall be denied to any member or beneficiary for want of compliance of the requirement by the employer provided, however, that the employer shall not be absolved of his liabilities under this Scheme.</td>
</tr>
<tr>
<td>5.</td>
<td>Employer’s liability for want of coverage under the scheme</td>
<td>Wherever an employee becomes ineligible for receiving benefit under a Scheme on account of reasons specified in section 28 of the code, the Commissioner shall apply the said Section of the Code and allow the benefits to the member or his dependents or family members as the case may be, and recover such amounts from the employer as are specified in the said Section.</td>
</tr>
</tbody>
</table>
| 6. | Disbursement of monetary benefits | (1) The Commissioner shall with the approval of the State Board, enter into arrangement for the disbursement of monetary benefits under this Scheme with disbursing agencies such as Post Office or Nationalized Banks or Treasuries or Scheduled Commercial banks including Regional Rural banks, Co-operative Banks or any other intermediate agency appointed for the purpose.  
(2) The Commission payable to the disbursing agencies and other charges incidental thereto shall be met from the Fund of the concerned Scheme. |
| 7. | Particulars to be supplied by members of the Scheme | Every person who is entitled to become a member of a Scheme shall either himself, or through his employer, furnish particulars concerning himself, his nominee and his dependent and other family members in the manner and form prescribed to the Registering Authority. |
| 8. | Rounding up of the Benefits. | All items of benefits shall be calculated to the nearest rupee, 50 paise or more to be counted as the next higher rupee and fraction of a rupee less than 50 paise shall be ignored. |
| 9. | Annual assessment of viability and annual report | (1) The State Board shall, on an annual basis, get the Scheme Fund actuarially valued, by a valuer authorised by the State Government from amongst a panel of Actuaries notified by the Central Board.  
(2) The Central Government shall, review the rates of contributions and quantum of the benefits based on the valuation of the Scheme funds.  
(3) At any time, when the Scheme Funds so permit the Central Government may alter the rate of contributions to be apportioned to the Concerned Funds.  
(4) The State Board shall cause to be included in the Annual Report, a report on the working of the Scheme during the previous financial year. |
| 10. | Accounting | Books of Accounts of receipts, disbursements, and balances of the Scheme Fund shall be maintained in... |
### 11. Audit of Scheme Funds

The Accounts of the Scheme Fund shall be audited in accordance with the instructions issued by the Central Government in consultation with the Comptroller and Auditor General of India.

### 12. Medical certificate

1. The appropriate form of a medical certificate (wherever applicable) shall be filled in ink or otherwise as may be specified by Commissioner, by the Insurance Medical Officer in his own hand-writing and shall contain a concise statement of the disease which in the opinion of the Insurance Medical Officer necessitates abstention from work on medical grounds or renders the person temporarily incapable of work.

2. The statement of the disablement in the medical certificate shall specify the nature thereof as precisely as the Insurance Medical Officer’s knowledge of the condition of the insured person at the time of the examination permit and also whether the case is likely to be one of permanent disablement.

3. Commissioner may, by order, require the medical certificate to be issued in electronic form, with the digital signature of the appropriate insurance medical officer.

### 13. Persons competent to issue medical certificate

1. No medical certificate, if required under a scheme, shall be issued except by –
   - (a) the Insurance Medical Officer to whom scheme member has been allotted or
   - (b) an Insurance Medical Officer attached to a dispensary, hospital, clinic or other institution to which an Scheme member is allotted, or
   - (c) in areas where arrangements for medical benefit under the Medical Benefit Scheme have not been made, or otherwise if in its opinion the circumstances of a particular case so justify, a medical officer of the State Government, local body or other medical institution authorised by the State Board, containing such particulars and attested in such manner as may be specified by the Commissioner in this behalf, or

   Provided further if the Commissioner is satisfied that it was not practically possible for the scheme member to obtain the certificate from the Insurance Medical officer, or medical officer of the State Government, local body or other medical institution as the case may be, he may allow Disablement and Dependent benefit on the strength of a certificate issued by any medical practitioner.

2. Such authorised Medical Officer shall examine and if in his opinion the condition of the scheme member so justifies to absent himself from work, issue to such scheme member a medical certificates required for the purposes of this Scheme:

   Provided that a scheme member shall not be granted a medical certificate unless he produces to the Insurance Medical Officer his Registration Card or such other documents, to indicate that he is a member of this Scheme.

### 14. Employer to arrange for first-aid

Every employer shall arrange for such first-aid and medical care and transport for obtaining such aid and care as the circumstances of the accident may require till the injured person is seen by the Insurance Medical Officer and such employer shall be entitled to reimbursement in respect of expenses thereby incurred by him but not exceeding such scale of expenses as may be specified by the Commissioner from time to time:

Provided that if the employer is required to provide such medical aid free of charge under any other enactment, he shall not be entitled to any reimbursement of expenses.

### 15. Constitution of Medical Boards/Special Medical Boards

1. Medical Boards for the purposes of the Act shall be constituted by the State Boards and where it so desires it may approach the State Government for setting up the same and shall consist of such persons, have such jurisdiction and follow such procedure as the Commissioner may from time to time decide.

2. Special Medical Boards can be established by the state boards that may have specific jurisdictions as the State Board may, by order decide.

### 16. Occupational Disease

1. Any question whether an employment injury is caused by an Occupational Disease specified in the Fifth Schedule to the Code shall be determined by the Medical Board which shall examine the disabled person and send a report in such form as may be as specified in by-laws to the authority making the reference to it stating: —
LABOUR CODE ON SOCIAL SECURITY 2018

17. Procedure for payment of Benefits

(a) The claims, complete in all respects submitted along with the requisite documents shall be settled and benefit amount paid to the beneficiaries within fifteen days from the date of its receipt by the Commissioner.
(b) If there is any deficiency in the claim, the same shall be recorded in writing and communicated to the applicant within fifteen days from the date of receipt of such application.
(c) In case the Commissioner fails without sufficient cause to settle a claim complete in all respects within fifteen days, for the delay beyond the said period, an interest at the rate of 9 per cent. per annum on the benefit amount shall be payable to the beneficiary.

18. Budget

(1) The Commissioner shall place before the State Board each year before the first fortnight of February, a budget showing separately the probable receipts from the contributions and the expenditure which it proposes to incur during the following financial year.
(2) The budget as approved by the State Board shall be submitted for sanction to the State Government within a month of its being placed before the State Board.
(3) The State Government may make such modifications in the budget as it considers desirable before sanctioning it.
(4) The Commissioner may, at any time during the year, make budgetary re-appropriation of funds sanctioned in the budget by the State Government:
   (i) the total amount sanctioned in the budget by the State Government is not exceeded;
   (ii) every re-appropriation so made shall be reported by him to the State Board at the next meeting of such Board.
(5) The Commissioner shall place before the State Board a supplementary budget for a financial year, giving detailed estimates and reasons, of inescapable expenditure which are likely to be incurred during the year for which no provision has been made in the sanctioned budget and which cannot be covered under the provisions of sub-paragraph (4).
(6) The supplementary budget as approved by the State Board shall be submitted for sanction to the State Government within a month of its being placed before the State Board.
(7) Any expenditure incurred by the Commissioner over and above the sanctioned budget of a financial year and not covered under the provisions of sub-paragraphs (4) and (5) shall be reported to the State Board at the earliest possible moment after the excess is established for its consideration and for obtaining sanction of the State Government.

PART- II
Matters that may be provided for in a scheme

Any Scheme framed under sub-section (1) or (2) of Section 24 may provide for any of the following matters

<table>
<thead>
<tr>
<th>Sl Number</th>
<th>Matters on which the Scheme may make provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Purpose of the Scheme</td>
</tr>
<tr>
<td>2.</td>
<td>Date of Commencement of the Scheme</td>
</tr>
<tr>
<td>3.</td>
<td>The application of the scheme to establishments or classes of establishments, employees or classes of employees, persons or classes of persons, specifying the mode of admission to the scheme</td>
</tr>
<tr>
<td>4.</td>
<td>Eligibility conditions for becoming a member of the Scheme</td>
</tr>
<tr>
<td>5.</td>
<td>Exclusions from coverage under the Scheme</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>6.</td>
<td>Whether the Scheme is mandatory? Compulsory nature for certain class of persons to join.</td>
</tr>
<tr>
<td>7.</td>
<td>Continuation of membership from any old Scheme</td>
</tr>
<tr>
<td>8.</td>
<td>Retention of membership of the Scheme</td>
</tr>
<tr>
<td>9.</td>
<td>Registration of the establishments or employers and person to whom the scheme applies</td>
</tr>
<tr>
<td>10.</td>
<td>Fixation of the rates of contribution or premium for the scheme;</td>
</tr>
<tr>
<td>11.</td>
<td>Manner of Collection of contributions/ premium for the Scheme, Contribution to be apportioned from Social Security Fund to the Scheme</td>
</tr>
<tr>
<td>12.</td>
<td>Disposal of Fund</td>
</tr>
<tr>
<td>13.</td>
<td>Benefits under the Scheme that will accrue to an eligible scheme member</td>
</tr>
<tr>
<td>14.</td>
<td>Conditions for entitlement of benefits under the Scheme</td>
</tr>
<tr>
<td>15.</td>
<td>The time period for which the benefits shall accrue</td>
</tr>
<tr>
<td>16.</td>
<td>Minimum and Maximum amount of benefits payable under the Scheme</td>
</tr>
<tr>
<td>17.</td>
<td>Procedure of submission of claims, and admitting claims of benefits</td>
</tr>
<tr>
<td>18.</td>
<td>Certifications and documentation required for claiming benefits</td>
</tr>
<tr>
<td>19.</td>
<td>Evidence required for establishing the claim.</td>
</tr>
<tr>
<td>20.</td>
<td>When claim of benefits becomes due, and when it is payable</td>
</tr>
<tr>
<td>21.</td>
<td>Manner of Dispensation of the benefits, Procedure for payment of Benefits</td>
</tr>
<tr>
<td>22.</td>
<td>Restrictions, if any, on a person availing benefits under the scheme over claiming any other compensation or benefits provided under this Code or any other scheme.</td>
</tr>
<tr>
<td>23.</td>
<td>Commutation of benefits, if applicable</td>
</tr>
<tr>
<td>24.</td>
<td>Reference to a Medical Board, if applicable</td>
</tr>
<tr>
<td>25.</td>
<td>Review of benefits, if applicable</td>
</tr>
<tr>
<td>26.</td>
<td>Suspension of benefit, if applicable</td>
</tr>
<tr>
<td>27.</td>
<td>Availability (or otherwise) of benefits under strike</td>
</tr>
<tr>
<td>28.</td>
<td></td>
</tr>
<tr>
<td>29.</td>
<td></td>
</tr>
<tr>
<td>30.</td>
<td></td>
</tr>
<tr>
<td>31.</td>
<td></td>
</tr>
<tr>
<td>32.</td>
<td></td>
</tr>
<tr>
<td>33.</td>
<td>Annual reports</td>
</tr>
<tr>
<td>34.</td>
<td>other incidental and supplementary matters</td>
</tr>
<tr>
<td>35.</td>
<td>any other matter necessary for administration of the Scheme</td>
</tr>
</tbody>
</table>
## THE FOURTH SCHEDULE

### List of Injuries

[See sub-section (130) of Section 2]

### PART I: LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Description of Injury</th>
<th>% age of loss of earning capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Loss of both hands or amputation at higher sites</td>
<td>100</td>
</tr>
<tr>
<td>2.</td>
<td>Loss of a hand and a foot</td>
<td>100</td>
</tr>
<tr>
<td>3.</td>
<td>Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot</td>
<td>100</td>
</tr>
<tr>
<td>4.</td>
<td>Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential</td>
<td>100</td>
</tr>
<tr>
<td>5.</td>
<td>Very severe facial disfigurement</td>
<td>100</td>
</tr>
<tr>
<td>6.</td>
<td>Absolute deafness</td>
<td>100</td>
</tr>
</tbody>
</table>

### PART II: LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Description of Injury</th>
<th>% age of loss of earning capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Amputation through shoulder joint</td>
<td>90</td>
</tr>
<tr>
<td>2.</td>
<td>Amputation below shoulder with stump less than 20.32 cm from tip of acromion</td>
<td>80</td>
</tr>
<tr>
<td>3.</td>
<td>Amputation from 20.32 cm from tip of acromion to less than 11.43 cm below tip of olecranon</td>
<td>70</td>
</tr>
<tr>
<td>4.</td>
<td>Loss of a hand or of the thump and four fingers of one hand or amputation from 11.43 cm below tip of olecranon</td>
<td>60</td>
</tr>
<tr>
<td>5.</td>
<td>Loss of thumb</td>
<td>30</td>
</tr>
<tr>
<td>6.</td>
<td>Loss of thumb and its metacarpal bone</td>
<td>40</td>
</tr>
<tr>
<td>7.</td>
<td>Loss of four fingers of one hand</td>
<td>50</td>
</tr>
<tr>
<td>8.</td>
<td>Loss of three fingers of one hand</td>
<td>30</td>
</tr>
<tr>
<td>9.</td>
<td>Loss of two fingers of one hand</td>
<td>20</td>
</tr>
<tr>
<td>10.</td>
<td>Loss of terminal phalanx of thumb</td>
<td>20</td>
</tr>
<tr>
<td>11.</td>
<td>Guillotine amputation of the tip of the thumb without loss of bone</td>
<td>10</td>
</tr>
<tr>
<td>12.</td>
<td>Amputation of both feet resulting in end-bearing stumps</td>
<td>90</td>
</tr>
<tr>
<td>13.</td>
<td>Amputation through both feet proximal to the metatarso-phalangeal joint</td>
<td>80</td>
</tr>
<tr>
<td>14.</td>
<td>Loss of all toes of both feet through the metatarso-phalangeal joint</td>
<td>40</td>
</tr>
<tr>
<td>15.</td>
<td>Loss of all toes of both feet proximal to the proximal inter phalangeal joint</td>
<td>30</td>
</tr>
<tr>
<td>16.</td>
<td>Loss of all toes of both feet distal to the proximal inter phalangeal joint</td>
<td>20</td>
</tr>
<tr>
<td>17.</td>
<td>Amputation at hip</td>
<td>90</td>
</tr>
<tr>
<td>18.</td>
<td>Amputation below hip with stump not exceeding 12.70 cm. in length measured from tip of great trochanter</td>
<td>80</td>
</tr>
<tr>
<td>19.</td>
<td>Amputation below hip with stump exceeding 12.70 cm. in length measured from tip of great trochanter but not beyond middle thigh</td>
<td>70</td>
</tr>
<tr>
<td>20.</td>
<td>Amputation below middle thigh to 8.89 cm. below knee</td>
<td>60</td>
</tr>
<tr>
<td>21.</td>
<td>Amputation below knee with stump exceeding 8.89 cm. but not exceeding 12.70 cm.</td>
<td>50</td>
</tr>
<tr>
<td>22.</td>
<td>Amputation below knee with stump exceeding 12.70 cm.</td>
<td>5</td>
</tr>
<tr>
<td>23.</td>
<td>Amputation of one foot resulting in end-bearing</td>
<td>50</td>
</tr>
<tr>
<td>24.</td>
<td>Amputation through one foot proximal to the metatarso-phalangeal joint</td>
<td>50</td>
</tr>
</tbody>
</table>
## LABOUR CODE ON SOCIAL SECURITY 2018

<table>
<thead>
<tr>
<th></th>
<th>Injury Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.</td>
<td>Loss of all toes of one foot through metatarso-phalangeal joint</td>
<td>20</td>
</tr>
<tr>
<td>26.</td>
<td>Loss of one eye, without complications, the other being normal</td>
<td>40</td>
</tr>
<tr>
<td>27.</td>
<td>Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal</td>
<td>30</td>
</tr>
<tr>
<td>28.</td>
<td>Partial loss of vision of one eye</td>
<td>10</td>
</tr>
<tr>
<td><strong>Loss of all toes of one foot through metatarso-phalangeal joint</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29.</td>
<td>Whole</td>
<td>14</td>
</tr>
<tr>
<td>30.</td>
<td>Two phalanges</td>
<td>11</td>
</tr>
<tr>
<td>31.</td>
<td>One phalanx</td>
<td>9</td>
</tr>
<tr>
<td>32.</td>
<td>Guillotine amputation of tip without loss of bone</td>
<td>5</td>
</tr>
<tr>
<td><strong>Other injuries</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>33.</td>
<td>Whole</td>
<td>12</td>
</tr>
<tr>
<td>34.</td>
<td>Two phalanges</td>
<td>9</td>
</tr>
<tr>
<td>35.</td>
<td>One phalanx</td>
<td>7</td>
</tr>
<tr>
<td>36.</td>
<td>Guillotine amputation of tip without loss of bone</td>
<td>4</td>
</tr>
<tr>
<td><strong>Partial loss of vision of one eye</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>37.</td>
<td>Through metatarso-phalangeal joint</td>
<td>14</td>
</tr>
<tr>
<td>38.</td>
<td>Part, with some loss of bone</td>
<td>3</td>
</tr>
<tr>
<td>39.</td>
<td>Through metatarso-phalangeal joint</td>
<td>3</td>
</tr>
<tr>
<td>40.</td>
<td>Part, with some loss of bone</td>
<td>1</td>
</tr>
<tr>
<td><strong>Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member:</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Explanation

*Loss of one eye, without complications, the other being normal*

*Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal*

*Partial loss of vision of one eye*

*Guillotine amputation of tip without loss of bone*

*Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.*
# THE FIFTH SCHEDULE

List of Occupational Diseases

(See Section 62)

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Occupational disease</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.</td>
<td>(a) All work involving exposure to health or laboratory work;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) All work involving exposure to veterinary work;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) Work relating to handling animals, carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) Other work carrying a particular risk of contamination.</td>
</tr>
<tr>
<td>2.</td>
<td>Diseases caused by work in compressed air.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>3.</td>
<td>Diseases caused by lead or its toxic compounds.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>4.</td>
<td>Poisoning by nitrous fumes.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
<tr>
<td>5.</td>
<td>Poisoning by organophosphorus compounds.</td>
<td>All work involving exposure to the risk concerned</td>
</tr>
</tbody>
</table>

**PART A**

**PART B**

1. Diseases caused by phosphorus or its toxic compounds. All work involving exposure to the risk concerned.
2. Diseases caused by mercury or its toxic compounds. All work involving exposure to the risk concerned.
3. Diseases caused by benzene or its toxic homologues. All work involving exposure to the risk concerned.
4. Diseases caused by nitro and amido toxic derivatives of benzene or its homologues. All work involving exposure to the risk concerned.
5. Diseases caused by chromium or its toxic compounds. All work involving exposure to the risk concerned.
6. Diseases caused by arsenic or its toxic compounds. All work involving exposure to the risk concerned.
7. Diseases caused by radioactive substances and ionising radiations. All work involving exposure to the risk concerned.
8. Primary epithelomatous 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. Heating 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 slats 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 fluorine 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.
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<th>Diseases caused by nitroglycerine or other nitroacid esters.</th>
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<td>Diseases caused by alcohols and ketones.</td>
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<td>Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide.</td>
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<td>Lung cancer and mesotheliomas caused by asbestos.</td>
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<td>Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.</td>
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<th>Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraosilicosis asbestosis) and silico-tuberculosis provided that silicosis is an essential factory in causing the resultant incapacity or death.</th>
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<td>Extrinsic allergic alveolitis caused by the inhalation of organic dusts.</td>
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<td>Bronchopulmonary diseases caused by hard metals.</td>
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<td>Failure to conduct due-diligence of information submitted for registration</td>
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<td>Failure to inform correct Registration Number (VIKAS) to employer/</td>
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<td>Failure by employer to update registration particulars within the time prescribed</td>
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<td>Employing worker who is not registered beyond the stipulated period</td>
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<td>An unregistered Contractor taking up work</td>
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<td>Failure to update Registration particulars</td>
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Explanation: The entries in the third column of the table above headed “subject” are not intended as definitions of the offences specified in the provisions mentioned in the column or even as abstracts of those provisions, but are inserted merely as a reference to the subject thereof.

CHECK 41(11) / 41(12)
APPENDIX – I
C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102)

Preamble
The General Conference of the International Labour Organisation, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fifth Session on 4 June 1952, and having decided upon the adoption of certain proposals with regard to minimum standards of social security, which are included in the fifth item on the agenda of the session, and having determined that these proposals shall take the form of an international Convention, adopts this twenty-eighth day of June of the year one thousand nine hundred and fifty-two the following Convention, which may be cited as the Social Security (Minimum Standards) Convention, 1952:

PART I. GENERAL PROVISIONS

Article 1
1. In this Convention--
(a) the term prescribed means determined by or in virtue of national laws or regulations;
(b) the term residence means ordinary residence in the territory of the Member and the term resident means a person ordinarily resident in the territory of the Member;
(c) the term wife means a wife who is maintained by her husband;
(d) the term widow means a woman who was maintained by her husband at the time of his death;
(e) the term child means a child under school-leaving age or under 15 years of age, as may be prescribed;
(f) the term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.
2. In Articles 10, 34 and 49 the term benefit means either direct benefit in the form of care or indirect benefit consisting of a reimbursement of the expenses borne by the person concerned.

Article 2
Each Member for which this Convention is in force--
(a) shall comply with--
(i) Part I;
(ii) at least three of Parts II, III, IV, V, VI, VII, VIII, IX and X, including at least one of Parts IV, V, VI, IX and X;
(iii) the relevant provisions of Parts XI, XII and XIII; and
(iv) Part XIV; and
(b) shall specify in its ratification in respect of which of Parts II to X it accepts the obligations of the Convention.

Article 3
1. A Member whose economy and medical facilities are insufficiently developed may, if and for so long as the competent authority considers necessary, avail itself, by a declaration appended to its ratification, of the temporary exceptions provided for in the following Articles: 9 (d); 12 (2); 15 (d); 18 (2); 21 (c); 27 (d); 33 (b); 34 (3); 41 (d); 48 (c); 55 (d); and 61 (d).
2. Each Member which has made a declaration under paragraph 1 of this Article shall include in the annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement, in respect of each exception of which it avails itself--
(a) that its reason for doing so subsists; or
(b) that it renounces its right to avail itself of the exception in question as from a stated date.

Article 4
1. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one or more of Parts II to X not already specified in its ratification.
2. The undertakings referred to in paragraph 1 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

Article 5
Where, for the purpose of compliance with any of the Parts II to X of this Convention which are to be covered by its ratification, a Member is required to protect prescribed classes of persons constituting not less than a specified percentage of employees or residents, the Member shall satisfy itself, before undertaking to comply with any such Part, that the relevant percentage is attained.

Article 6
For the purpose of compliance with Parts II, III, IV, V, VIII (in so far as it relates to medical care), IX or X of this Convention, a Member may take account of protection effected by means of insurance which, although not made compulsory by national laws or regulations for the persons to be protected--
(a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of employers and workers;
(b) covers a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee; and
(c) complies, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Convention.

PART II. MEDICAL CARE

Article 7
Article 8
The contingencies covered shall include any morbid condition, whatever its cause, and pregnancy and confinement and their consequences.

Article 9
The persons protected shall comprise—
(a) prescribed classes of employees, constituting not less than 50 per cent. of all employees, and also their wives and children; or
(b) prescribed classes of economically active population, constituting not less than 20 per cent. of all residents, and also their wives and children; or
(c) prescribed classes of residents, constituting not less than 50 per cent. of all residents; or
(d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more, and also their wives and children.

Article 10
1. The benefit shall include at least—
   (a) in case of a morbid condition—
      (i) general practitioner care, including domiciliary visiting;
      (ii) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
      (iii) the essential pharmaceutical supplies as prescribed by medical or other qualified practitioners; and
      (iv) hospitalisation where necessary; and
   (b) in case of pregnancy and confinement and their consequences—
      (i) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
      (ii) hospitalisation where necessary.
2. The beneficiary or his breadwinner may be required to share in the cost of the medical care the beneficiary receives in respect of a morbid condition; the rules concerning such cost-sharing shall be so designed as to avoid hardship.
3. The benefit provided in accordance with this Article shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.
4. The governments or Government departments administering the benefit shall, by such means as may be deemed appropriate, encourage the persons protected to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

Article 11
The benefit specified in Article 10 shall, in a contingency covered, be secured at least to a person protected who has completed, or whose breadwinner has completed, such qualifying period as may be considered necessary to preclude abuse.

Article 12
1. The benefit specified in Article 10 shall be granted throughout the contingency covered, except that, in case of a morbid condition, its duration may be limited to 26 weeks in each case, but benefit shall not be suspended while a sickness benefit continues to be paid, and provision shall be made to enable the limit to be extended for prescribed diseases recognised as entailing prolonged care.
2. Where a declaration made in virtue of Article 3 is in force, the duration of the benefit may be limited to 13 weeks in each case.

PART III. SICKNESS BENEFIT

Article 13
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of sickness benefit in accordance with the following Articles of this Part.

Article 14
The contingency covered shall include incapacity for work resulting from a morbid condition and involving suspension of earnings, as defined by national laws or regulations.

Article 15
The persons protected shall comprise—
(a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
(b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
(c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
(d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

Article 16
1. Where classes of employees or classes of the economically active population are protected, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.
2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a periodical payment calculated in such a manner as to comply with the requirements of Article 67.

Article 17
The benefit specified in Article 16 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.
Article 18
1. The benefit specified in Article 16 shall be granted throughout the contingency, except that the benefit may be limited to 26 weeks in each case of sickness, in which event it need not be paid for the first three days of suspension of earnings.
2. Where a declaration made in virtue of Article 3 is in force, the duration of the benefit may be limited—
   (a) to such period that the total number of days for which the sickness benefit is granted in any year is not less than ten times the average number of persons protected in that year; or
   (b) to 13 weeks in each case of sickness, in which event it need not be paid for the first three days of suspension of earnings.

PART IV. UNEMPLOYMENT BENEFIT

Article 19
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of unemployment benefit in accordance with the following Articles of this Part.

Article 20
The contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.

Article 21
The persons protected shall comprise—
   (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
   (b) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
   (c) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

Article 22
1. Where classes of employees are protected, the benefit shall be a periodical payment calculated in such manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.
2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a periodical payment calculated in such a manner as to comply with the requirements of Article 67.

Article 23
The benefit specified in Article 22 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.

Article 24
1. The benefit specified in Article 22 shall be granted throughout the contingency, except that its duration may be limited—
   (a) where classes of employees are protected, to 13 weeks within a period of 12 months, or
   (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, to 26 weeks within a period of 12 months.
2. Where national laws or regulations provide that the duration of the benefit shall vary with the length of the contribution period and/or the benefit previously received within a prescribed period, the provisions of subparagraph (a) of paragraph 1 shall be deemed to be fulfilled if the average duration of benefit is at least 13 weeks within a period of 12 months.
3. The benefit need not be paid for a waiting period of the first seven days in each case of suspension of earnings, counting days of unemployment before and after temporary employment lasting not more than a prescribed period as part of the same case of suspension of earnings.
4. In the case of seasonal workers the duration of the benefit and the waiting period may be adapted to their conditions of employment.

PART V. OLD-AGE BENEFIT

Article 25
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

Article 26
1. The contingency covered shall be survival beyond a prescribed age.
2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned.
3. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

Article 27
The persons protected shall comprise—
   (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
   (b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
   (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
   (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

Article 28
The benefit shall be a periodical payment calculated as follows:
   (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
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(b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

Article 29
1. The benefit specified in Article 28 shall, in a contingency covered, be secured at least--
   (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 30 years of contribution or employment, or 20 years of residence; or
   (b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.
2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least--
   (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of 15 years of contribution or employment; or
   (b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.
3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, ten years of contribution or employment, or five years of residence.
4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment but is less than 30 years of contribution or employment; if such qualifying period exceeds 15 years, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.
5. Where the benefit referred to in paragraphs 1, 3 or 4 of this Article is conditional upon a minimum period of contribution or employment, a reduced benefit shall be payable under prescribed conditions to a person protected who, by reason only of his advanced age when the provisions concerned in the application of this Part come into force, has not satisfied the conditions prescribed in accordance with paragraph 2 of this Article, unless a benefit in conformity with the provisions of paragraphs 1, 3 or 4 of this Article is secured to such person at an age higher than the normal age.

Article 30
The benefits specified in Articles 28 and 29 shall be granted throughout the contingency.

PART VI. EMPLOYMENT INJURY BENEFIT

Article 31
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of employment injury benefit in accordance with the following Articles of this Part.

Article 32
The contingencies covered shall include the following where due to accident or a prescribed disease resulting from employment:
   (a) a morbid condition;
   (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
   (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
   (d) the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.

Article 33
The persons protected shall comprise--
   (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees, and, for benefit in respect of death of the breadwinner, also their wives and children; or
   (b) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more, and, for benefit in respect of death of the breadwinner, also their wives and children.

Article 34
1. In respect of a morbid condition, the benefit shall be medical care as specified in paragraphs 2 and 3 of this Article.
2. The medical care shall comprise--
   (a) general practitioner and specialist in-patient care and out-patient care, including domiciliary visiting;
   (b) dental care;
   (c) nursing care at home or in hospital or other medical institutions;
   (d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
   (e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances, kept in repair, and eyeglasses; and
   (f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner.
3. Where a declaration made in virtue of Article 3 is in force, the medical care shall include at least--
   (a) general practitioner care, including domiciliary visiting;
   (b) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
   (c) the essential pharmaceutical supplies as prescribed by a medical or other qualified practitioner; and
   (d) hospitalisation where necessary.
4. The medical care provided in accordance with the preceding paragraphs shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

Article 35
1. The institutions or Government departments administering the medical care shall cooperate, wherever appropriate, with the general vocational rehabilitation services, with a view to the re-establishment of handicapped persons in suitable work.

Article 36
1. In respect of incapacity for work, total loss of earning capacity likely to be permanent or corresponding loss of faculty, or the death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.
2. In case of partial loss of earning capacity likely to be permanent, or corresponding loss of faculty, the benefit, where payable, shall be a periodical payment representing a suitable proportion of that specified for total loss of earning capacity or corresponding loss of faculty.
3. The periodical payment may be commuted for a lump sum--
   (a) where the degree of incapacity is slight; or
   (b) where the competent authority is satisfied that the lump sum will be properly utilised.

Article 37
The benefit specified in Articles 34 and 36 shall, in a contingency covered, be secured at least to a person protected who was employed in the territory of the Member at the time of the accident if the injury is due to accident or at the time of contracting the disease if the injury is due to a disease and, for periodical payments in respect of death of the breadwinner, to the widow and children of such person.

Article 38
The benefit specified in Articles 34 and 36 shall be granted throughout the contingency, except that, in respect of incapacity for work, the benefit need not be paid for the first three days in each case of suspension of earnings.

PART VII. FAMILY BENEFIT

Article 39
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of family benefit in accordance with the following Articles of this Part.

Article 40
The contingency covered shall be responsibility for the maintenance of children as prescribed.

Article 41
The persons protected shall comprise--
   (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
   (b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
   (c) all residents whose means during the contingency do not exceed prescribed limits; or
   (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

Article 42
The benefit shall be--
   (a) a periodical payment granted to any person protected having completed the prescribed qualifying period; or
   (b) the provision to or in respect of children, of food, clothing, housing, holidays or domestic help; or
   (c) a combination of (a) and (b).

Article 43
The total value of the benefits granted in accordance with Article 42 to the persons protected shall be such as to represent--
   (a) 3 per cent. of the wage of an ordinary adult male labourer, as determined in accordance with the rules laid down in Article 66, multiplied by the total number of children of persons protected; or
   (b) 1.5 per cent. of the said wage, multiplied by the total number of children of all residents.

Article 45
Where the benefit consists of a periodical payment, it shall be granted throughout the contingency.

PART VIII. MATERNITY BENEFIT

Article 46
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of maternity benefit in accordance with the following Articles of this Part.

Article 47
The contingencies covered shall include pregnancy and confinement and their consequences, and suspension of earnings, as defined by national laws or regulations, resulting therefrom.

Article 48
The persons protected shall comprise--
   (a) all women in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees and, for maternity medical benefit, also the wives of men in these classes; or
   (b) all women in prescribed classes of the economically active population, which classes constitute not less than 20 per cent. of all residents, and, for maternity medical benefit, also the wives of men in these classes; or
where a declaration made in virtue of Article 3 is in force, all women in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more, and, for maternity medical benefit, also the wives of men in these classes.

Article 49
1. In respect of pregnancy and confinement and their consequences, the maternity medical benefit shall be medical care as specified in paragraphs 2 and 3 of this Article.
2. The medical care shall include at least--
   (a) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
   (b) hospitalisation where necessary.
3. The medical care specified in paragraph 2 of this Article shall be afforded with a view to maintaining, restoring or improving the health of the woman protected and her ability to work and to attend to her personal needs.
4. The institutions or Government departments administering the maternity medical benefit shall, by such means as may be deemed appropriate, encourage the women protected to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

Article 50
In respect of suspension of earnings resulting from pregnancy and from confinement and their consequences, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66. The amount of the periodical payment may vary in the course of the contingency, subject to the average rate thereof complying with these requirements.

Article 51
The benefit specified in Articles 49 and 50 shall, in a contingency covered, be secured at least to a woman in the classes protected who has completed such qualifying period as may be considered necessary to preclude abuse, and the benefit specified in Article 49 shall also be secured to the wife of a man in the classes protected where the latter has completed such qualifying period.

Article 52
The benefit specified in Articles 49 and 50 shall be granted throughout the contingency, except that the periodical payment may be limited to 12 weeks, unless a longer period of abstention from work is required or authorised by national laws or regulations, in which event it may not be limited to a period less than such longer period.

PART IX. INVALIDITY BENEFIT

Article 53
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

Article 54
The contingency covered shall include inability to engage in any gainful activity, to an extent prescribed, which inability is likely to be permanent or persists after the exhaustion of sickness benefit.

Article 55
The persons protected shall comprise--
   (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
   (b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
   (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
   (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

Article 56
The benefit shall be a periodical payment calculated as follows:
   (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
   (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

Article 57
1. The benefit specified in Article 56 shall, in a contingency covered, be secured at least--
   (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or 10 years of residence; or
   (b) where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least--
   (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or
   (b) where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, five years of contribution, employment or residence.
4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the pension corresponding to the reduced percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced pension shall be payable in conformity with paragraph 2 of this Article.

Article 58
The benefit specified in Articles 56 and 57 shall be granted throughout the contingency or until an old-age benefit becomes payable.

PART X. SURVIVORS’ BENEFIT

Article 59
Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of survivors’ benefit in accordance with the following Articles of this Part.

Article 60
1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.
2. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount, and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

Article 61
The persons protected shall comprise—
(a) the wives and the children of breadwinners in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees; or
(b) the wives and the children of breadwinners in prescribed classes of the economically active population, which classes constitute not less than 20 per cent. of all residents; or
(c) all resident widows and resident children who have lost their breadwinner and whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
(d) where a declaration made in virtue of Article 3 is in force, the wives and the children of breadwinners in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

Article 62
The benefit shall be a periodical payment calculated as follows:
(a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
(b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

Article 63
1. The benefit specified in Article 62 shall, in a contingency covered, be secured at least—
(a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or 10 years of residence; or
(b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, the prescribed yearly average number of contributions has been paid.
2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least—
(a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or
(b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.
3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, five years of contribution, employment or residence.
4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.
5. In order that a childless widow presumed to be incapable of self-support may be entitled to a survivor’s benefit, a minimum duration of the marriage may be required.

Article 64
The benefit specified in Articles 62 and 63 shall be granted throughout the contingency.

PART XI. STANDARDS TO BE COMPLIED WITH BY PERIODICAL PAYMENTS

Article 65
1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the previous
earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be--
   (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
   (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
   (c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent. of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
   (d) a person whose earnings are equal to 125 per cent. of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purposes of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

10. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

**Article 66**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary specified in the Schedule appended to this Part, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a breadwinner with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be--
   (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
   (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

8. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

**Article 67**

In the case of a periodical payment to which this Article applies--

3. A beneficiary shall be--
   (a) the rate of the benefit shall be determined according to a prescribed scale or a scale fixed by the competent public authority in conformity with prescribed rules;
   (b) such rate may be reduced only to the extent by which the other means of the family of the beneficiary exceed prescribed substantial amounts or substantial amounts fixed by the competent public authority in conformity with prescribed rules;
   (c) the total of the benefit and any other means, after deduction of the substantial amounts referred to in subparagraph (b), shall be sufficient to maintain the family of the beneficiary in health and decency, and shall be not less than the corresponding benefit calculated in accordance with the requirements of Article 66;
   (d) the provisions of subparagraph (c) shall be deemed to be satisfied if the total amount of benefits paid under the Part concerned exceeds by at least 30 per cent. the total amount of benefits which would be obtained by applying the provisions of Article 66 and the provisions of:

(i) Article 15 (b) for Part III;
(ii) Article 27 (b) for Part V;
(iii) Article 55 (b) for Part IX;
(iv) Article 61 (b) for Part X.
PART XII. EQUALITY OF TREATMENT OF NON-NATIONAL RESIDENTS

Article 68
1. Non-national residents shall have the same rights as national residents: Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes.

2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same rights as nationals of the Member concerned: Provided that the application of this paragraph may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

PART XIII. COMMON PROVISIONS

Article 69
A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed—

(a) as long as the person concerned is absent from the territory of the Member;

(b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;

(c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;

(d) where the person concerned has made a fraudulent claim;

(e) where the contingency has been caused by a criminal offence committed by the person concerned;

(f) where the contingency has been caused by the wilful misconduct of the person concerned;

(g) in appropriate cases, where the person concerned neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;

(h) in the case of unemployment benefit, where the person concerned has failed to make use of the employment services placed at his disposal;

(i) in the case of unemployment benefit, where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute, or has left it voluntarily without just cause; and

(j) in the case of survivors' benefit, as long as the widow is living with a man as his wife.

Article 70
1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a Government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

Article 71
The cost of the benefits provided in compliance with this Convention and the cost of the administration of such benefits shall be borne collectively by way of insurance contributions or taxation or both in a manner which avoids hardship to persons of small means and takes into account the economic situation of the Member and of the classes of persons protected.

2. The total of the insurance contributions borne by the employees protected shall not exceed 50 per cent. of the total of the financial resources allocated to the protection of employees and their wives and children. For the purpose of ascertaining whether this condition is fulfilled, all the benefits provided by the Member in compliance with this Convention, except family benefit and, if provided by a special branch, employment injury benefit, may be taken together.

3. The Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention, and shall take all measures required for this purpose; it shall ensure, where appropriate, that the necessary actuarial studies and calculations concerning financial equilibrium are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question.

Article 72
1. Where the administration is not entrusted to an institution regulated by the public authorities or to a Government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national laws or regulations may likewise decide as to the participation of representatives of employers and of the public authorities.

2. The Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of the Convention.

PART XIV. MISCELLANEOUS PROVISIONS
Article 73
This Convention shall not apply to—
(a) contingencies which occurred before the coming into force of the relevant Part of the Convention for the Member concerned;
(b) benefits in contingencies occurring after the coming into force of the relevant Part of the Convention for the Member concerned in so far as the rights to such benefits are derived from periods preceding that date.

Article 74
This Convention shall not be regarded as revising any existing Convention.

Article 75
If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

Article 76
1. Each Member which ratifies this Convention shall include in the annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation—
(a) full information concerning the laws and regulations by which effect is given to the provisions of the Convention; and
(b) evidence, conforming in its presentation as closely as is practicable with any suggestions for greater uniformity of presentation made by the Governing Body of the International Labour Office, of compliance with the statistical conditions specified in—
(i) Articles 9 (a), (b), (c) or (d); 15 (a), (b) or (d); 21 (a) or (c); 27 (a), (b) or (d); 33 (a) or (b); 41 (a), (b) or (d); 48 (a), (b) or (c); 55 (a) (a), (b) or (d); 61 (a), (b) or (d), as regards the number of persons protected;
(ii) Articles 44, 65, 66 or 67, as regards the rates of benefit;
(iii) subparagraph (a) of paragraph 2 of Article 18, as regards duration of sickness benefit;
(iv) paragraph 2 of Article 24, as regards duration of unemployment benefit; and
(v) paragraph 2 of Article 71, as regards the proportion of the financial resources contributed by the insurance contributions of employers protected.
2. Each Member which ratifies this Convention shall report to the Director-General of the International Labour Office at appropriate intervals, as requested by the Governing Body, on the position of its law and practice in regard to any of Parts II to X of the Convention not specified in its ratification or in a notification made subsequently in virtue of Article 4.

Article 77
1. This Convention does not apply to seamen or seafishermen; provision for the protection of seamen and seafishermen has been made by the International Labour Conference in the Social Security (Seafarers’) Convention, 1946, and the Seafarers’ Pensions Convention, 1946.
2. A Member may exclude seamen and seafishermen from the number of employees, of the economically active population or of residents, when calculating the percentage of employees or residents protected in compliance with any of Parts II to X covered by its ratification.

PART XV. FINAL PROVISIONS

Article 78
The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 79
1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 80
1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate—
(a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
(b) the territories in respect of which it undertakes that the provisions of the Convention or of any Parts thereof shall be applied subject to modifications, together with details of the said modifications;
(c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
(d) the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 82, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 81
1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention or of the Parts thereof accepted by the Declaration will be applied in the territory concerned without modification or subject to modifications; when the Declaration indicates that the provisions of the Convention or of certain Parts thereof will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 82, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

**Article 82**

1. A Member which has ratified this Convention may, after the expiration of the ten years from the date on which the Convention first comes into force, denounce the Convention or any one or more of Parts II to X thereof by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce the Convention or any one of Parts II to X thereof at the expiration of each period of ten years under the terms provided for in this Article.

**Article 83**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

**Article 84**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 85**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 86**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

   a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 82 above, if and when the new revising Convention shall have come into force;

   b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 87**

The English and French versions of the text of this Convention are equally authoritative.
REPORT OF THE SECOND NATIONAL COMMISSION ON LABOUR
CHAPTER 8: SOCIAL SECURITY

Very early, in its deliberations on social security, the Commission had to make up its mind on a somewhat ticklish issue. One view was that the Commission should confine itself strictly to matters that related to the security of workers, and that it should therefore, exclude matters that related to issues and policies that fell within the realm of general or overall social security. But we came up against a problem very soon. Our terms of reference ask us to study and recommend measures for assuring protection and welfare to workers. Consequently, protection, safety at workplaces, and measures that offered social security to workers fall within our terms of reference. We have been asked to review legislation for workers in the organised sector (this includes laws on social security for workers in the organised sector). We have also been urged to recommend an umbrella legislation that assures protection and welfare to workers in the unorganised or informal sector. We have to consider what is required to assure at least a minimum of social security in both these sectors. Moreover, when we put together the workforce in the organised sector and that in the unorganised or informal sector, we cover the entire workforce in the country. The workforce includes those who are currently in employment, those who are temporarily un-employed as a result of adjustments or change of jobs, and those who are entering the workforce. And the needs of social security to these include at least penumbra and ‘collateral’ responsibilities for dependents. Thus, it becomes difficult to categorise those who are unconnected with the social security that workers need. We have, therefore, had to look at areas and groups and services that others are also looking at, maybe from similar or different angles or points of view.

<Detailed Analysis provided by the 2nd NLC has been omitted for brevity. For detailed report of the 2nd NLC, Please visit website : http://www.prsindia.org/uploads/media/1237548159/NLCII-report.pdf>

RECOMMENDATIONS:

8.443 To summarise, the social security system envisaged by us is a moderate one. Still, due to the current resource crunch, it may not be possible to implement it immediately in its entirety. Therefore, we suggest that to be more practical and realistic it is desirable that it is implemented in three phases.

1st Phase The Bare Minimum which may include retirement and health security.

2nd Phase This may include unemployment related security

3rd Phase Other welfare measures may be implemented.

8.444 We will now like to summarise the recommendations that we have made in the chapter:

a) In order to give a better focus to social security, a more direct approach is called for, especially in the context of the commitments made to the United Nations by ratifying the Covenant of Social, Economic and Cultural Rights.

b) A national policy on social security should be formulated with a view to ensuring direction. While evolving the policy, the Constitutional obligations outlined in the Directive Principles of State Policy of the Constitution concerning social security should be kept in view.

c) We felt that in the Indian context, the term social security should be used in its broadest sense. It may, therefore, be defined as consisting of all types of measures, preventive, promotional or protective, as the case may be, designed to (a) prevent deprivation (preventive measures) (b) assure everyone of a basic minimum income which would be adequate for meeting the basic needs of oneself and one’s family or dependents (promotional measures) (c) protect income against loss or diminution due to the occurrences of any contingency including sickness (protective measures). The measures may be statutory or non-statutory, public or private. The term encompasses social insurance, social assistance, social protection, social safety net and other such terms, as are currently in vogue.

d) We feel that no single approach, to the exclusion of others, will be adequate to assure Social Security, and the problem will have to be addressed by a multi-pronged approach.

e) Social Security policy, plans and programmes should be tailored to the needs of the diverse sections of the people, especially those who are vulnerable.

f) The root cause of social insecurity in India is poverty, and that is largely due to the lack of adequate, or productive and remunerative employment opportunities. The provision of adequate and stable income will enable the poor to satisfy their basic needs and, thereby, their other security needs as well. The State has to assume the responsibility for providing basic social security, especially in respect of those contingencies which will be difficult for individuals to cover without assistance from the State. The State also has the responsibility to underwrite the means of livelihood to those who cannot work and earn their living due to childhood, old age, or other infirmities.

g) From the point of view of social security, the first priority has to be given to people of the last category, namely the old, the infirm and the young persons who are destitute and constitute a charge on the State. Admittedly, social security for this class of people has necessarily to be provided by means of social assistance. The unemployed come above this class. The priority need of this class of people is employment and a source of income. The entire process of development planning has to be geared to meet this need by means of expanded economic activity and employment-oriented growth. This is, however, a long-term goal. One cannot wait until this goal is reached. In the short term therefore, in order to prevent starvation for want of purchasing power, it will be necessary to undertake employment schemes, in the nature of public works, to provide productive employment and income to the unemployed. Next above this class, are the people who are employed on casual, temporary or intermittent basis. They need continuity of employment. Various de-casualisation measures would be relevant in this context. The self-employed persons also belong to the same class. They too need protection of their employment against the vagaries of nature and the market. Above all these classes are the people who are in regular employment with assured incomes. They only need protection of their income against loss or diminution due to the occurrence of contingencies.

h) All people, irrespective of the class to which they belong, need food security, health security, old age security, provision of clothing and shelter, if they are below the poverty line and cannot, therefore, make their own provision.
8.445 Social Security for workers in the Organised Sector

a) We feel that while it may not be possible to ratify all the ILO conventions relating to social security immediately, it is desirable to plan for their eventual ratification by upgrading laws and practices gradually. It is suggested that, at the minimum, steps should be taken to ratify the social Security (Minimum Standards) Convention (No. 102 of 1952) within a reasonable time frame.

b) Social Security is included in the Concurrent List of the Constitution. (List III of the Seventh Schedule). The existing entries at Items 23 and 24 of the List appear to make a distinction between Social Security and Social Insurance on the one hand, and between Social Security and Labour Welfare Measures including Provident Funds, Employees’ liability, workmen’s compensation, old age pensions and maternity benefits on the other. It would be more rational to modify these entries as follows:

c) Item 23 may be re-worded as ‘Right to work, employment, unemployment including unemployment benefits and welfare of labour including wages safety, health, work environment and other conditions of work.

d) Item 24 may be re-worded as ‘Social Security including social insurance, employers liability, social safety nets and other forms of social assistance; medical care, sickness, workmen’s compensation; invalidity, maternity, mother and child care, family allowances, old age, and survivors’ benefits.

e) There is a need for a strong agency at the Centre which will be concerned with horizontal and vertical coordination of social security planning, review of policy and implementation of programmes. We recommend that a separate Ministry of Social Security or a Department of Social Security should be set up preferably within the Ministry of Labour.

f) A high-powered National Social Security Authority of India should be created for formulating a policy on social security and coordinating various programmes at the Central and State levels. We have recommended that the Ministry of Social Security or the Department of Social Security should provide secretarial support to the Authority.

g) A Central Board of Social Security at the Centre and a State Board of Social Security in each State should be set up as autonomous bodies with professional experts. These Boards would have the responsibility for the administration of social security in respect of the establishments for which they are the appropriate government. Alternatively, the Central Board could be responsible for the administration of schemes in the organised sector while the State Boards would be responsible for the schemes in the unorganised sector including those outside the labour market.

h) To begin with, a functional integration of the various organisations administering social security schemes (ESIC, EPFO, etc) in the organised sector should be attempted by constituting the following divisions in the Central Board of Social Security: Medical benefits, Sickness, maternity and employment injury benefits, Old age, invalidity, survivors’ benefits including provident fund, gratuity, family benefits and emergency expenses, Unemployment Insurance and related services, Common services, namely registration, collection of contribution, inspection, penalties etc.

i) An administrative merger may be attempted later.

j) The mechanism for implementation of social security programmes should be based on two key principles. It should be as decentralised, and as close to the beneficiaries as possible; and it should be a tripartite or multipartite mechanism, involving workers, employers, governments and other stakeholders.

k) Area Level Committees should also be constituted on a tripartite or multipartite basis as the case may be. Their functions will include: Identification of the beneficiaries and issuing identity cards to them; Collection of contributions.

l) For functional integration, we need to adopt uniform definitions of common terms such as employer, employee, establishment, wages etc. This issue has been dealt with in detail in the Chapter on Review of Laws.

m) The Social Security System in India should ultimately aim at providing social security protection to all workers against all risks or contingencies within a specified time frame (say ten years), so that at the end of the period, the coverage will be universal and comprehensive.

n) To be comprehensive in terms of benefits, such a system should provide unemployment benefits, children’s allowances and emergency expenses which are not provided at present.
o) To make the system universal, it will be necessary (a) to make it applicable to all classes of industries and establishments without any distinction, (b) to remove wage ceilings, and (c) to remove the threshold limit (on the number of workers) for coverage. The removal of the threshold limit may be achieved progressively within the time frame that has been specified.

p) All employers’ liability schemes (under Workmen’s Compensation Act, Maternity Benefit Act and Payment of Gratuity Act) may be converted into contributory social insurance schemes so that the employers may be able to discharge their liability by payment of nominal contributions.

q) After functional integration of various schemes as recommended earlier, every employer may be required to maintain only one set of records and submit only one return in respect of all social security schemes. It would enable one inspector to inspect on all the schemes. There should not be harassment by inspectors or the imposition of extra-administrative burdens to file returns.

r) Every employer and employee may be required to make a single contribution for the provision of all the benefits. A ceiling may be prescribed in law for such contributions in terms of percentages of gross wages. The actual rates may be determined from time to time actuarially.

s) As the capacity to pay contributions varies, different plans providing for different rates of contributions and different packages of benefits may be drawn up to suit different classes of establishments / employees. In particular, the liability of small and tiny industries may be minimised. Similarly, persons employed on a contract or temporary basis may be covered for limited benefits such as health care and old age benefit at less cost.

t) Every worker covered under the system may be provided with a card with a unique social security number containing details of wages, employment, employer, contributions and entitlement to benefits. The card will enable the employee to avail of the benefits wherever employed or living – at post office bank counters or other bank counters or Government treasuries.

u) An integrated, single window approach may be devised for the delivery of services through area committees. The service of trade unions, self help groups, NGO’s and other people’s organisations may also be utilised for the delivery of services and for overseeing the performance of the service agencies.

v) The administration of medical benefit may be taken over by the Central Board of Social Security. It may set up State level organisations for the management of hospital dispensaries and diagnostic centres.

w) The facilities available in the government and in the private sector should be utilised for extension of the benefit.

x) The extension of the schemes for employment injury and maternity benefits may be delinked from the arrangements for providing medical benefits.

y) The establishments that have, or wish to make their own arrangements for providing social security benefits to their employees may be granted exemptions subject to control and regulation by the Central Board of Social Security so that the facilities available with the Board may be better utilised to extend the benefits to those establishments which do not and cannot have such arrangements.

z) All provident funds, whether established under the Provident Fund Act, 1925 or through other laws, may be brought under the control and regulation of the Board.

aa) All the existing pension schemes may be integrated in the Employees Pension Scheme with a fixed mandatory contribution by all employers so as to assure every employee a minimum basic pension subject to adjustment against inflation. For those who can make higher contributions the Board may offer different pension plans on a defined contribution basis.

bb) In view of the current trend for premature withdrawal of the balances in the provident fund for a variety of purposes, the contribution to the provident fund scheme may be made in two parts consisting of a fixed mandatory rate of contribution, with no provision for premature withdrawal and a variable optional rate of contribution so as to reduce the transaction cost. The tax concession available on contributions to the provident funds may be withdrawn in respect of the amounts withdrawn prematurely.

c) In an integrated system of social security, there would be no need or justification for distinguishing between employment injury benefit and invalidity benefit, incapacity to work and to earn one’s livelihood being the common factor and the sole criterion for the benefits; the cause or source of the incapacity, where and how the incapacity occurred, may not be relevant. All injuries or deaths arising due to the involvement in work occurring in the course of employment or otherwise, may be covered with a uniform rate of benefit, doing away with the existing duplication of the benefits being paid in case of employment injury under both the ESI or WC Schemes and the Employees pension schemes.

d) A social Security Fund may be established. It will be vested in the Board. All contributions and other receipts on account of social security may be credited to the Fund, and all payments on account of social security paid out of it. The Board will be fully responsible for the administration of the Fund subject to such guidelines as the Government may lay down. The Board may engage financial experts for the management of the Fund and the investments. Alternatively, the entire surplus balances in the Fund may be made over to the Government as and when they arise, against index bonds with a minimum real rate of return protecting the corpus against inflation.

e) The expenditure on social assistance should be shared between the Central Government and the State Government at agreed rates.

ff) For providing social assistance wherever necessary, the appropriate government may impose a social security surcharge on all, or any of the taxes and duties levied by it, and the proceeds of the surcharge after deducting the proportionate collection charges may be credited to the Social Security Fund.
The total estimated cost for the proposals made in the chapter would be around 18,412 crores. This includes the cost of ongoing schemes.

Social security institutions around the world are engaged continually in improving the delivery of services and reducing their administrative costs by adopting modern technological tools to ameliorate their management practices in the face of mounting pressures. Many of them have also undertaken to re-engine their services. Similar exercises are necessary in India too where complaints on the working of the ESI and EPF schemes abound.

It is reported that many social security institutions, in their effort to match their services with those of private sector agencies are experimenting with outsourcing the services Some Governments like those of Australia and U.K have established semi-autonomous agencies to deliver direct services to social security clients. Although India has established such agencies, they have not been given the necessary autonomy or authority. The Administrative arrangements of these agencies need to be reviewed and reformed. They could also be permitted to subcontract their services to voluntary organisations.

Many poor and illiterate beneficiaries of social security shy away from approaching the social security institutions due to fear and ignorance. A sympathetic Public Relations Network should be built into the system. One of the functions of this Network would be to educate people about the schemes and how they can avail of the benefits, and to create awareness of their rights.

The Unorganised Sector

Workers in the unorganised sector comprise of:

Those employed in small establishments outside the purview of the current social security legislation,

Those who are employed on a casual or intermittent basis without any security of employment or income and The self-employed.

In addition, the unemployed and the unemployable (the aged, the handicapped etc) also need social security. The needs of each of these categories are different.

Once the integrated, comprehensive and universal system of social security recommended by us for the organised sector comes into existence, workers in the small establishments will also be covered progressively by lowering the employment thresholds for coverage.

Pending that, coverage may be extended, by amending or acting on each existing Act by Establishing institutions similar to the ESIC or the State level to cover smaller establishments, Decentralising the administration of the EPF Scheme and establishing State Level Boards with the mandate to extend the application of the scheme to all establishment, Converting the employment injuries benefits under the WC Act into social insurance schemes and injuries extending the benefits to all types of work, Converting the maternity benefits under the MB Act into a social insurance scheme and extending the benefits to all classes of establishments and Making the payment of gratuity a compulsory insurance scheme covering all establishments.

In the case of persons employed on a casual or intermittent basis, the need is for employment security and continuity of employment through appropriate decasualisation measures. The most successful decasualisation measure is that of Dock Labour Boards, Mathadi Boards and Security Guards Board in Maharashtra and the Head-load Workers Welfare Fund Board in Kerala. Similar boards may be constituted for head-load workers, railway porters, security guards, beedi workers, building workers (including brick kiln workers) fish processing workers, and other classes of home based workers, rag pickers, and so on.

Welfare funds can be an important model for providing social security to the workers in the unorganised sector. Welfare funds may be set up for each of the major establishments with large number of persons employed, such as: Agriculture, Building and construction industry, including the brick kiln industry; Beedi industry; Handlooms and power looms; Fishing and fish processing; Toddy tapping; Head load workers; Railway porters; Agarbatti workers; Rag pickers and other scavengers; Rickshaw pullers; Salt workers; Carpet weavers; and Leather workers;

As regards other minor employments, it might not be practical to set up a Welfare Fund for each such employment. It would be necessary to bring them under an umbrella type of legislation with a common Welfare Fund.

The Welfare funds should be contributory but the contributions that workers can make to such funds will necessarily be small, and will not, by themselves, without a contribution from either the employers or the Government, be adequate to provide any meaningful social security. The employers will therefore, have to make more significant contributions to the Welfare Funds. (Collection of these contributions will require effective machinery). If welfare activities are combined with the regulation of employment through Welfare Boards, whereby the employers as well as workers would be required to register themselves compulsorily and also to obtain licence and permits, it would be possible - To collect contributions; To ensure regularity of employment; To fix and revise wages on a rational basis compensating the workers for increase in the cost of living and also giving them the benefit of higher productivity and profitability; To provide for all the essential welfare benefits.

Alternatively, fund financing may be done by levying a tax in the form of a cess or surcharge at a rate which would yield sufficient revenue. Where a separate Welfare Fund is set up for a particular employment, it might be easy to identify the source of the tax revenue, but in the case of a common fund, the source of revenue would have to be of a general nature.

If a tax of a general nature were to be levied for financing social security of the large majority of workers in the unorganised sector, it might be more appropriate to adopt the area based approach recommended by the ILO which is akin to the system obtaining in Australia or New Zealand, or the system that was recommended for the U.K. by Lord Beveridge.

The only social security provision in the conventional sense made in the welfare fund laws is health care. The Welfare Funds can, however, be transformed into instruments of social security if they can be restructured suitably as indicated below:

The coverage of the funds should be expanded,

The range of benefits provided under the welfare funds should be broadened,

The financial arrangements for providing benefits should be modified, and

The administration of the funds should be decentralised and made participatory.
Area-based schemes appear to be eminently suitable for application to the workers in the unorganised sector, who are too numerous to be covered under occupation based schemes. We suggest that it may be tried out on an experimental basis in some States before extending it to other States.

Another model for providing a measure of social security for workers in the unorganised sector is subsidised insurance. A number of such insurance schemes have been initiated through the LIC/GIC, and some by the State Governments. To make these schemes popular, the Insurance Companies may be required to develop two or more plans providing coverage for the major risks faced by the people namely health, life, widowhood, accident, and loss of assets, etc. with a uniform rate of subsidy. The services of peoples’ organisation and NGOs may be used to promote these schemes.

A separate organisation/facility may be set up to administer all social insurance schemes, and the insurance companies licensed by the IRDA which may be asked to make appropriate contributions to this organisation instead of directly trying to fulfil their obligations on social insurance contained in the IRDA regulations.

The current trend towards poverty eradication through social mobilisation, i.e., organising the unorganised workers, needs to be encouraged and expanded. Unorganised workers may be mobilised and organised to form: Self help groups focusing on savings and credit and/or producing goods, crafts based, salt, minor forest produce, processing agricultural produce, etc.; Local workers’ economic organisations which are taluk or preferably, district level associations and federations of self help groups; District level cooperatives producing goods and services; e.g. milk cooperatives, land and agro-forestry based cooperatives, childcare and midwives cooperatives, etc; Village based mahila mandals or yuvak mandals or kisan sanghs.

Once organised into small, medium or large workers’ organisations they could be actively involved in: The Provision of credit, Micro insurance by linking with savings and credit supplying groups or organisations and Social security through the area based approach. These local, decentralised organisations would be involved in district level goal setting for social security, the implementation of all social security programmes (both work based and area based) and monitoring of these programmes.

The Crop Insurance Scheme introduced by the Central Government has to be put on a firm footing to cover all farmers and all crops against all contingencies. It is also necessary to design appropriate social insurance schemes with adequate benefits to provide to self employed workers like milk producers, boatmen and fishermen.

It is necessary to provide health care, old age and disability protection to the self-employed. Either the existing ESI and EPF/EPS schemes may be suitably amended to provide such protection against a composite contribution, or separate insurance schemes may, as appropriate, be devised for the self-employed on an occupational or area basis. As in the case of the unorganised sector workers, an area based approach may be tried out for the self-employed.

Micro-insurance schemes, self-help groups and mutual benefit associations have a role to play in providing social security cover to the self-employed. However, in order that the participants in such schemes are not cheated by unscrupulous elements, they would have to be placed under a regulatory mechanism.

For the unemployed, the basic need is employment on a continuing basis. Globalisation has brought in new problems of lay off, retrenchment, unemployment and shrinkage of employment opportunities. The Sampoorna Grameen Rozgar Yojna, introduced to provide additional employment and food security in the rural areas, is a step that is described as the precursor to a National Employment Assurance Scheme. We feel that a National Scheme guaranteeing employment will not be unfeasible, and should be given a fair trial.

While promoting wage employment, the States should adopt and effectively implement a rational minimum wage policy.

It is the responsibility of the state to provide subsistence by an appropriate social security measure to those who have no source of income. The Central Government should consider introducing a National Scheme of Unemployment Relief to the unemployed subject to a means test. The rate of relief may be fixed at half the floor level minimum wage fixed by the Ministry of Labour. At the current rate this would yield a relief of Rs.200 per month.

The National Social Assistance Programme started in 1995, provides only a few benefits, namely, old age pension, maternity benefit and family benefit. The programme should ensure that all people who are not able to work and earn their living, have the necessary means of livelihood and that their basic needs such as food, clothing and shelter are met adequately.

The assistance provided under NSAP should be linked to other social assistance packages for poverty alleviation and provision of basic needs so as to supplement the assistance provided. Apart from NSAP, there are several schemes under which social assistance is provided, for various purposes such as: PDS including Annapurna and Antodaya Anna Yojana Schemes; Schemes under which supplementary nutrition is provided to women and children including the Midday Meal Scheme; Housing schemes for economically weaker sections, including schemes for old age homes, orphanages, homes for deserted women, beggars, etc.; Schemes under which assistance is provided for self employment; Schemes under which cash assistance is given to the unemployed; Schemes under which old age disability and death benefits are provided under subsidised insurance schemes.

It is desirable to integrate all such programmes so as to assure everyone a minimum range of benefits and to avoid an overlapping of the benefits provided under different programmes. The integrated National Social Assistance Programme should be placed on a statutory footing so as to make it binding on the Government/s.

The National Old Age Pension Scheme may be redesignated as the National Pension Scheme and extended to (i) all men and women of age 65 or above (ii) physically handicapped people with specified degrees of incapacity, (iii) mentally sick people, (iv) those suffering from leprosy (v) beggars (vi) widows and (vii) other indigent people. The scheme would be subject to a means test. The old age pensions in many States cover some of these categories but there is no uniformity in the eligibility criteria or the quantum of benefits. A national standard needs to be established for such benefits too.

The rate of old age pension under the National Old Age Pension Scheme is Rs.75 per month. Considering that the floor level minimum wages fixed by the Central Government meant for three consumption units is around Rs.45 per day the cost of
subsidisation of one consumption unit comes to Rs. 15 per day or Rs. 450 per month. Granting that a pension may not exceed 50% of a wage, the minimum pension should not be less than Rs. 200 at current prices. The current rate of pension is far below this level and needs to be enhanced.

aa) The rate of pension was fixed in 1995. As there has been a considerable rise in the consumer prices since then, the real value of the pension has been eroded. There is, however, no mechanism to adjust the pension to the rise in the consumer price index. It should either be linked to the index or revised periodically so as to maintain its real value.

bb) The income criteria for eligibility for pensions should be reviewed and revised on a uniform basis. As the old age pension is now admissible under a national scheme there is no justification to exclude any person from the benefit on grounds of domicile.

c) When the benefits are subject to a means test, imposition of numerical and financial ceilings would appear to be discriminatory as they exclude from the benefits, those who are eligible for the benefits but are denied the same for the reason that they are above the ceilings. The ceilings should therefore, be removed. The benefits should be paid to all persons who qualify for them under the Scheme.

d) The population of the elderly has been rising. The budget provision for the old age pension scheme should be increased from time to time, corresponding to the increase in the population of the elderly. The selection of persons should be made by local authorities, and all eligible persons should be paid pension as due by the local authorities.

e) A national scheme may be drawn up for providing pensions to widows on the following lines: Widows may be entitled to old age pension at the age 60 and above. Widows between the age of 18 and 60 may be paid pension for a limited period of two years during which period they may be given training to enable them to take up employment. During this period they may also be paid a supplementary pension for two children for their maintenance. At the end of the training, they may be paid an equipment grant.

ff) A national scheme may be drawn up for the payment of a pension to all the physically disabled persons who are, ab initio incapable of doing any work and earning their livelihood or who have lost their earning capacity by more than 70% due to any accident or disease. The rate of pension should be the same as suggested above for the elderly. The lack or loss of earning capacity may be assessed by the same procedure as prescribed for workmen’s compensation under the Workmen’s compensation Act or disability benefit under the ESI Act.

gg) Some States have special pension schemes for journalists, artists, agricultural workers and others. It is suggested that all such schemes be integrated with the National Pension Scheme with standardised components comprising of an old age pension, invalidity pension or disability pension and a family pension including a widows’ pension, and a children’s pension or allowance.

hh) The National Maternity Benefit Scheme may continue to be applicable to persons below the poverty line. The scheme should, however, be extended to cover all women within the age group 18-50, whether employed or not, other than those covered under the ESI or Maternity Benefit Act.

iii) The amount of benefit provided now (Rs. 500 per child birth) is inadequate, and should be raised to Rs. 2000 per child.

jj) Adequate arrangements may be made by the Governments at the Central and State levels to provide day care services for children in the age group 0-5 in the form of crèches or otherwise, complementary to the National Maternity Benefit Scheme, to enable all working women to leave their children under proper care in a safe environment removing the burden from the shoulders of their siblings. There should be arrangements for nutritional support for lactating mothers and nursing children.

kk) A national housing scheme may be introduced, integrating various housing subsidy schemes.

ll) A uniform policy should be adopted in providing subsidy for housing.

mm) A National Cloth Supply Scheme may be introduced for the supply of cloth free of cost or at a subsidised price to the destitute.

nn) Survivors’ benefits are provided under the National Family Benefit Scheme and other schemes like the Jan Shree Bima Yojna. We recommend that the National Family Benefit Scheme should be linked to the National Pension Scheme (suggested above) and the Jan Shree Bima Yojna, rationalising the quantum of benefits.

oo) Every person below the poverty line, whether employed or not, may be paid an allowance for the maintenance of children and to enable them to send children to school and not to work.

pp) A national disaster relief scheme may be drawn up as a part of the NSAP to provide assistance to persons affected by national calamities on a rational basis.

qq) Land Reforms are important social protection measures. The ongoing programmes should be implemented speedily.

rr) Basic health security has to be provided by the primary health care infrastructure. It may be supplemented by one or more of the various other options such as health insurance.

ss) In order that the elderly people keep healthy, it is necessary that they should remain active. Their services should therefore, be utilised in various activities of the community, such as manning childcare centres cultural clubs, vocational training centres, etc., for which they may be paid appropriate remuneration, or allowances or honorarium.

tt) For the disabled, it is necessary to prepare a comprehensive plan of action covering, inter alia, the following aspects: Removal of the disabilities, whenever possible, should be the basic objective of any such plan. Where disabilities cannot be removed, measures should be taken to bring disabled persons into the mainstream by providing them appropriate education and skill training. Provision of adequate employment opportunities should be the second priority in any scheme for the welfare.
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of the disabled. The People With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 already provides for a 3% reservation in identified posts in all government and public sector offices for disabled persons. Steps should be taken to enforce this provision strictly. The feasibility of extending this requirement to employment in private establishments, as in Germany may be considered. But it may not be possible to provide employment to all the disabled as their capacity to work would not be uniform. In cases of persons who cannot work, the State should provide a safety net by providing them food, clothing and shelter at its own expense.

uu) The feasibility of opening District Rehabilitation Centres in all the districts and in all the States and Union Territories may be considered. It would be desirable to route all social assistance for disabled persons through such centres.

vv) It is necessary to develop appropriate social health insurance schemes for the elderly and these may be linked to pension insurance. With the growth of the population of the aged, the associated problem of caring for the aged is becoming increasingly important. Lately, it has been systematised in the form of social care insurance as a part of social security. It has been reported that in 1991, in Germany, approximately one-third of the social security expenditure was devoted to care provision. The concept of care dependency is distinct from treatment for illness and covers help with daily tasks that do not fall under any medical treatment plan, e.g. personal hygiene, feeding, and mobility of housework.

ww) The normal and preferred arrangement for taking care of the aged is to encourage them to live with their families. Where there are either no families, or the families cannot look after them, they would have to be provided with institutional care. It would be necessary to design appropriate schemes for the purpose.

xx) One cannot be content with the setting up of ‘homes.’ The quality of service provided in these homes needs to be monitored. The existing arrangements in this regard are less than adequate. It is, therefore, necessary to establish a well-organised regulatory system to ensure that standards are maintained and exploitation avoided.

yy) In spite of several schemes having been designed for promoting and protecting the interests of cultivators, reports of suicides by several agriculturists due to their inability to cope with the loss of income for various reasons including crop failures and the after-effects of globalisation, are appearing in the press. It is, therefore, obvious that the various protective schemes drawn up by the Government need to be strengthened and enlarged to cover those who are outside their umbrella.

zz) The Union Finance Minister, in his budget speech for the year 2000-2001, announced a proposal to introduce a new Social Security Scheme for agricultural workers called the Khetihar Mazdoor Bima Yojana. We welcome the initiative taken by the Government in introducing the Scheme (Khetihar Mazdoor Yojana). It seems, however, to be a departure from the original proposal to establish an employment board and a welfare fund for the workers. We suggest that the proposal to set up a welfare fund may not be given up.

aaa) There are several occupational groups sharing the socio-economic conditions of agricultural workers. To target a single group for such a scheme may be discriminatory. We, therefore, suggest the extension of the scheme to other workers too in the unorganised sector.

bbb) The initiatives taken by the Central Government to eliminate the loathsome practice of manual handling of night soil and filth are commendable. We recommend that effective measures be taken after discussion with the representatives of the States to wean the people engaged in that profession and to rehabilitate them in other employments. There is a proposal to establish one or more welfare funds for rag pickers. We suggest that the feasibility of setting up similar welfare funds for those engaged in scavenging may be considered.