

Z-13025/13/2015-LRC
Government of India
Ministry of Labour and Employment

Shram Shakti Bhawan, Rafi Marg,
New Delhi dated, the 27th March, 2018

To

- (i) **The Central Trade Union Organizations**
(As per List attached at Annexure-I),
- (ii) **The Employers' Associations**
(As per List attached at Annexure-II),
- (iii) **The Representatives of All the State Governments/UTs**
(As per List attached at Annexure-III).

Subject: The Draft Labour Code on Social Security, 2018 - **regarding** .

Sir,

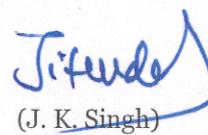
I am directed to state that Ministry of Labour & Employment has placed on the Ministry's website the revised draft Labour Code on Social Security, 2018 on 01st March, 2018 for information of all the stakeholders, and also, inviting comments/suggestions/inputs, if any, of **Employers' Organisations and Central Trade Unions recognized by the Central Government (Labour Ministry) and the State Governments.**

2. A number of representations have been received at this end, requesting that the last date for receiving comments may be extended appropriately.

3. Now, it has been decided to extend the last date for giving suggestions/comments/inputs, if any, on this revised Code has from 31st March, 2018 to 30th April, 2018.

4 **The Draft Labour Code on Social Security and Welfare, 2018** is available at <https://labour.gov.in/whatsnew/labour-code-social-security-2018-version-21> and <https://labour.gov.in/sites/default/files/SS%20Code%202018-03-09.2.pdf>.

Yours faithfully



(J. K. Singh)

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Z-13025/13/2015-LRC
Government of India
Ministry of Labour and Employment

Shram Shakti Bhawan, Rafi Marg,
New Delhi dated, the 1st March, 2018

Subject: **The Draft Labour Code on Social Security, 2018** reg.

Ministry of Labour & Employment has decided to formulate The Labour Code on Social Security, 2018 by amalgamating, simplifying and rationalizing all existing Labour Laws related to Social Security (*total 15 Labour Laws including EPF Act, ESI Act, Maternity Benefit Act, Payment of Gratuity Act, Employees Compensation Act, Unorganised Social Security Act, and various Welfare Cess /Fund Acts*).

2. The Draft of THE LABOUR CODE ON SOCIAL SECURITY AND WELFARE, 2017 was placed on the Ministry's website on 16 March 2017 for consultations and comments of the Stakeholders. After considering the comments of various stakeholders, a revised draft has been prepared.

3. Continuing the pre-legislative consultative process, the Draft of THE LABOUR CODE ON SOCIAL SECURITY, 2018 is being placed on the web-site for information of all the stakeholders. The Ministry will now initiate consultation process with the Employers' Organisations, Workers' Organisations (both organised and unorganised), State Governments etc.

4. **Employers' Organisations and Central Trade Unions recognized by the Central Government (Labour Ministry) and the State Governments** are invited to to give their suggestions/comments/inputs, if any, on this revised Code. Comments may be submitted, latest by 31st March, 2018, by e-mail to Shri J. K. Singh, Under Secretary, Ministry of Labour & Employment, Room No-17, Ground Floor, Shram Shakti Bhawan, New Delhi. Email address : jk.singh68@nic.in.

5. In order to facilitate proper consideration, the comments/suggestions on the Draft Code must be in following format:

Name of the Organisation/ Government :				
Address :				
E-mail :				
Name of Contact Person:				
Designation :				
Mobile :				
Section / Sub- Section / Clause / Proviso of the Draft Code	Issue / Problem identified in the Section / Sub- Section / Clause / Proviso of the Draft Code	Proposed Change that should be made	Reason for proposed change	Remarks, if any

श्रम एवं रोजगार मंत्रालय
MINISTRY OF LABOUR AND EMPLOYMENT
भारत सरकार GOVERNMENT OF INDIA



सामाजिक सुरक्षा पर श्रम संहिता, 2018
LABOUR CODE ON SOCIAL SECURITY, 2018

मसौदा संस्करण: 2.1 Draft : Version 2.1

मार्च 2018 MARCH 2018

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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 lines 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.

प्राक्कथन

श्रम कानूनों को सरलीकृत तथा युक्तिसंगत बनाने के प्रयासों के क्रम में, श्रम और रोजगार मंत्रालय ने द्वितीय राष्ट्रीय श्रम आयोग (2002) की सिफारिशों के अनुरूप सार्वभौमिक सामाजिक सुरक्षा सुनिश्चित करने हेतु एक व्यापक कानून तैयार करने का कार्य शुरू किया।

सामाजिक सुरक्षा पर श्रम संहिता का प्रथम मसौदा दिनांक 16 मार्च, 2017 को प्रकाशित किया गया तथा हितधारकों की टिप्पणी के लिए जनता के बीच प्रस्तुत किया गया। नियोजता संगठनों, कामगार संगठनों, राज्य सरकारों, गैर-सरकारी संस्थाओं, असंगठित कामगारों, विधि व्यवसायियों आदि के प्रतिनिधियों, जैसे विभिन्न हितधारकों के साथ कई कार्यशालाओं तथा चर्चाओं का आयोजन किया गया। संहिता के विभिन्न उपबंधों पर लगभग 3000 पृष्ठों में प्राप्त सभी हितधारकों की टिप्पणियों तथा प्रतिक्रियाओं ने हमारा उत्साहवर्धन किया है। इसके अतिरिक्त, हमें अंतरराष्ट्रीय श्रम संगठन (आइएलओ) से भी तकनीकी सुझाव प्राप्त हुए। सभी सुझावों को समझना और तदनुसार संहिता के मसौदे को संशोधित करना वस्तुतः दुष्कर कार्य था।

यह मंत्रालय उन सभी व्यक्तियों और हितधारकों का धन्यवाद करता है, जिन्होंने इस संहिता के मसौदे को तैयार करने में अपना सहयोग किया है। संहिता के इस नए मसौदे में उन सभी सुझावों को शामिल करने का प्रयास किया गया है जो इस संहिता के दर्शन के अनुरूप हैं। हमने इस संहिता में एक कार्यकारी सारांश और प्रस्तावना शामिल की है, जो इस संहिता के प्रस्तावित उपबंधों के पीछे के उद्देश्यों और कारणों की व्याख्या भी करता है। हम आशा करते हैं कि यह इस संहिता के उपबंधों को समझने में सहायक होगा, जो कि कभी-कभी इसकी विधिक भाषा के कारण समझने में दुष्कर होता है।

इस संहिता का मसौदा तैयार करने वाली टीम में से कोई भी विधायी प्रारूपण विशेषज्ञ नहीं है, अतः हो सकता है कि इस संहिता की भाषा कहीं-कहीं पेशेवर (विधिक दृष्टि से) न लगे। इस मसौदा संहिता की अभी विधिक प्रारूपण विशेषज्ञ द्वारा संवीक्षा होनी बाकी है। यह कार्य त्रिपक्षीय तथा अन्य परामर्श की प्रक्रिया सम्पूर्ण हो जाने के बाद ही करना उचित होता है, जिससे कि दोहरी मेहनत से बचा जा सके।

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.

सामाजिक सुरक्षा: पृष्ठभूमि

समाज तथा सरकार का विशेष दायित्व है कि वे सुनिश्चित करें, कि जिसने भी अपने अच्छे समय में देश के विकास में योगदान किया है, उसे अपने कठिन समय में समस्याओं (जैसे बीमारी, दुर्घटना, बेरोजगारी, निःशक्तता, प्रसूति तथा वृद्धावस्था इत्यादि) का सामना करने के लिए अकेला न छोड़ा जाए। सामाजिक सुरक्षा प्रणाली के अंतर्गत इन जोखिमों तथा हालात को सभी से थोड़े से अंशदानों के माध्यम से एक मजबूत सामाजिक सुरक्षा तंत्र द्वारा प्रबंधित किया जाता है।

सामाजिक सुरक्षा का अभिप्राय सरकार द्वारा प्रचलित एक ऐसे कार्यक्रम से है, जिसमें सरकार द्वारा सृजित निधि अथवा प्रणाली का उपयोग उन लोगों को भुगतान करने के लिए किया जाता है जो कि अपरिहार्य परिस्थितियों के कारण कार्य करने (तथा आजीविका अर्जित करने) में सक्षम नहीं हैं। वैधानिक अनिवार्यता, सरकार द्वारा प्रशासन और अधिकारों और प्रवर्तन के प्रावधान सामाजिक सुरक्षा की मूलभूत विशेषताएं होती हैं। सामाजिक सुरक्षा सरकार से नागरिकों के लिए केवल सद्भावना के द्वारा प्रेरित अथवा तुष्टीकरण नहीं बल्कि एक अधिकार होता है।

आश्चर्य नहीं है कि संयुक्त राष्ट्र द्वारा सामाजिक सुरक्षा का अधिकार मानवाधिकार की तरह माना जाता है। मानवाधिकारों की सार्वभौम घोषणा के अनुच्छेद 22 तथा 25 के अनुसार, सामाजिक सुरक्षा प्राप्त करना मूलाधिकार है। वर्ष 1952 में अंतर्राष्ट्रीय श्रम संगठन (आईएलओ) द्वारा अंगीकृत 'सामाजिक सुरक्षा (न्यूनतम मानक) कनवेंशन 102' भी सामाजिक सुरक्षा के प्रमुख क्षेत्रों में हितलाभ के लिए न्यूनतम मानक निर्धारित करता है। भारत ने अभी तक इस कनवेंशन की पुष्टि नहीं की है। यह उचित समय है कि देश अपने सभी नागरिकों को सामाजिक सुरक्षा के न्यूनतम मानकों को प्रदान करने की ओर कदम बढ़ाए।

विश्व में प्रचलित पद्धतियों के अनुसार, सामाजिक सुरक्षा राज्य (आयकरदाता) पोषित, नियोजक पोषित अथवा कामगार पोषित अथवा इनमें से किसी का भी मिश्रण हो सकता है, हालाँकि आदर्श परिदृश्य यह होगा कि देश प्रत्येक नागरिक को अपनी सामाजिक सुरक्षा के लिए भुगतान करने के लिए सक्षम बनाए।

सामाजिक सुरक्षा का उद्देश्य केवल नागरिकों का वैयक्तिक कल्याण नहीं है, परन्तु यह राष्ट्रीय आर्थिक समृद्धि से भी जुड़ा है क्योंकि यह जोखिमों का सामना करने वाले व्यक्तियों को अप्रत्याशित घटनाओं के लिए अपनी आमदनी का एक हिस्सा बचा कर रखने की बजाए गरिमामयी जीवन के साथ आजीविका के उचित मानक बनाये रखने के लिए व्यय करने में सक्षम बनाता है। सामाजिक सुरक्षा आर्थिक प्रगति में भी योगदान देती है क्योंकि सामाजिक सुरक्षा नीति, श्रम सुरक्षा कानून, चिकित्सा सुविधाएँ तथा बेरोजगारी हितलाभ कुशल श्रम की क्षमता को सुरक्षित रखकर सामाजिक लागत से बचाव में अत्यंत ही महत्वपूर्ण भूमिका अदा करते हैं।

EXECUTIVE SUMMARY

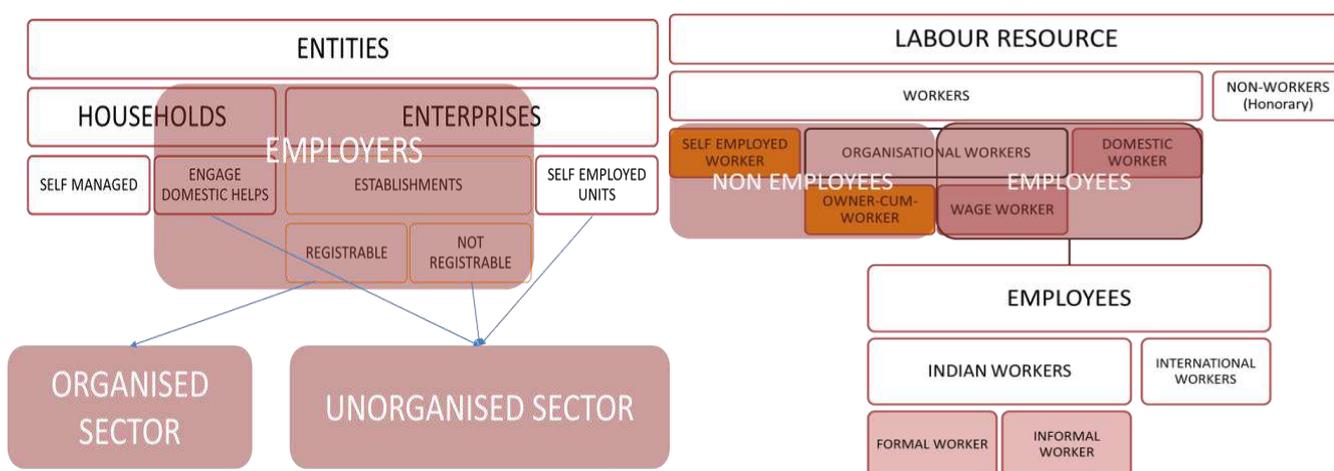
Preamble

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 exist 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 wage ceiling) has been used for the purpose of enabling the government to provide for two different kind of schemes (for same purpose) for two different class of workers (low income and high income). One may be subsidised while the other may not. Similarly it has been used for eligibility under sickness benefit scheme.

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 ‘deemed wage’ is defined 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.

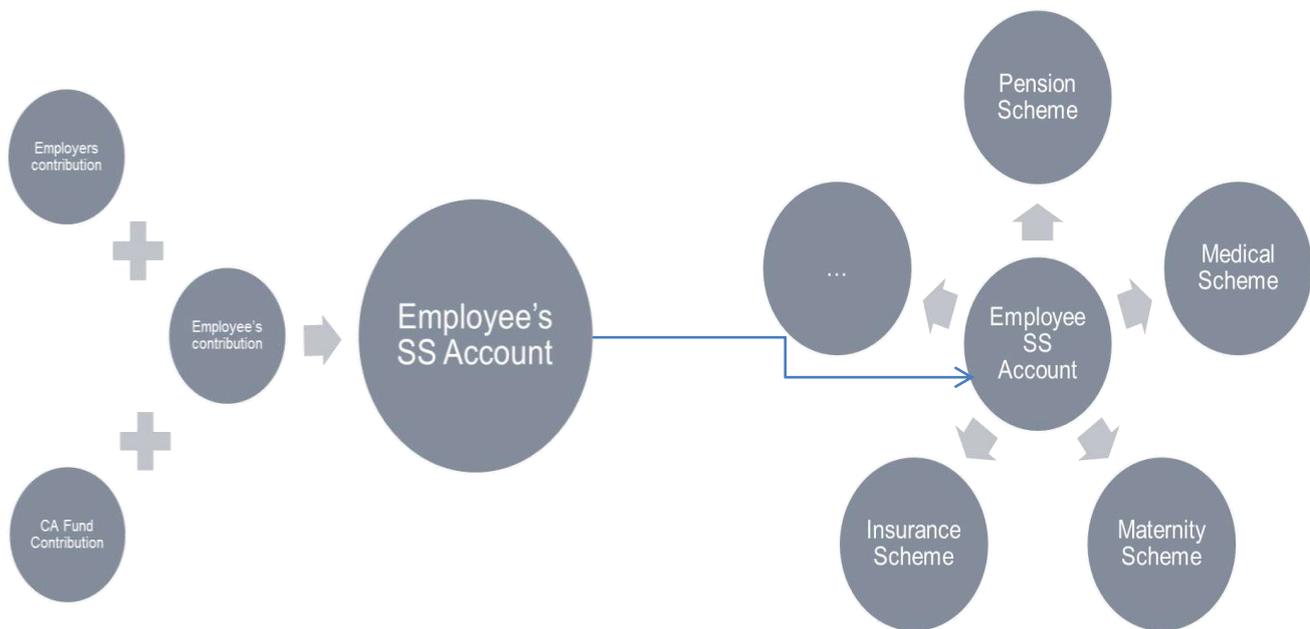
There is also a ‘Social security Reparation fund’ which will also be administered by the State Board. Such fund shall be expanded for payment of any reparation awarded to a worker for failure to provide any service to such worker or

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 can not 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 of 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 income threshold. 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.

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 charges as per its notified protocol. The user charges would replenish the MBS Fund.

PART – K : Intermediate Agencies.

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 of 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, attachment 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 appellate 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 debtor of the person or the employer from whom recovery is to be made originally. The Commissioner may direct such debtor to either pay forthwith or withhold such amount until some time and the debtor shall be liable to the Commissioner as equivalent to the original defaulter. In case the money is held by the debtor 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 debtor) 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: Transitional 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 employees 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 ESIC 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 VII, 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.

कार्यकारी सारांश

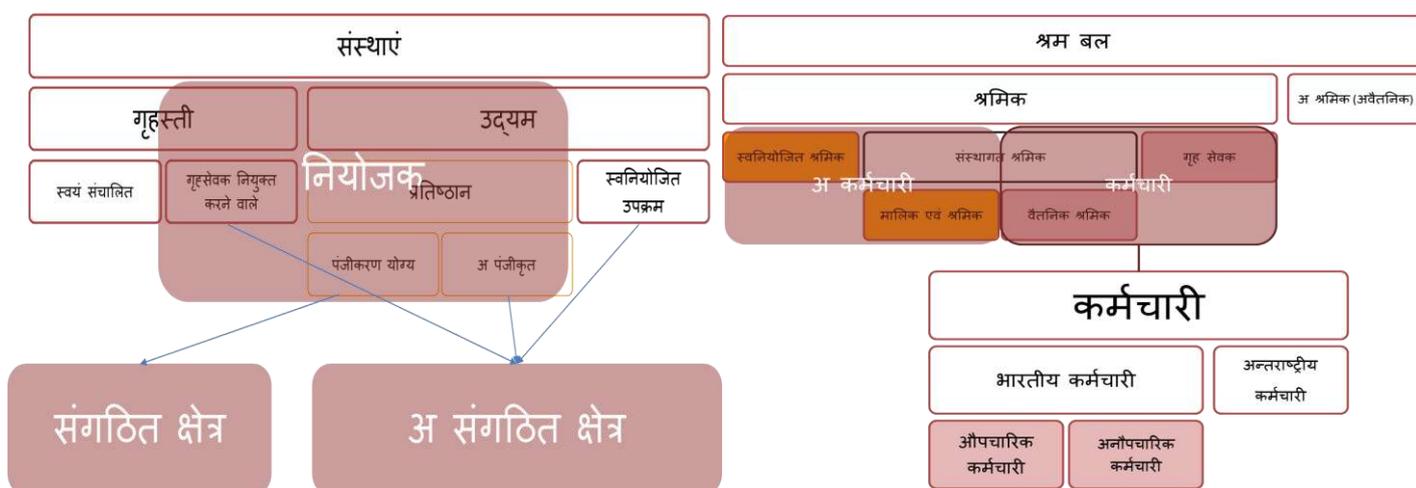
प्रस्तावना

सामाजिक सुरक्षा श्रम संहिता अब तक विखंडित कानूनों को सरल, तर्कसंगत और समेकित करने व उनकी जटिलता को कम करके उनका सरलीकरण, कार्यान्वयन में आसान करने और उनको प्रभावशाली रूप में लागू करने का एक प्रयास है।

इस संहिता में मूलभूत प्रमुख सिद्धांत जिनको शामिल किया गया है, वो हैं - सभी कामगारों के लिए (क्रमिक)सार्वभौमिकरण; विखंडित योजनाओं का एकीकरण; प्रशासन का विकेंद्रीकरण; अधिकार आधारित दृष्टिकोण और एकल खिड़की(सिंगल विंडो) अनुपालन।

भाग - A: आवेदन और परिभाषाएं

सामाजिक सुरक्षा को 'सार्वभौमिक' बनाने का प्रयास किया गया है, इसलिए संहिता सभी 'संस्थाओं' और सभी 'श्रमिकों' के लिए लागू है। पारिभाषिक शब्द 'श्रम-बल' और 'कार्य स्थलों' का वर्गीकरण कैसे किया गया, यह निम्नलिखित चार्ट से देखा जा सकता है-



तदनुसार, इन शब्दों की परिभाषा इस भाग में वर्णित की गई है। जैसा कि ऊपर देखा जा सकता है, 'संस्थाएँ' एक बहुत व्यापक शब्द है जिसमें प्रकृति और कार्य की मात्रा पर ध्यान दिए बिना इसमें संस्थाओं की पूरी श्रृंखला (जिसमें किसी भी व्यक्ति द्वारा काम किया जाता है) शामिल है। 'उद्यम' और 'गृहस्थी' इस विस्तृत वर्ग (यानि संस्था) का उप-समूह, अथवा इकाई है। मसौदे में इस विभेदिकरण को किसी भी आर्थिक गतिविधि हेतु चलने वाले उद्यमों और घरेलू आवश्यकताओं के लिए काम करने वाले गृहस्थियों के बीच अंतर करने के लिए दिया गया है। इसके अलावा 'उद्यम' एक आर्थिक इकाई है जो कि किसी श्रमिक को रोजगार दे भी सकता है और नहीं भी दे सकता है। जबकि 'प्रतिष्ठान' वे हैं जहाँ कम से कम एक कर्मचारी काम करता है।

'व्यापार', 'कारखाना', 'परियोजना' आदि जैसे विभिन्न शब्दों को विशेष रूप से यह सुनिश्चित करने के लिए परिभाषित किया गया है कि सभी प्रकार के कर्मचारियों को उनके हितार्थ संहिता के अंतर्गत कवरेज में लाया जा सके और नियोक्ता के पास संहिता के प्रावधानों के अंतर्गत कवरेज आने से अथवा अनुपालन से बचने के किसी भी संभावित रिक्ति का कोई भी विकल्प उपलब्ध न हो। 'उद्यम' संचालित गतिविधि - जैसे कि विनिर्माण, कृषि आदि के प्रकार को निर्दिष्ट करने के लिए 'व्यवसाय' शब्द प्रयुक्त किया गया है। 'उद्यम' शब्द उन स्वनियोजित कामगारों की इकाइयों को भी शामिल करता है। 'संस्थाओं' और 'नियोक्ता' शब्द में परिवारों को भी शामिल किया गया है और इस प्रकार, (यदि अनुसूची- I में प्रविष्टि द्वारा विशेष रूप से हटाया नहीं गया) संहिता घरों और घरेलू श्रमिकों पर भी लागू होगा।

इसी तरह आज श्रम बाजार में मौजूद बहुतायत रोजगार संबंधों की पहचान का भी प्रयास किया गया है। यहां उद्देश्य 'कर्मचारी' की परिभाषा में प्रत्येक रोजगार संबंध को शामिल करना है ताकि नियोक्ता को कवरेज से बचने का कोई रास्ता न मिले।

विस्तृत परिभाषाएं विविध व्याख्याओं में लचीलापन कम करती हैं और भारत में वर्तमान में अपर्याप्त कवरेजकवरेज श्रम कानूनों के समस्यापूर्ण मुद्दों में से एक है। हमने सार्वभौमिक कवरेजकवरेज सुनिश्चित करने के लिए इन शब्दों की व्यापक परिभाषाएं देने का प्रयास किया है।

अनुसूची -। अपवर्जन का प्रावधान करता है: अर्थात्, संस्थाएँ/श्रमिक जिनको कवरेज से बाहर रखा जाएगा। नियमित सरकारी कर्मचारियों को बाहर रखा जाएगा (जो केंद्रीय सिविल सेवा नियमों के अंतर्गत व्याप्त हैं), हालांकि, अनुबंधित कर्मचारियों यहां तक कि सरकार के अनुबंधित कर्मचारियों को भी इसमें शामिल किया गया है। अनुसूची -। परिवर्तनशील होनी प्रस्तावित है- जिसे संहिता के चरणबद्ध कार्यान्वयन के लिए प्रयोग किया जाएगा। जैसा कि, संहिता को सार्वभौमिक रूप से लागू करने के लिये बनाया गया है, और संस्थाओं/श्रमिकों के विभिन्न वर्गों के अनुकूल विशिष्ट व्यवहार के लिए प्रावधान मौजूद हैं, लेकिन, चरणबद्ध कार्यान्वयन के उद्देश्य से, ऐसे कई श्रमिकों / संस्थाओं (जिन्हें हम धीरे धीरे कर के कवरेज में लाएंगे) शुरू में अनुसूची- I में रखे जाएंगे। तत्पश्चात् कवरेजकवरेज को सार्वभौमिक बनाने के लिए धीरे-धीरे अनुसूची- I को छोटा कर दिया जाएगा।

मजदूरी / आय के संदर्भ में दो सीमा रेखा (Threshold) परिभाषित की गई हैं 'आय की सीमा रेखा' और 'मजदूरी सीमा रेखा'। शब्द 'आय की सीमा रेखा' देय अंशदान पर अधिकतम सीमा निर्धारित करने के उद्देश्य से है। दूसरी ओर, शब्द 'मजदूरी सीमा रेखा' (जो कि न्यूनतम मजदूरी और आय की सीमा रेखा के बीच कहीं होगी) का उपयोग संहिता में श्रमिकों को दो भाग में विभाजित करने के लिए किया गया है (निम्न आय और उच्च आय)। जैसे, सरकार को श्रमिकों के इन दो वर्गों के लिए दो अलग-अलग योजनाएं (एक ही उद्देश्य के लिए) बना सकती है। एक के लिए आर्थिक सहायता दी जा सकती है, जबकि अन्य के लिए नहीं। साथ ही इस शब्द को बीमारी हितलाभ के लिए योग्यता के लिए प्रयोग किया गया है।

एक अन्य सीमा रेखा - एक प्रतिष्ठान के अधीन कार्यरत कर्मचारियों की संख्या के संदर्भ में है। इसका प्रयोग संगठित और असंगठित क्षेत्र को परिभाषित करने के लिए किया जाता है। हालांकि यह संहिता सभी क्षेत्रों (संगठित या असंगठित) पर लागू होता है, इस सीमा रेखा को ग्रेच्युटी की पात्रता के उद्देश्य के लिए रखा गया है।

'हित-लाभ मजदूरी' शब्द योजनाओं के अंतर्गत कर्मचारियों के लिए हितलाभों को पहुंचने के उद्देश्य के लिए है। योजनाओं के अंतर्गत हितलाभ आमतौर पर एक गुणक है जिसे हितलाभ मजदूरी से गुणा कर निकाला जाता है। 'मानी गयी मजदूरी' शब्द को उपदान / कर्मचारी मुआवजे (जहां नियोक्ता की देयता है) को निर्धारित करने के उद्देश्य से अलग तरीके से परिभाषित किया गया है और इसे योजना के हितलाभों को निर्धारित करने के उद्देश्य से थोड़ा अलग तरीके से परिभाषित किया गया है।

भाग - B: सामाजिक सुरक्षा संगठन

यह भाग संहिता के कार्यान्वयन के लिए प्रशासनिक संरचना निर्धारित करता है। 'सामाजिक सुरक्षा संगठन' शब्द राष्ट्रीय परिषद, केंद्रीय बोर्ड और राज्य बोर्ड को दिया गया सामूहिक नाम है, अर्थात्, इस हिस्से के आधार पर स्थापित की गई प्रशासनिक व्यवस्था है।

लगभग 50 करोड़ श्रमिकों को सार्वभौमिक सामाजिक सुरक्षा सेवाएं प्रदान के लिए एक व्यापक व्यवस्था की आवश्यकता होगी। चूंकि वर्तमान क.भ.नि. संगठन / क.रा.बी.निगम की तुलना में इस संहिता का दायरा लगभग 10 गुना बढ़ जाता है, एक विकेंद्रीकृत संरचना (केंद्रीय समन्वय और विनियमन के साथ) का प्रस्ताव दिया गया है। विकेंद्रीकृत दृष्टिकोण का एक और कारण हमारे संविधान का संघीय प्रकृति का होना है। 'श्रम' (या सामाजिक सुरक्षा) विषय संविधान की समवर्ती सूची में आते हैं और इसलिए राज्यों को पर्याप्त भूमिका, शक्तियां और अधिकार क्षेत्र दिए जाने की आवश्यकता है। इसके अलावा, कई ऐसी सामाजिक सुरक्षा योजनाएं चलायी जा रही हैं जो राज्यों द्वारा वित्त पोषित हैं। व्यापक प्रणाली में उन्हें एकीकृत करने के लिए, यह आवश्यक है कि सामाजिक सुरक्षा प्रशासनिक व्यवस्था राज्यों द्वारा संचालित की जाए। सामाजिक सुरक्षा, प्रशासनिक व्यवस्था / प्रवर्तन एजेंसी के व्यापक दायरे और क्षेत्राधिकार को ध्यान में रखते हुए विकेंद्रीकरण अधिक प्रभावी होगा, और पंजीकरण / शिकायत निवारण सेवाओं के लिए पंचायत और नगर निगम निकायों के बुनियादी ढांचे का इस्तेमाल किया जा सकता है।

सामाजिक सुरक्षा संगठनों के डिजाइन के पीछे मजबूत त्रिपक्षीय स्वायत्त संगठनों का निर्माण करने की अवधारणा है जो देश के दूरवर्ती ग्रामीण भागों तक पहुंच सकते हैं। इसके अलावा, यह माना जाता है कि इस व्यापक प्रशासनिक व्यवस्था के माध्यम से

ही सभी सामाजिक सुरक्षा योजनाएं और कार्यक्रम चलेंगे - ताकि विखंडन की समस्या को दूर किया जा सके। सामाजिक सुरक्षा प्रणाली के प्रशासन में स्थानीय निकायों (अर्थात् पंचायत और नगर निगम निकायों) को बहुत महत्वपूर्ण भूमिका भी दी गई है।

दूसरी ओर राष्ट्रीय श्रम परिषद की सिफारिश के अनुसार, संहिता में एक सर्वोच्च विनियामक निकाय (राष्ट्रीय सामाजिक सुरक्षा परिषद) प्रस्तावित है। प्रधानमंत्री की अध्यक्षता वाली राष्ट्रीय परिषद, जिसमें श्रमिकों और नियोक्ताओं के अलावा वित्त, स्वास्थ्य मंत्रियों और सभी राज्यों के मुख्य मंत्रियों एवं सभी संघ राज्य क्षेत्रों के प्रशासकों को शामिल किया गया है, को विभिन्न मंत्रालयों और केंद्र-राज्य के स्तर पर भी सामंजस्यपूर्ण समन्वय लाने के लिए सर्वोच्च निकाय के रूप में स्थापित करने की परिकल्पना की गई है। इसे राष्ट्रीय वस्तु एवं सेवा कर परिषद (जीएसटी परिषद) जो कि भारत में जीएसटी व्यवस्था को सफलतापूर्वक लागू करने में सक्षम रहा है, के तर्ज पर स्थापित करने का प्रस्ताव है। सामाजिक सुरक्षा के इस बहु अनुशासनिक/बहु प्राधिकरण क्षेत्राधिकार को विनियमित और समन्वित करने का कार्य राष्ट्रीय सामाजिक सुरक्षा परिषद का है।

इसके अलावा राष्ट्रव्यापी सामाजिक सुरक्षा स्कीमों का समन्वय, सामाजिक सुरक्षा खाते एवं लाभार्थी के एक राज्य से दूसरे राज्य में स्थानांतरण और धन का व्यावसायिक निवेश (राज्य बोर्डों की ओर से) करने के कार्यों के साथ केन्द्रीय बोर्ड केंद्रीय स्तर पर एक त्रिपक्षीय निकाय है। केंद्रीय बोर्ड विस्तृत पंजीकरण और योजना प्रबंधन के लिए अपेक्षित सूचना प्रौद्योगिकी प्रणाली का प्रबंधन भी करेगा।

राज्य बोर्ड अंतिम त्रिपक्षीय निकाय है जो कि वास्तव में योजनाओं को संचालित और निष्पादित करेगा। इसमें सेवाएं प्रदान करना, अंशदान संग्रह सम्बंधि प्रशासन, प्रवर्तन, अस्पताल प्रबंधन इत्यादि शामिल हैं। इसके अलावा इसे स्थानीय निकायों (पंचायतों / शहरी स्थानीय निकायों) के लिए पंजीकरण और सुविधाएं प्रदान करने के कार्य भी सौंपे गए हैं।

केन्द्रीय बोर्ड और राज्य बोर्ड दोनों में कुछ (सामाजिक सुरक्षा से संबंधित) क्षेत्रों के विशेषज्ञ भी सदस्य के तौर पर होंगे, जो कि क्रमशः केंद्र / राज्य सरकारों द्वारा नियुक्त किए जाएंगे।

कार्यकारिणी समिति और स्थायी समिति क्रमशः राष्ट्रीय परिषद और राज्य बोर्ड के अधीन होंगी। मुख्य निकाय द्वारा दिन-प्रतिदिन के कार्यों के लिए इन समितियों को शक्तियां सौंपी जा सकती हैं।

संहिता में भी 'सलाहकार बोर्ड' की अवधारणा को बनाए रखा गया है जो श्रमिकों के कुछ वर्गों (जैसे बीड़ी कामगारों आदि) के कल्याण के लिए अस्तित्व में हैं। हम समझते हैं कि ऐसे कुछ क्षेत्र होंगे जहां अनौपचारिकता इतनी प्रचलित है कि नियोक्ता-कर्मचारी के संबंधों को पहचान कर पाना मुश्किल हो सकता है और इस प्रकार नियोक्ता/कर्मचारी से अंशदानों को भी एकत्र करना मुश्किल हो जाता है। इस प्रयोजन के लिए, 'अंशदान वृद्धि निधि' की संकल्पना बनाई गई है, जहां धन बजटीय आवंटन या उपकर लगाने के माध्यम से जमा किया जा सकता है। ये सलाहकार बोर्ड कामगारों के उपरोक्त वर्ग के लिए बनाए गए हैं जो 'अंशदान वृद्धि निधि' के इस्तेमाल पर राज्य बोर्डों को परामर्श देंगे।

यदि बोर्ड संहिता के अनुसार उचित कार्य नहीं करता है तो केंद्र सरकार को केन्द्रीय या राज्य बोर्ड को अधिक्रमित करने की शक्तियां दी गई हैं, जबकि राज्य सरकार को स्थायी समिति को अधिक्रमित करने के अधिकार दिए गए हैं।

भाग - C: श्रमिकों और प्रतिष्ठानों का पंजीकरण

इस भाग में श्रमिकों और संस्थाओं के वैधानिक सार्वभौमिक पंजीकरण का प्रावधान है। मूल रूप से, एक श्रमिक के पंजीकरण का प्राथमिक दायित्व नियोक्ता का है। हालांकि, ऐसे सुरक्षात्मक प्रावधान किए गए हैं कि यदि नियोक्ता ऐसा नहीं करता है, तो श्रमिक द्वारा स्वयं अपना पंजीकरण किया जा सकता है, और शेष बचे श्रमिकों, यदि कोई हों, को शामिल करने के लिए सक्रिय अभियान/सर्वेक्षण चलाने की जिम्मेदारी राज्य बोर्ड को दी गई है। स्वनियोजित-श्रमिकों के मामले में, वह स्वयं अपना पंजीकरण कर सकता है।

श्रमिकों के पंजीकरण की गतिविधि जीवनकाल में एक बार होगी, इसके बाद सामाजिक एवं आर्थिक श्रेणी, रोजगार आदि में परिवर्तन पंजीकरण में संशोधन के माध्यम से किया जाएगा। आधार अनिवार्य बना दिया गया है ताकि हितलाभ प्रदान करते समय श्रमिक की असली पहचान (विशेष रूप से प्रवास के मामले में) हो सके। इसके अलावा आधार एक ही व्यक्ति के कई पंजीकरण से होने वाले कदाचार को भी रोक देगा।

संगठित और असंगठित श्रमिकों के लिए पंजीकरण समान है - इसका अर्थ है कि IP (ईएसआईसी), UAN (ईपीएफओ) और UWIN (असंगठित श्रमिकों के सामाजिक सुरक्षा अधिनियम) की वर्तमान अवधारणा का इसमें विलय कर दिया जाएगा। संहिता नियमों में निर्धारित मापदण्डों के आधार पर पंजीकरण के समय श्रमिकों के सामाजिक-आर्थिक वर्गीकरण का प्रावधान है। यह सामाजिक-आर्थिक वर्गीकरण सरकारों को विभिन्न वर्गों के लोगों को अलग-अलग तरीके से प्रबंधित करने में सक्षम करेगा, विशेष रूप से अंशदान संग्रह के मामलों में।

एक सामान्य और सार्वभौमिक पंजीकरण प्रणाली का अर्थ है कि सभी श्रमिकों (संगठित या असंगठित) को मूल योजनाओं के एक ही समूह के अंतर्गत शामिल किया जाएगा। एकमात्र अंतर यह होगा कि किस तरह से अंशदान (या योजनाओं के लिए सदस्यता शुल्क) एकत्र किए जाएंगे, और इस तरह के अंशदान का भुगतान कौन करेगा।

एक श्रमिक का पंजीकरण तब तक सक्रिय रहेगा जब तक वह भारत में सक्रिय काम में लगा रहता है। अगर वह सेवानिवृत्त हो जाता है, या काम में स्वयं को शामिल नहीं करता, तो उसका पंजीकरण निष्क्रिय हो जाएगा। देहावसान अथवा देश से प्रवास के पश्चात श्रमिक का पंजीकरण रद्द हो जाएगा।

यह समझा जाता है कि पंजीकरण परिधि (और परिणामस्वरूप सामाजिक सुरक्षा योजनाओं के दायरे) के अंतर्गत सभी श्रमिकों को शामिल करने के हमारे सर्वोत्तम प्रयासों के बावजूद ऐसे व्यक्ति होंगे जो छुट गए हैं। यह विशेष तौर पर संहिता लागू होने के समय से उन व्यक्तियों के मामले में सही हो सकता है जो संहिता के लागू होने के समय बूढ़े और दुर्बल होने के कारण अंशदान प्रणाली की परिधि में नहीं जा सकते हैं। ऐसे व्यक्तियों के लिए, संहिता में (राज्य सरकार द्वारा वित्त पोषित) सामाजिक सहायता कार्यक्रम की परिकल्पना की गई है, और इस उद्देश्य के लिए ऐसे व्यक्तियों के 'विशेष पंजीकरण' की अवधारणा है।

उन लोगों के लिए जो कामगारों के रूप में शामिल नहीं हैं लेकिन जिनको सामाजिक सहायता उपलब्ध करवाए जाने की आवश्यकता है (पूर्ण रूप से सरकारी वित्त पोषित), उनके लिए विशेष पंजीकरण का प्रावधान है। उदाहरणस्वरूप, वे लोग जो वर्तमान में वृद्ध एवं दुर्बल हैं, एवं श्रमबल में सम्मिलित नहीं हैं उनको विशेष पंजीकरण के अंतर्गत पंजीकृत किया जाएगा। ऐसे विशेष पंजीकृत व्यक्ति राज्य सरकार के सामाजिक सहायता कार्यक्रम के लिए पात्र होंगे।

जहां तक संस्थाओं के पंजीकरण का संबंध है संहिता सभी प्रकार के नियोक्ताओं के पंजीकरण का निर्धारण करता है। चाहे वे प्रतिष्ठान हों (जिनका उद्देश्य व्यावसायिक है) अथवा गृहस्थी (जो घरेलू कामगारों को रोजगार देते हैं)। इसका उद्देश्य सभी प्रकार के नियोक्ताओं को सामाजिक सुरक्षा प्रणाली के दायरे में लाना है।

अंशदान के संग्रहण हेतु संहिता में बेहतर और स्वतः अनुपालन सुनिश्चित करने के लिए टीडीएस जैसी अवधारणा है। इसलिए ऐसी संस्थाओं, जिन्हें स्रोत पर अंशदान कटौती करना अपेक्षित है, को पंजीकृत किया जाना तथा उन्हें टीएएन-जैसी संख्या प्राप्त करने की आवश्यकता है। एक श्रमशक्ति ठेकेदार अथवा नियोजन एजेंसी भी अनिवार्य रूप से पंजीकृत करने का प्रावधान है।

पंजीकरण पर, प्रतिष्ठान को, प्रतिष्ठानों के पेशेवर सुरक्षा एवं स्वास्थ्य (ओ.एस.एच) मानकों के अनुसार निर्धारित मापदंडों के आधार पर चार श्रेणियों में वर्गीकृत किया गया है। यह ओएसएच मानकों के अनुपालन के आधार पर अलग अलग स्तर के स्तरित अंशदान का संग्रहण करने हेतु सरकारों को सक्षम बनाने के लिए किया गया है। इससे प्रतिष्ठानों में ओएसएच अनुपालन बढ़ेगा क्योंकि ओएसएच के उच्चतर मानक के लिए स्तरित अंशदान वित्तीय प्रोत्साहन का काम करेगा।

ऐसे विस्तृत एवं सार्वभौमिक पंजीकरण प्रणाली के लिए पंचायतों एवं नगरपालिका निकायों को कामगारों एवं संस्थानों के पंजीकरण का कार्य सौंपा गया है। राज्य बोर्ड आवश्यक वित्त उपलब्ध करवाएगा। इस उद्देश्य के लिए, सुगम केन्द्रों की स्थापना की जाएगी ताकि पंजीकरण जमीनी स्तर पर किया जा सके।

भाग-D -निधि एवं योजना

संहिता का यह भाग राज्य, संघ राज्य क्षेत्र जहां पर राज्य बोर्ड का गठन किया गया है, में सामाजिक सुरक्षा निधि के स्थापना का प्रावधान करता है। साथ ही यह राज्य ग्रेच्युटी निधि के स्थापना का भी प्रावधान करता है।

संहिता में नियोक्ता द्वारा भुगतान योग्य अंशदान की अधिकतम सीमा (मजदूरी की अधिकतम सीमा तक मासिक आय का 17.5%) निर्धारित किया गया है और साथ ही यह प्रावधान है कि केंद्र सरकार अंशदान की जो दर अधिसूचित करेगी वह

अधिकतम सीमा से अधिक नहीं होगी। नियोक्ता के ऐसे वर्ग पर अंशदान की कम दर लगाने का प्रावधान है जिस वर्ग पर कोई उपकर लगाया गया है। इसी तरह, नियोक्ता के अंशदान उन प्रतिष्ठानों के लिए कम हो सकते हैं जो उच्च ओएसएच मानक बनाए रखने वाले वर्ग से होंगे।

इसके अतिरिक्त, नियोक्ता द्वारा ग्रेच्युटी निधि में (जहां ग्रेच्युटी लागू होता है) मजदूरी का 2% अंशदान के रूप में भुगतान करना अपेक्षित है। प्रधान नियोक्ता को उन कामगारों के लिए भी ग्रेच्युटी निधि का भुगतान करना पड़ेगा जो ठेकेदारों के माध्यम से लगाए गए हैं। ग्रेच्युटी निधि का रखरखाव प्रमुख नियोक्ता के नाम पर किया जाएगा (व्यक्तिगत कामगार के नाम पर नहीं)।

एक भारतीय नागरिक के ऐसे देश में काम करने की स्थिति में जिसके साथ भारत का सामाजिक सुरक्षा समझौता नहीं हो, नियोक्ता उस व्यक्ति के संबंध में वैकल्पिक आधार पर अंशदान का भुगतान कर सकता है।

कामगार का अंशदान भी अधिकतम दर तक (12.5%) तक सीमित है। हालांकि, यदि कामगारसामाजिक आर्थिक श्रेणी-4 से संबंध रखता है, तो कामगार का अंशदान शून्य होगा (अर्थात् ऐसे मामलों में केवल नियोक्ता से एकल अंशदान का ही संग्रहण किया जाएगा)।

स्वनियोजित कामगार एवं किसी उद्यम के मालिक (जो की उस उद्यम में कामगार भी है) के मामले में कोई नियोक्ता नहीं होता। इसलिए ऐसे स्वनियोजित कामगार से (आय का 20% अधिकतम) एकल अंशदान का प्रावधान है। तथापि, यदि कामगार सामाजिक आर्थिक श्रेणी-4 से संबंध रखता है, तो देय अंशदान शून्य होगा (सरकार द्वारा उनकी ओर से अंशदान का भुगतान अपेक्षित है)। साथ ही, ऐसे सामाजिक आर्थिक श्रेणी-3 से संबंध रखने वाले स्वनियोजित कामगार के मामले में कामगार द्वारा ऐसे कामगार की वास्तविक आय से निरपेक्ष एक एकमुश्त अंशदान का भुगतान करना पड़ेगा।

संहिता प्रथम रूप में प्रमुख नियोक्ता को अपने अंशदान के साथ ही साथ उसके द्वारा प्रत्यक्ष या ठेकेदार के माध्यम से नियुक्त कामगारों के हिस्से के अंशदान का भी भुगतान करने की भूमिका देता है। अंशदान का भुगतान मासिक आधार पर करना होगा; तथापि सरल अनुपालन प्रावधान के लिए, गृहस्थ नियोक्ता (घरेलू कामगारों को नियुक्त करने वाले) समेकित अंशदान का भुगतान त्रैमासिक, छमाही आदि के आधार पर कर सकते हैं। स्वनियोजित कामगारों को भी मासिक आधार पर अंशदान का भुगतान करना होगा, तथापि उनके पास भी अंशदान का भुगतान समेकित आधार पर करने का विकल्प है।

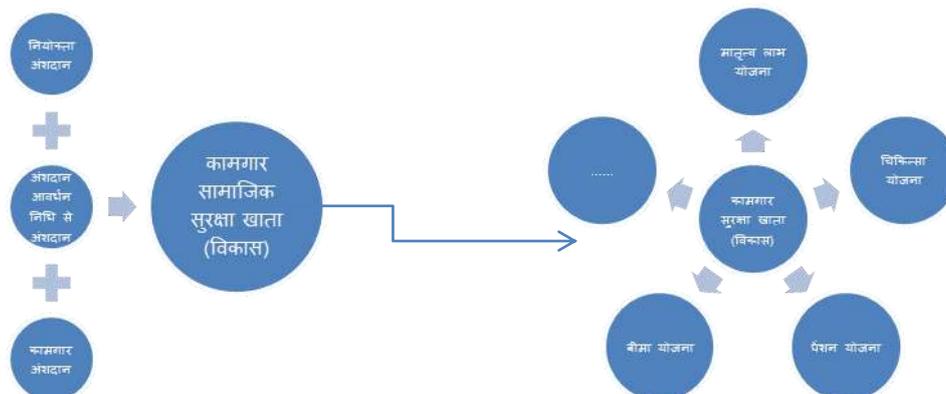
संहिता, अंशदान संवर्धन निधि स्थापित करने के लिए यथास्थिति केंद्र सरकार या राज्य सरकार को सशक्त करती है। अंशदान संवर्धन निधि संबंधित राज्य बोर्ड द्वारा प्रशासित होगा। राज्य बोर्ड, सामान्य या विशेष आदेशों द्वारा कामगारों की तरफ से राज्य अंशदानों को राज्य सामाजिक सुरक्षा निधि में जमा करने के लिए अधिकृत हैं।

एक "सामाजिक सुरक्षा क्षतिपूर्तिनिधि" का भी प्रावधान है, जो राज्य बोर्ड द्वारा प्रशासित होगा। इस निधि का प्रयोग किसी कामगार को कोई भी सेवा प्रदान करने में विफलता या कमीके एवज में क्षतिपूर्ति के भुगतान के लिए किया जाएगा। इस निधि में संहिता के तहत जुर्मानों और हर्जानों से वसूली गई राशि जमा होगी।

संहिता केंद्र सरकार को श्रमिकों या कामगारों के लिए सामाजिक सुरक्षा प्रदान करने के लिए राष्ट्रीय परिषद के परामर्श से योजनाओं को निर्देशित और तैयार करने की शक्ति प्रदान करता है। ये सामान्य, बुनियादी योजनाएँ होंगी, जिनके अंतर्गत सम्पूर्ण देश के सभी कामगारों को शामिल किया जाएगा। यह योजना पूरे देश में एक समान होगी और इन योजनाओं के अंतर्गत हितलाभ के आसान स्थानांतरण का प्रावधान होगा।

राज्य सरकारों को, उन कामगारों के लिए जो केंद्र सरकार द्वारा तैयार योजनाओं के अन्तर्गत पर्याप्त या पूर्ण रूप से कवर नहीं हो पाते हैं, एक या अधिक अनुपूरक योजनाएं तैयार करने के लिए भी सशक्त किया गया है। संहिता में इसके अंतर्गत तैयार योजनाओं के लिए एक अलग निधि के स्थापना का प्रावधान है।

राज्य सामाजिक सुरक्षा निधि में नियोक्ता/कामगार द्वारा समेकित राशि का भुगतान किया जाना होता है। अंशदान का भुगतान करते समय उसको इसका योजनावार विभाजन करने की आवश्यकता नहीं है। राज्य सामाजिक सुरक्षा निधि में प्राप्त निधि प्रत्येक कामगार के विश्वकर्मा कार्मिक सुरक्षा खाता (विकास खाता) में जमा किया जाएगा। यह खाता प्रत्येक कामगार के लिए एक निलम्ब (escrow) खाते की तरह कार्य करता है, और इस खाते से, प्रत्येक योजना के संबंध में सदस्यता राशि को काटा कर योजना निधि में जमा किया जाएगा। इसकी व्याख्या निम्न चार्ट में की गई है:-



यह संहिता एक राष्ट्रीय स्थिरीकरण निधि स्थापित करने का प्रावधान करता है जिसका इस्तेमाल पूरे देश में योजना निधियों को समन्वय करने के लिए किया जाएगा। राष्ट्रीय स्थिरीकरण निधि का प्रबंधन केन्द्रीय बोर्ड द्वारा किया जाएगा। किसी भी योजना में बीमांकिक अधिशेष या अतिरिक्त राशि को राष्ट्रीय स्थिरीकरण निधि में जमा किया जाएगा और यदि कोई राज्य योजना निधि संकट में पड़ जाती है तो इसका उपयोग किया जाएगा। इसका इस्तेमाल बीमांकिक मूल्यांकन के बाद किसी भी योजना में पाए गए घाटे के मामले में राज्य बोर्डों को ऋण या अनुदान प्रदान करने के लिए किया जाएगा।

संहिता यह प्रावधान करती है कि जबकि राज्य योजना निधि राज्यों में निहित होगी, योजना निधि के व्यावसायिक निवेश के उद्देश्य से केंद्रीय बोर्ड राज्य बोर्डों को निवेश सेवाएँ प्रदान करेगा। इसलिए राज्य बोर्ड विद्यमान अधिशेष को व्यावसायिक निवेश के लिए केंद्रीय बोर्डों में स्थानांतरित करेगा, जो राज्य बोर्डों की तरफ से राशि का निवेश करेगा। किसी भी जरूरत में, राज्य बोर्ड उस निवेशित राशि में से अपेक्षित राशि को निकाल सकता है।

संहिता उन लोगों को सामाजिक सहायता उपलब्ध करवाने का प्रावधान करती है जिन्हें नियमित अंशदायी योजनाओं के अंतर्गत शामिल नहीं किया जा सकता है। सामाजिक सहायता हेतु, व्यक्ति का विशेष पंजीयन के अंतर्गत पंजीकरण किया जाएगा तथा राज्य सरकार से प्राप्त निधियों द्वारा ऐसे व्यक्ति को सामाजिक सुरक्षा उपलब्ध करवाई जाएगी।

संहिता के अंतर्गत कोई भी भुगतान अथवा लाभ हस्तांतरणीय या निर्देश्य नहीं होगा। इसमें आगे प्रावधान है कि इस संहिता के अंतर्गत किसी लाभ, सहायता अथवा ग्रेच्युटी का भुगतान किसी अधिनियम के अंतर्गत अथवा किसी न्यायालय की किसी आज्ञा या आदेश के क्रियान्वयन के तहत जब्त नहीं किया जा सकेगा।

यदि एक नियोक्ता एक कर्मचारी को पंजीकृत करने में विफल हो जाता है अथवा कर्मचारी के संबंध में किसी भुगतान की अनदेखी कर देता है, तो भी संहिता में प्रावधान है कि एक हकदार व्यक्ति को हितलाभ का भुगतान किया जा सकता है। परन्तु इस तरह के मामलों में नियोक्ता ब्याज तथा क्षतियों सहित दीर्घावधि और लघु अवधि के हितलाभ के वर्तमान मूल्य तथा चिकित्सा हितलाभ की लागत तथा दीर्घ क्षतिपूर्ति के साथ साथ भुगतान योग्य अंशदान का भुगतान करने के लिए उत्तरदायी होगा।

योजना के अंतर्गत एक राज्य से दूसरे राज्य में नियोजन में हुए किसी परिवर्तन की स्थिति में हितलाभों की सुवाह्यता (पोर्टेबिलिटी) हेतु तरीके, प्रारूप तथा प्रक्रिया के लिए प्रावधान किए गए हैं। अतः लाभ प्राप्त करने के दृष्टिकोण से नियोजन तथा कार्य के स्वरूप में किसी प्रकार का कोई परिवर्तन निर्बाध होगा।

भाग E: उपकर तथा अंशदान संवर्धन निधि

यह भाग एक निश्चित सीमा के ऊपर के सभी निर्माण कार्यों पर भवन एवं निर्माण उपकर लगाने का विशेष प्रावधान करता है। यह भवन एवं निर्माण कामगारों के संरक्षण के लिए है क्योंकि सामान्य रूप से यह पाया गया है कि इन कामगारों को औपचारिक रोजगार संबंध आधार पर नियुक्त नहीं किया जाता है।

भवन एवं अन्य निर्माण कामगार उपकर के भुगतान का दायित्व भूस्वामी (अर्थात् जो व्यक्ति निर्माण कार्य प्रारंभ करता है) पर लगाया गया है क्योंकि निर्माण की संपूर्ण लागत अंततोगत्वा भूस्वामी द्वारा ही वहन की जानी है जो व्यक्ति निर्माण कार्य प्रारंभ करता है। उपकर का संग्रहण आयुक्त द्वारा किया जाएगा तथा उपकर की आय राज्य सरकार द्वारा स्थापित भवन तथा अन्य

निर्माण कामगार अंशदान आवर्धन निधि में जमा करवाई जाएगी। भू-स्वामी उपकर की राशि का भुगतान अग्रिम रूप में कर सकता है जिसे अंतिम निर्धारण में समायोजित कर दिया जाएगा।

संहिता में केन्द्र सरकार सरकार के लिए अन्य उत्पादों एवं सेवाओं पर उपकर लगाने की सामान्य शक्ति का प्रावधान भी है। इसी प्रकार, उपकर के प्रावधान को अंशदानों (नियोक्ताओं/ कर्मचारियों के) के संग्रहण हेतु केवल वैकल्पिक युक्तिके रूप में रखा गया है। सरकार किसी भी क्षेत्र पर उपकर लगाने की इच्छा नहीं रखती क्योंकि भाग-D के अंतर्गतल गाए गए नियोक्ता तथा कर्मचारी अंशदान अपेक्षित सामाजिक सुरक्षा आवश्यकताओं की पूर्ति के लिए पर्याप्त होने चाहिए। तथापि, यह माना गया है कि कुछ क्षेत्र अनौपचारिकता उन्मुख हैं जिसके कारण बहुत से कर्मचारियों को नियोक्ता द्वारा घोषित नहीं किया जाता है जिससे वे सामाजिक सुरक्षा से बाहर रह जाते हैं। इन क्षेत्रों को संभालने के लिए उपकर लगाने की शक्तियों को सुरक्षित रखा गया है ताकि वे क्षेत्र जहां नियोक्ता अपने दायित्वों से बच रहे हैं, संबंधित कामगारों को उपकर लगाकर संरक्षण दिया जा सके तथा उनका अंशदान इस उपकर के संग्रहण में से दिया जा सके।

भाग D में तत्संबंधी प्रावधान है जिसमें यह निर्दिष्ट किया गया है कि उन क्षेत्रों में जहां उपकर लगाया जाता है, वहाँ सरकार ऐसे क्षेत्रों में दोहरेकराधान से बचने के लिए नियोक्ता के अंशदान की प्रतिशतता कम करेगी।

संहिता किसी भी राज्य या इसके किसी भाग में उपकर संग्रह से छूट भी प्रदान कर सकता है बशर्ते कि केन्द्र सरकार, संबंधित राज्य सरकार से परामर्श के बाद संतुष्ट हो जाए कि वहाँ पर एक ऐसा कानून लागू है जिसमें ऐसे व्यक्ति जिसके लिए कोई विशेष उपकर एकत्र किया जा रहा है, जो सामाजिक सुरक्षा को बढ़ावा देने वाली गतिविधियों के वित्त पोषण के लिए पर्याप्त प्रावधान करता है।

भाग-F :-दायित्व

यह अध्याय इस संहिता के अंतर्गत विभिन्न व्यक्तियों के कर्तव्यों का निर्धारण करता है। प्रत्येक नियोक्ता तथा ठेकेदार कर्मचारी के बारे में जिसके संबंध में अंशदान देय है विवरण उपलब्ध करवाते हुए राज्य बोर्ड को विवरण सौंपने के लिए उत्तरदायी है। एक स्वनियोजित कामगार अथवा गृहस्थ एक सरलीकृत विवरणी सह चालान जमा करेगा। आवृत्तिका निर्धारण नियमों में किया जाएगा। विवरणी एक ऐसे व्यक्ति द्वारा भी दायर किया जाना है जो स्रोत पर कटौती अंशदान देने के लिए उत्तरदायी है। यह भाग नियोक्ताओं तथा ठेकेदारों को रजिस्टर रखने का दायित्व भी देता है।

प्रशासनिक प्रभारों का भुगतान नियोक्ताओं द्वारा किया जाना है। प्रशासनिक प्रभारों के गणना का तरीका कर्मचारी भविष्य निधि की तुलना में थोड़ा परिवर्तित किया गया है। मजदूरी की कुछ प्रतिशतता के बदले में, प्रशासनिक प्रभार अंशदान के प्रतिशत (4% से कम) के रूप में होंगे। राज्य (सरकार) के मामले में इन प्रशासनिक प्रभारों की कटौती सरकार के अंशदान से की जाएगी

देयराशि के लंबित भुगतान पर ब्याज 12% के साधारण ब्याज की दर से देय है। उसी प्रकार, प्रतिदाय यदि देय है तो ब्याज सहित देय होगा।

यदि कोई व्यक्ति ऐसा हितलाभ प्राप्त करता है जिसके लिए वह हकदार नहीं था तो हितलाभार्थी ब्याज सहित हितलाभ की उपरोक्त धनराशि को वापस करने के लिए बाध्य है।

यह भाग स्रोत पर अंशदान कटौती (सीडीएस) के सिद्धांत का प्रावधान करता है, जो कि आयकर के स्रोत पर कटौती की तर्ज पर है। किसी भी एजेंसी को कार्य ठेका देने वाला व्यक्ति वह ठेकेदार को देय धनराशि से सीडीएस के रूप में निश्चित धनराशि की कटौती करने के लिए तथा सामाजिक सुरक्षा बोर्ड को जमा करने के लिए बाध्य है। यह भुगतान उपरोक्त ठेकेदार के खाते में जमा होता है तथा इसका उपयोग ठेकेदार द्वारा अपेक्षित अंशदान की देनदारी का भुगतान करने के लिए किया जा सकता है।

यह भाग प्रधान नियोक्ता को ठेकेदारों के माध्यम से नियुक्त लोगों सहित प्रत्येक कार्मिक के लिए प्रशासनिक शुल्क तथा अंशदान के भुगतान के लिए भी बाध्य करता है। मुख्य नियोक्ता, ठेकेदारों को किए गए भुगतान से एसएस फंड को दिए गए प्रशासनिक शुल्क तथा अंशदान के उपरोक्त भुगतान की कटौती कर सकता है तथा इन कटौतियों के लिए ठेकेदार को प्रमाणपत्र प्रदान कर सकता है।

नियोक्ता सामाजिक सुरक्षा निधि में अंशदान का भुगतान करने के लिए नियोक्ता की देनदारी के नाम पर किसी भी कर्मचारी के वेतन से कटौती नहीं कर सकता है। किसी भी प्रतिष्ठान के स्वामित्व के अन्तरण के मामले में, हस्तांतरणकर्ता और हस्तांतरी इस संहिता के अन्तर्गत बकाया राशि का भुगतान करने के लिए संयुक्त रूप से और अलग-अलग उत्तरदायी हैं।

संहिता विवरणियों की गोपनीयता सुनिश्चित करता है। इस संहिता के अंतर्गत कोई भी व्यक्ति किसी भी अनाधिकृत व्यक्ति को इस संहिता के प्रावधानों को लागू करने के दौरान संग्रहित सूचना को जानबूझकर प्रकट, अंतरित नहीं कर सकता और न ही उसकी प्रतिलिपि या अन्यथा किसी भी जानकारी का प्रसार हीं कर सकता है। इसी प्रकार, सामाजिक सुरक्षा संगठन के आंकड़ों को अनाधिकृत रूप से प्राप्त करने, डाउनलोड करने, चुराने, छेड़छाड़ करने अथवा नष्ट करने पर प्रतिबन्ध है।

यह अध्याय इस संहिता के कार्यान्वयन के दौरान एकत्रित आंकड़ों तथा सूचनाओं को गोपनीय रूप में वर्गीकृत करता है तथा ऐसे अपवाद निर्धारित करता है जहाँ सरकार, उसकी एजेंसियों तथा न्यायालयों पर गोपनीयता का प्रतिबंध लागू नहीं है।

भाग - G: ग्रेच्युटी

ग्रेच्युटी भुगतान अधिनियम, 1972 के भुगतान के अंतर्गत प्रावधानों की तरह ही यह भाग ग्रेच्युटी के भुगतान से संबंधित है। इस संहिता के अंतर्गत ग्रेच्युटी योजना की प्रयोज्यता के संबंध में, ग्रेच्युटी की पात्रता, ग्रेच्युटी की एकमुश्त राशि के भुगतान, किसी भी अवार्ड अथवा करार अथवा ठेका के अन्तर्गत ग्रेच्युटी की बेहतर राशि के लिए एक कार्मिक की पात्रता, ग्रेच्युटी की धनराशि तथा निरंतर सेवा की गणना, ग्रेच्युटी के भुगतान में विलंब के ब्याज के भुगतान के प्रावधान ग्रेच्युटी भुगतान अधिनियम, 1972 के अन्तर्गत पहले से ही लागू प्रावधानों के समान है।

तथापि संहिता में जो बदलाव है जहाँ वेतन के 2% की दर से नियोक्ता के अंशदान से राज्य ग्रेच्युटी निधि बनाने का प्रस्ताव है। नियोक्ता का मासिक अंशदान राज्य ग्रेच्युटी निधि में नियोक्ता के व्यक्तिगत खाते में जमा कराने के लिए राज्य बोर्ड द्वारा एकत्रित किया जाएगा। इस प्रकार, राज्य ग्रेच्युटी निधि में नियोक्ता के व्यक्तिगत योगदान की संचयित राशि होगी जो कि एक संयुक्त निधि नहीं होगी। यह संकल्पना ग्रेच्युटी के भुगतान के लिए नियोक्ता को अनिवार्य बचत करवाने के उद्देश्य से की गई है ताकि देय भुगतान के लिए अन्तिम समय में नियोक्ता के बोझ को हल्का किया जा सके।

यदि नियोक्ता ग्रेच्युटी निधि में निधि उपलब्ध है तथा उपरोक्त नियोक्ता का कोई भी कार्मिक ग्रेच्युटी का हकदार बन जाता है, तो आयुक्त राज्य ग्रेच्युटी निधि में नियोक्ता की उपलब्ध धनराशि से कार्मिक को देय ग्रेच्युटी राशि जारी कर सकता है। यदि नियोक्ता के ग्रेच्युटी निधि खाते में पर्याप्त धनराशि नहीं है तो आयुक्त नियोक्ता को 15 दिनों के अंदर अपनी निधि से कार्मिक को ग्रेच्युटी चुकाने के लिए निदेश देता है। इसलिए, प्रस्तावित योजना में, ग्रेच्युटी के भुगतान के लिए अधिकतम अवधि को 60 दिनों तक बढ़ा दिया गया है।

संहिता के इस भाग का सबसे महत्वपूर्ण पहलू प्रधान नियोक्ता को ग्रेच्युटी का भुगतान करने के लिए उत्तरदायी करने के साथ साथ कामगार द्वारा प्रदत्त निरंतर सेवा के अहर्ता की गणना में सेवा अवधि में मुख्य नियोक्ताओं (ठेकेदारों) की भिन्नता एवं संख्या के प्रति निरपेक्षता है। यह एक कार्मिक द्वारा भिन्न प्रधान नियोक्ता अथवा ठेकेदारों के अन्तर्गत प्रदान की गई सेवाओं की सुवाहयता सुनिश्चित करता है। यह भिन्न ठेकेदारों के माध्यम से नियुक्त परंतु एक ही प्रमुख नियोक्ता के अन्तर्गत लगातार सेवाएँ प्रदान करने वाले कामगारों के ग्रेच्युटी के भुगतान की पात्रता के लिए लाभप्रद होगा। वर्तमान में ऐसे प्रदत्त सेवाओं की गिनती नहीं की जाती है।

भाग - H: मातृत्व हितलाभ

संहिता में निर्धारित है कि मातृत्व हितलाभ योजना, प्रतिष्ठान द्वारा नियोजित सभी कर्मचारियों पर लागू होगी चाहे वह प्रत्यक्ष रूप से या ठेकेदार के माध्यम से नियोजित हों या स्वनियोजित कामगार हों। मातृत्व हितलाभ योजना स्वनियोजित कामगारों तथा उन वर्ग-IV कामगारों के लिए भी लागू है जिनके लिए सरकार अंशदान देगी। मातृत्व हितलाभ (सामान्य मामलों में) 26 सप्ताह के लिए देय होगा।

मूल रूप से, मातृत्व हितलाभ का दायित्व मातृत्व हितलाभ निधि द्वारा वहन किया जाएगा। धनराशि प्राप्त किए गए अंशदान से ली जाएगी। तथापि, यदि नियोक्ता अपने कामगार को मातृत्व हितलाभ योजना के अन्तर्गत शामिल करने में असफल रहता है तो, श्रमिक को इस निधि से हितलाभ उपलब्ध कराई जाएगी, तथा वसूलियाँ धारा 28 के अन्तर्गत नियोक्ता से की जाएगी।

नियोक्ता किसी भी प्रसूता आदि को 6 सप्ताह की अवधि के लिए नियोजित नहीं करने के लिए बाध्य होगा। नियोक्ता गर्भवती महिला को कठिन कार्य न देने, महिला को पोषण अन्तराल प्रदान करने, प्रसवावस्थासे उत्पन्न होने वाली बीमारी के मामले में वैतनिक अवकाश प्रदान करने के लिए भी बाध्य है।

नियोक्ता गर्भवती होने के कारण अनुपस्थिति होने पर महिला कर्मचारीको निकाल नहीं कर सकता। आयुक्त को इस संबंध में गलत तरीके से बर्खास्तगी की शिकायतों की जांच करने और सुधारात्मक उपाय करने के अधिकार दिए गए हैं। नियोक्ता भर्ती के दौरान महिला के खिलाफ भेदभाव नहीं कर सकता।

भाग -I पेंशन योजना - सेवानिवृत्ति, अपंगता तथा आश्रित हितलाभ

इस भाग में कार्यरत श्रमिकों को सेवानिवृत्ति पर वृद्धावस्था पेंशन के रूप में या उनके विकलांग होने पर पेंशन के रूप में और मृतक श्रमिक के आश्रितों को पेंशन के रूप में सामाजिक सुरक्षा प्रदान करने के विस्तृत प्रावधान हैं। इस भाग का मूल उद्देश्य श्रमिकों को उनके सक्रिय सेवा जीवन के दौरान व्यापककवरेज एवं वृद्धावस्था अपंगता या आश्रित पेंशन की गारंटी प्रदान करना है। साथ ही यह भाग रोजगार दुर्घटना के कारण अथवा अन्य कारण से मृत्यु/अपंगता के बीच अन्तर नहीं करता है क्योंकि ऐसी एक कार्मिक तथा उसके परिवार के लिए इस प्रकार की आकस्मिकता काफी कष्टदायी होती है, विशेषकर जहाँ कार्मिक एकमात्र कमाने वाला है, उसकी मृत्यु अथवा अपंगता पूरे परिवार को अभावग्रस्त कर देती है। इस प्रकार, इसके तहत संस्थापित पेंशन योजना के माध्यम से विपत्ति में कार्मिक तथा उसके परिवार को आय की सुरक्षा प्रदान करता है।

श्रमिकों के लिए लाभ की गारंटी है तथा यदि कोई कामगार नियोक्ता द्वारा कवरेज न किए जाने के कारण पेंशन योजना के अन्तर्गत हितलाभ प्राप्त करने से वंचित हो तो, प्रारंभ में हितलाभ आयुक्त द्वारा देय होंगे तथा संहिता की धारा 28 के अनुसार नियोक्ता से वसूली की जाएगी।

एक कामगार द्वारा अर्हत सेवा अथवा शर्तों की अपूर्णता के कारण आश्रित अथवा अपंगता हितलाभ प्राप्त करने में असफल होने के मामले में नियोक्ता मुआवजा देने के लिए उत्तरदायी होगा जो कि कार्मिकों के अपंगता के मामले में अथवा उसकी मृत्यु होने पर उसके आश्रितों के लिए स्वीकार्य पेंशन के पूंजीकृत वर्तमान मूल्य की गणना करके निर्धारित किया जाएगा ।

इसीलिए, यह भाग व्यक्तिगत चोटों के लिए मुआवजा प्रदान करने के निधि आधारित दायित्व का प्रावधान करता है : साथ ही आवश्यकता होने पर यह नियोक्ता से मुआवजा प्राप्त करने के लिए कर्मचारी के अधिकारों को पर्याप्त रूप से सुरक्षित रखता है।

खतरनाक वातावरण में काम कर रहे श्रमिकों के अधिकारों की सुरक्षा करने के लिए व्यावसायिक रोग को व्यक्तिगत चोट के प्रकार के रूप में शामिल किया गया है तथा ऐसी बीमारी के होने पर मुआवजा स्वीकार्य है। इस भाग के अन्तर्गत स्वीकार्य मुआवजे के न्यूनतम और अधिकतम मात्रा में के निर्धारण के लिए केन्द्र सरकार को शक्तियाँ दी गई हैं।

अपंगता से सम्बंधित प्रश्नों तथा इसकी सीमाओं का निर्धारण एक चिकित्सा बोर्ड द्वारा किया जाएगा तथा चिकित्सा बोर्ड अपंगता में हुए किसी भी सुधार अथवा वृद्धि का आकलन करने के उद्देश्य से प्रत्येक पाँच वर्ष में अपंगता हितलाभ प्राप्त करने वाले के आवधिक चिकित्सा परीक्षण का आयोजन करेगा। साठ वर्ष की आयु प्राप्त लोगों के संबंध में ऐसे किसी समीक्षा की आवश्यक नहीं होगी।

इस भाग के अन्य बड़े प्रावधान :-

- (i) आयुक्त के माध्यम से मुआवजे का वितरण ; कर्मचारी को सीधा भुगतान स्वीकार्य नहीं है ;
- (ii) निर्धारित तरीके से दुर्घटना सूचना पुस्तक बनाना तथा उसमें प्रविष्टियाँ दर्ज करना नियोक्ता का वैधानिक कर्तव्य।
- (iii) कर्मचारी के मामलों में नियोक्ता के माध्यम से तथा गैर-कर्मचारी के मामले में स्वयं उसके द्वारा या उसके आश्रितों द्वारा आयुक्त को दावे का नोटिस ।

(iv) आयुक्त को इस संहिता के अन्तर्गत मुआवज़े से संबंधित मामले के संदर्भ की तारीख से तीन माह के भीतर निपटारा कर कामगारों को सूचित करने की जिम्मेदारी सौंपी गई है।

भाग - J : बीमारी हितलाभ तथा चिकित्सा हितलाभ

संहिता निर्धारित अंशदायी शर्तों के अनुरूप, श्रमिकों के सभी वर्गों को बीमारी हितलाभ तथा चिकित्सा हितलाभ उपलब्ध करवाना सुनिश्चित करती है। बीमारी हितलाभ (अर्थात् बीमारी के दौरान श्रमिक की मजदूरी) आय सीमा रेखा के अनुसार केवल निम्न आय श्रमिकों के लिए उपलब्ध होंगे। चिकित्सा हितलाभ केवल अधिसूचित क्षेत्रों में ही लागू होंगे।

एक ओर बीमारी हितलाभ बीमारी के दौरान चिकित्सकीय सलाह पर कार्य से अनुपस्थिति की आवश्यकता होने पर मजदूरी की हानि के प्रतिपूर्ति करने का प्रयास करता है, चिकित्सा हितलाभ उचित चिकित्सा देखभाल की सुविधा प्रदान करता है।

संहिता मजदूरी श्रमिकों एवं स्वनियोजित कामगारों के अंशदान से, तथा सामाजिक-आर्थिक रूप से कमज़ोर व्यक्तियों के मामले में राज्य अंशदान के योगदान से बीमारी हितलाभ निधि तथा चिकित्सा हितलाभ योजना निधि के लिए अलग अलग धन की परिकल्पना करता है। दोनों योजनाओं के लिए अंशदान अनिवार्य होगा।

संहिता बीमारी हितलाभ का दावा करने के लिए प्राधिकृत/ मान्यताप्राप्त चिकित्सा पेशेवरों के द्वारा बीमारियों तथा कार्य से अनुपस्थिति की आवश्यकता के प्रमाणन का तौर तरीका सुनिश्चित करता है।

संहिता उन व्यक्तियों अथवा उनके जीवनसाथी जो स्थाई अपंगता के कारण बीमाकृत रोजगार में नहीं हैं अथवा जो सेवानिवृत्ति पर रोजगार छोड़ चुके हैं, जब सामान्य अंशदान देय नहीं रह जाता है, को चिकित्सकीय देखभाल का प्रावधान करता है। वे व्यक्ति जो ऐच्छिक सेवानिवृत्ति योजना के अन्तर्गत सेवानिवृत्ति ले लेते हैं, या समयपूर्व सेवानिवृत्ति ले लेते हैं उनको भी शामिल किया गया है। ऐसे मामलों में, निश्चित शर्तों को पूरा करने पर, सदस्यों को चिकित्सा हितलाभ योजना में विनिर्दिष्ट अंशदान देना होगा।

प्रमाणीकृत बीमारी अथवा चिकित्सीय उपचार के कारण अनुपस्थिति के दौरान नियोक्ता द्वारा कर्मचारी के विरुद्ध बर्खास्तगी, मुक्ति, वेतन में कटौती तथा दंडात्मक कार्रवाई को रोकने के लिए संहिता में सुरक्षा प्रदान की गई है। रोग/ बीमारी से जल्द स्वास्थ्य लाभ पाने के लिए बीमाकृत कर्मचारी को चिकित्सा सलाह का पालन करना होगा।

प्रतिभागी राज्य सरकारों से बीमारी हितलाभ प्रदान करने में प्राप्त अंशदान से अधिक हुए खर्च के वहन की उम्मीद की गई है। कम पड़ने की स्थिति में, केन्द्र सरकार सही/ उचित आधार पर घाटे की प्रतिपूर्ति करने के लिए कदम उठा सकती है।

इसी प्रकार, स्वास्थ्य के अयोग्य कार्यस्थल अथवा आवास की स्थिति के कारण किसी भी प्रतिष्ठान में बीमारी की घटनाएं असामान्य रूप से अधिक होने पर, श्रम आयुक्त हस्तक्षेप कर सकता है। आश्वस्त होने पर वह बीमारी हितलाभ पर किए गए अतिरिक्त व्यय का निर्धारण कर उसे वसूल कर सकता है और राज्य बीमारी निधि खाते में जमा कर सकता है।

संहिता राज्य सरकारों द्वारा स्वास्थ्य देखभाल ढाँचा स्थापित नीयत और प्रयोग करने और उचित चिकित्सा/ शल्य चिकित्सा और प्रसूति संबंधी उपचार के लिए अन्य राज्यों के साथ साझा करने का प्रावधान करती है। राज्य बोर्ड अपने सदस्यों और उनके परिवार को चिकित्सा देखभाल प्रदान करने के लिए तीसरे पक्ष के रूप में मध्यवर्ती एजेंसियों को भी नीयत कर सकती है।

आगे, राज्य सरकारें गैर सदस्यों को अधिसूचित प्रोटोकॉल के अनुसार उपयोगकर्ता शुल्क ले कर अपनी अप्रयुक्त स्वास्थ्य देखभाल ढाँचे का प्रयोग करने की भी अनुमति दे सकती है। उपयोगकर्ता शुल्क चिकित्सा हितलाभ कोष में जमा किया जायेगा।

भाग.K: मध्यवर्ती एजेंसियाँ

जैसा कि पहले स्पष्ट किया गया है, सामाजिक सुरक्षा संहिता में संगठित क्षेत्र के श्रमिकों के अब तक सीमित वर्ग के लिए उपलब्ध सामाजिक सुरक्षा प्रावधानों के सार्वभौमिकरण की परिकल्पना की गई है। ई.एस.आई.सी./ई.पी.एफ.ओ. के अंतर्गत वर्तमान में आने वाले 5-6 करोड़ के मुकाबले लगभग 50 करोड़ श्रमिकों को सेवाएं प्रदान करने के लिए एक वृहद सामाजिक सुरक्षा संरचना की आवश्यकता होगी। सामाजिक सुरक्षा के विशाल दायरे और अधिकार क्षेत्र को देखते हुए संहिता में स्थानीय निकायों के निचले स्तर पर विकेन्द्रीकृत प्रशासन/प्रवर्तन संरचना का प्रस्ताव किया गया है। साथ ही पीएफआरडी अधिनियम की

तर्ज पर चयनित क्षेत्रों जैसे कि निधि प्रबंधन, उपस्थिति बिन्दु, सेवा प्रदान करने, हितलाभ वितरण, रिकार्ड संरक्षण, सामाजिक सुरक्षा प्रबंधन एवं सहायता हेतु PPP प्रणाली को लागू करने के लिए मध्यवर्ती एजेंसियों का प्रावधान किया गया है। ये मध्यवर्ती एजेंसियां राज्य बोर्ड की ओर से काम करेंगी। इस प्रावधान के पीछे यह सोच है कि सदस्यविस्तृत स्तर पर सभी सदस्यों के लिए सेवाओं के वितरण का विस्तार किया जाए जोकि संख्या की दृष्टि से विशाल होने के साथ साथ भौगोलिक प्रसार, सूचनाओं तक पहुंच और इस अधिकार आधारित प्रणाली में भाग लेने की क्षमता की दृष्टि से भिन्न विशेषताओं वाले हैं। साथ ही यह प्रावधान नियमित जिम्मेदारियों के संदर्भ में सामाजिक सुरक्षा संगठनों पर दबाव कम करते हुए, सामाजिक सुरक्षा संहिता से संबंधित विशेष मगर गैर-प्रमुख गतिविधियों के प्रबंधन के लिए विशेषज्ञ एजेंसी लगाए जाने की अनुमति देता है। संहिता के अंतर्गत प्रमुख गतिविधियाँ सामाजिक सुरक्षा संगठनों के दायित्व के तौर पर जारी रहेंगी।

मध्यवर्ती एजेंसियों के काम/कार्य का क्षेत्र महानिदेशक (केन्द्रीय बोर्ड) द्वारा जारी लाइसेंस के निबंधन और शर्तों के अनुसार तय किया जाएगा। मध्यवर्ती एजेंसियों को उनके द्वारा किए जाने वाले कार्यों के अनुरूप विस्तृत पात्रता मानदंडों को पूरा करना होगा। राज्य बोर्ड द्वारा मध्यवर्ती एजेंसियों के शासी निकाय (**Governing Body**) में एक या अधिक सदस्य/निदेशक नामित करने का भी प्रावधान है। इन नामित निदेशकों जो कि सरकारी अधिकारी होंगे, और इनके कर्तव्यों एवं कार्यक्षेत्र का प्राधिकार और जिम्मेदारी सेबी द्वारा स्वतंत्र निदेशकों के लिए जारी दिशानिर्देशों की पद्धति पर परिकल्पित की गई है।

संहिता में संहिता के अंतर्गत गतिविधियों को ऐसी पीपीपी पद्धति से शासित करने से प्रबंधन में मध्यवर्ती एजेंसियों द्वारा संहिता के प्रावधानों के अपवचन या उल्लंघन होने की किसी भी सम्भावना से हर सम्भव बचाव का प्रयास किया गया है। सदस्यों के हितों की रक्षा के लिए मध्यवर्ती एजेंसियों पर नियंत्रण रखने के लिए संहिता में पर्याप्त सुरक्षा उपायों की परिकल्पना की गई है। इसके साथ ही यह मध्यवर्ती एजेंसियों को उनका पक्ष रखने का उचित अवसर प्रदान करता है।

यदि उचित जाँच के उपरांत यह सिद्ध हो जाता है कि मध्यवर्ती एजेंसी ने ऐसे कार्यों जिसके लिए उसे लाइसेंस दिया गया है से संबंधित संहिता के प्रावधानों का उल्लंघन किया है अथवा अगर मध्यवर्ती एजेंसी किसी भी समय लाइसेंस के लिए पात्रता मानदंड के अनुपालन में विफल हो जाती है तो बिना किसी ऐसी जाँच के भी महानिदेशक द्वारा लाइसेंस को रद्द करने और निलंबित करने का प्रावधान है। किसी भी मध्यवर्ती एजेंसी के मामलों की जाँच करने के अधिकार के अंतर्गत आयुक्त यथोचित प्रक्रिया को पूरा करने के लिए एक जाँच अधिकारी नियुक्त कर सकते हैं। जाँच की उचित प्रक्रिया के संचालन हेतु आयुक्त द्वारा नामित प्राधिकृत अधिकारी द्वारा दस्तावेज एवं अन्य अभिलेखों की तलाशी और जब्ती का प्रावधान संहिता में किया गया है। ऐसे दस्तावेजों और अभिलेखों के अनुरक्षण एवं प्रस्तुतीकरण की जिम्मेदारी मध्यवर्ती एजेंसी की होगी। केवल उन मामलों में जहाँ मध्यवर्ती एजेंसी धन प्रबंधन के कार्य से जुड़ी है तलाशी और जब्ती के प्रावधानों का प्रयोग महानिदेशक द्वारा किया जाएगा।

संहिता संचालन से संबंधित जांच के आधार पर संबद्ध व्यक्तियों और मध्यवर्ती एजेंसी द्वारा संहिता के प्रावधानों के समग्र अनुपालन संबंधी रिपोर्ट को केन्द्रीय बोर्ड को प्रस्तुत करने का प्रावधान करती है जो अन्य बातों के साथ-साथ मध्यवर्ती एजेंसी को उपयुक्त आदेश जारी करने, लाइसेंस को रद्द या निलंबित करने का निर्णय ले सकता है, मध्यवर्ती एजेंसी के शासी निकाय को हटाकर प्रशासक नियुक्त कर सकता है, साथ ही साथ सदस्य के हित की सुरक्षा सुनिश्चित करने के लिए मध्यवर्ती एजेंसी की निधियों का रक्षण और प्रबंधन कर सकता है।

भाग-L: वैकल्पिक कवरेज तंत्र

इस अध्याय का उद्देश्य कर्मचारियों और श्रमिकों के लाभ के लिए इस संहिता के अंतर्गत तैयार की गई ऐसी निधि के बदले में किसी भी प्रतिष्ठान को अपनी भविष्य निधि/ग्रेच्युटी निधि संचालित करने की अनुमति देना है। किसी भी प्रतिष्ठान के लिए इस तरह के एक वैकल्पिक तंत्र को चलाने के लिए अर्हता प्राप्त करने का सामान्य नियम है कि कर्मचारी और श्रमिकों के लिए हितलाभ इस संहिता की संबंधित योजना में परिकल्पित हितलाभों के बराबर या इनसे श्रेष्ठतर हों।

संबंधित राज्य बोर्ड के परामर्श के बाद संबंधित राज्य सरकार द्वारा वैकल्पिक कवरेज तंत्र चलाने की अनुमति दी जाएगी। हालांकि, केन्द्र सरकार कुछ संस्थानों के लिए वैकल्पिक कवरेज तंत्र संचालित करने की अनुमति दे सकती है।

स्वयंके वैकल्पिक कवरेज तंत्र को चलाने की मांग करने वाले प्रतिष्ठानों द्वारा निम्नलिखित अर्हता शर्तें पूरी की जानी अपेक्षित है:

1. प्रतिष्ठान द्वारा अनुमति मांगने की तारीख के तत्काल पांच साल पहले की क्रमागत अवधि के लिए इस संहिता के अंतर्गत बिना किसी उल्लंघन के एक व्याप्त प्रतिष्ठान के रूप में अनुपालन किया गया हो।

2. प्रतिष्ठान में सौ या इससे अधिक कर्मचारी नियोजित हों।

यदि वैकल्पिक कवरेज तंत्र को मंजूरी दी जाती है, तो ऐसे प्रतिष्ठान के नियोक्ता द्वारा राज्य सामाजिक सुरक्षा निधि को देय अंशदान को उपयुक्त प्रतिशत से कम किया जाएगा। संहिता के अनुसार जब नियोक्ता को अपने वैकल्पिक कवरेज तंत्र को चलाने की अनुमति दी जाएगी तो संबंधित प्रतिष्ठान के नियोक्ता से यह अपेक्षित होगा कि वह संबंधित योजना निधि के प्रबंधन के लिए न्यासियों का बोर्ड बनाएगा जो की कुछ निर्धारित कर्तव्यों का पालन करेंगे। ऐसे प्रतिष्ठान के नियोक्ता को भी संहिता की धारा 95 की उपधारा (2) में निर्धारित कर्तव्यों का पालन करना होगा।

ऐसे न्यासि और नियोक्ता जो संहिता के अंतर्गत उनके निर्धारित कर्तव्यों के पालन में विफल रहते हैं के विरुद्ध संहिता में वैकल्पिक कवरेज तंत्र को संचालित करने की अनुमति को रद्द करने के साथ साथ उपयुक्त दंड के लिए भी प्रावधान किए गए हैं। रद्दीकरण की स्थिति में कर्मचारियों के खाते में संचय को हस्तांतरित करने के लिए संहिता में समुचित व्यवस्था की गई है।

भाग-M : वित्त एवं लेखा

सामाजिक सुरक्षा संगठनों के साथ साथ मध्यवर्ती एजेंसियों के लिए लेखापरीक्षा, बजट अनुमान, परिसंपत्तियों का स्वामित्व, परिसम्पत्तियों और देनदारियों का मूल्यांकन, हानि को बट्टे खाते में डालना और वार्षिक रिपोर्ट आदि से संबंधित वित्त एवं लेखा से संबंधित मामलों के प्रावधान प्राथमिक रूप से ईपीएफ और एमपी अधिनियम 1952 और ईएसआई अधिनियम 1948 के मौजूदा प्रावधानों की तर्ज पर विकसित किए गए हैं। इस प्रकार तैयारकी गई नियंत्रक एवं महालेखापरीक्षक (सीएजी) की रिपोर्ट यथोचित संसद में अथवा राज्य विधान मंडल में प्रस्तुत की जाएगी।

तथापि संहिता एक पारदर्शी और निष्पक्ष वित्तीय ढाँचा सुनिश्चित करने के लिए एक आविष्कारी और नए दृष्टिकोण की परिकल्पना करती है। इसमें निम्नलिखित शामिल हैं:-

1. सामाजिक सुरक्षा संगठनों की तर्ज पर मध्यवर्ती एजेंसियों के खाते सीएजी लेखा परीक्षा के अधीन होंगे।

2. प्रत्येक 5 वर्षों में राज्य बोर्डों द्वारा सामाजिक सुरक्षा योजनाओं की केन्द्रीय बोर्ड द्वारा अनुमोदित एजेंसियों से सामाजिक लेखा परीक्षा (Social Audit) करवाने का प्रावधान किया गया है। चूँकि संहिता में परिकल्पित सामाजिक सुरक्षा तंत्र स्थानीय निकाय के स्तर सहित विभिन्न स्तरों पर संचालित है, सामाजिक लेखा परीक्षा सदस्यों विशेष रूप से निम्न सामाजिक आर्थिक श्रेणी के श्रमिकों जिनके अंशदान की सब्सिडी सरकारी निधि से दी जाएगी, में स्वामित्व की भावना उत्पन्न करेगी जिससे जमीनी स्तर पर सुधारात्मक उपायों के पहचान में मदद मिलेगी।

बेदावा राशि का प्रबंधन वर्तमान व्यवस्था से बिल्कुल भिन्न रखा गया है। ईपीएफओ में वर्तमान प्रचलन के विपरीत जहाँ बेदावा राशि को उचंत खाता (**suspense account**) में ज्यों का त्यों छोड़ दिया जाता है, संहिता में आयुक्त और वैकल्पिक कवरेज तंत्र चला रहे प्रतिष्ठानों के बोर्ड के न्यासियों के लिए प्रत्येक वर्ष 30 अप्रैल को न्यूनतम 6 महीने की समय सीमा निर्दिष्ट करते हुए पिछले वर्ष की बेदावा राशि के लिए दावे एवं आपत्तियाँ आमंत्रित करने का प्रावधान करती है। इस तरह समय सीमा के पूरा होने पर आयुक्त एवं वैकल्पिक कवरेज तंत्र चला रहे प्रतिष्ठानों के न्यासी बोर्ड के पास से बेदावा राशि को जब्त किया जाएगा और राष्ट्रीय स्थिरकरण कोष में जमा किया जाएगा। हालांकि यह प्रावधान पहली नजर में व्यक्तिगत श्रमिक के लिए अन्यायपूर्ण प्रतीत हो सकता है जिनकी बेदावा राशि को सामान्य पूल में डाल दिया गया है फिर भी यह प्रावधान वास्तव में उस वर्तमान स्थिति को ठीक करने के लिए परिकल्पित किया गया है जहाँ बड़ी संख्या में संदिग्ध राशि उचंत खाते में पड़ी है जिसका कोई लाभ नहीं है। साथ ही साथ श्रमिकों की प्रत्येक श्रेणी की पहचान, पंजीकरण, विपंजीकरण सहित पंजीकरण को अद्यतन करने के लिए प्रस्तावित विस्तृत तंत्र में किसी भी राशि के बेदावा राशि होने की संभावना बहुत कम हो जाएगी। इसका मतलब होगा कि केवल वास्तविक श्रमिकों जोकि संहिता के दायरे से बाहर चले गए हैं, के मामलों में बेदावा राशि रह जाएगी। राष्ट्रीय स्थिरकरण कोष में इस अधिशेष की वृद्धि के डालने से यह राशि सामाजिक सुरक्षा योजनाओं को मजबूत करने और फलतः बेहतर हितलाभ सुनिश्चित करने हेतु तंत्र में वापस चली जाएगी।

भाग N:- सामाजिक सुरक्षा संगठनों के अधिकारी और स्टाफ

यह भाग मौजूदा और साथ ही प्रस्तावित सामाजिक सुरक्षा संगठनों के मानव संसाधन उनकी भर्ती के तरीकों एवं संहिता में कहीं और नहीं बताए गए होने पर उनकी शक्तियों के बारे में बताती है। ये अधिकारी लोक सेवक होंगे और संहिता अथवा इसके तहत बनाए गए नियमों अथवा विनियमों के तहत इनके द्वारा अच्छी भावना से किए गए या किए जाने वाले कार्यों को संरक्षित किया गया है। सामाजिक सुरक्षा संगठनों के वरिष्ठ अधिकारी अपनी शक्तियां कनिष्ठ अधिकारियों और कर्मचारियों को सौंप सकते हैं। पुलिस अधिकारियों को यह जिम्मेदारी दी गई है कि वे संहिता के अनुपालन में अधिकारियों को सूचनाएं एवं सहयोग प्रदान करें।

भारत की सामाजिक सुरक्षा के महानियामक राष्ट्रीय परिषद के सदस्य सचिव और कार्यकारी प्रमुख होंगे। इसी तरह केन्द्रीय बोर्ड के लिए एक महानिदेशक का प्रावधान है जो केन्द्रीय बोर्ड के कार्यकारी प्रमुख होंगे।

नियामक और महानिदेशक जिस अवधि के लिए पदधारित करेंगे वह अवधि पांच वर्ष से अधिक नहीं होगी जैसा कि उनके नियुक्ति आदेश में निर्दिष्ट किया जाएगा। एक निवर्तमान अधिकारी भी पुनः नियुक्ति के लिए पात्र होगा यदि वह अन्यथा पात्र है। उन्हें क्रमशः राष्ट्रीय परिषद/केन्द्रीय बोर्ड की एक विशेष बैठक में कुल शक्ति के न्यूनतम दो तिहाई के द्वारा पारित प्रस्ताव से निकाला जा सकता है।

केन्द्रीय बोर्ड और राष्ट्रीय परिषद के अधिकारियों और कर्मचारियों की भर्ती के तरीके, वेतन और भत्ते, अनुशासन और अन्य सेवा शर्तें तदनुसारी वेतन आहरित करने वाले केन्द्र सरकार के अधिकारियों और कर्मचारियों पर लागू होने वाले नियमों और आदेशों के समान ही होंगे जब तक कि केन्द्र सरकार के पूर्व अनुमोदन से इसमें विचलन न किया गया हो।

राज्य स्तर पर प्रत्येक राज्य में एक सामाजिक सुरक्षा आयुक्त होगा, जिसे राज्य सरकार द्वारा नियुक्त किया जाएगा। वह राज्य बोर्ड के सामान्य अधीक्षण और नियंत्रण के तहत कार्य करेगा तथा राज्य बोर्ड का सदस्य सचिव और मुख्य कार्यकारी होगा। सामान्यतः उसका एक कार्यकाल अधिकतम पांच वर्ष की अवधि का होगा और वह अन्यथा योग्य होने पर पुनर्नियुक्ति का पात्र होगा। यदि वह अयोग्य हो तो उसे राज्य बोर्ड की विशेष बैठक में कुल शक्ति के न्यूनतम दो तिहाई के द्वारा पारित प्रस्ताव से हटाया जा सकता है।

राज्य बोर्ड के अधिकारियों एवं कर्मचारियों की भर्ती के तरीके वेतन और भत्ते, अनुशासन एवं सेवा की अन्य शर्तें वहीं होंगी जो कि उप नियमों में निर्धारित की गई हैं। राज्य सरकार के अनुमोदन से राज्य बोर्ड उक्त उपनियमों में विचलन कर सकता है।

केन्द्रीय बोर्ड और राज्य बोर्डों के अधिकारियों और कर्मचारियों के वेतन और भत्तों का भुगतान प्रशासनिक निधि से किया जाएगा।

यह संहिता भारतीय सामाजिक सुरक्षा सेवा (आई.एस.एस.एस.) नामक सेवा के गठन का प्रस्ताव करती है जो श्रम और रोजगार मंत्रालय भारत सरकार के अधीन एक 'ए' समूह की संगठित सेवा होगी। इस सेवा की परिकल्पना पूरे देश में चल रहे सामाजिक सुरक्षा संगठनों के मानव संसाधन के मुख्य आधार के रूप में कार्य करने के लिए की गई है। सामाजिक सुरक्षा संगठनों का केंद्रीकृत भर्ती व प्रशिक्षण पूरे देश में लिए गए निर्णय और कार्यान्वयन की गुणवत्ता में एकरूपता सुनिश्चित करेगा। इसके अलावा, उनका अखिल भारतीय स्थानांतरण दायित्व यह सुनिश्चित करेगा कि प्रत्येक राज्य बोर्ड को अच्छे अनुभव के सम्मिश्रण वाला अधिकारी मिले। भारतीय सामाजिक सुरक्षा सेवा के अधिकारियों को केन्द्र सरकार द्वारा किसी भी सामाजिक सुरक्षा संगठन में तैनात किया जा सकता है। उनके संबंधित बोर्डों में पदों का कुछ प्रतिशत भारतीय सामाजिक सुरक्षा सेवा के अधिकारियों के लिए रखा जाएगा और बाकी पद संबंधित बोर्ड के विभागीय अधिकारियों के लिए रखे जाएंगे।

इस सेवा को संघ लोक सेवा आयोग द्वारा आयोजित वार्षिक प्रतियोगी परीक्षा के माध्यम से भर्ती किए गए अधिकारियों अथवा सामाजिक सुरक्षा संगठनों अथवा पूर्ववर्ती संगठनों (अर्थात् ईपीएफओ, ईएसआईसी, डीजीएलडब्ल्यू) के अधिकारियों के समवर्गीकरण से तैयार किया जाएगा।

संहिता को लागू करने के उद्देश्य से निरीक्षकों की नियुक्ति की जिम्मेदारी राज्य बोर्डों को सौंपी गई है।

इस संहिता में निरीक्षकों का प्रावधान है जिनके पास जाँच करने, संहिता की प्रयोज्यता का पता लगाने और उसके अनुपालन तथा संहिता के तहत दिए जाने वाले लाभों के दुरुपयोग को रोकने का अधिकार है। उन्हें उन संस्थानों के निरीक्षण करने की भी जिम्मेदारी दी गई है जिन्हें वैकल्पिक व्याप्त तंत्र को भी संचालित करने की अनुमति दी गई है।

सामाजिक सुरक्षा कानून मुख्य रूप से समाज के हाशिए वाले वर्गों के लिए फायदेमंद होते हैं लेकिन प्रक्रियाओं के बारे में समझ और ज्ञान की कमी के कारण इन कानूनों को वे अपने लाभों के लिए उपयोग में नहीं ला पाते हैं। यही कारण है कि इस भाग में सामाजिक सुरक्षा मित्र के नाम से सुविधाकर्ताओं के लिए एक प्रावधान है।

स्थानीय निकायों को संहिता के तहत समकक्ष वेतन वाले राज्य सरकार के अधिकारियों और कर्मचारियों पर लागू होने वाले नियमों और आदेशों के अनुसार सामाजिक सुरक्षा मित्रों की नियुक्ति के लिए अधिकृत किया जाएगा। सामाजिक सुरक्षा मित्रों का वेतन राज्य बोर्ड की प्रशासनिक निधि से स्थानीय निकाय को प्रदत्त अनुदान से देय होगा।

जहाँ तक संहिता के प्रावधानों के तहत लाभ या अनुपालन के लिए प्रक्रियात्मक औपचारिकताओं का संबंध है। किसी भी सामाजिक सुरक्षा मित्र को नियोक्ता और श्रमिकों के मित्र और गाइड होने की भूमिका और जिम्मेदारी दी गई है। विशेष जरूरतों वाले लोगों की सहायता के मामलों में उनकी भूमिका अधिक महत्वपूर्ण हो जाती है।

किसी श्रमिक से प्राप्त शिकायत के संबंध में उन्हें नियोक्ता के प्रारंभिक जांच का अधिकार होगा। उन्हें नियोक्ता और श्रमिक के बीच मध्यस्थता व सुलह कराने और श्रमिक की शिकायत को हल करने के लिए तथा संहिता के अनुपालन को बढ़ावा देने और उनके दायित्वों के उचित निर्वहन के लिए आयुक्त को रिपोर्ट प्रस्तुत करने की जिम्मेदारी भी दी गई है।

भाग- O: बकाया का आकलन और विवादों का निपटान

इस भाग में आयुक्त (अर्थात् उनके अधिकारियों) के अधिकारों को नियोक्ता या किंहीं अन्य व्यक्तियों द्वारा की गई चूक के विरुद्ध संहिता के प्रावधानों का अनुपालन करने के लिए अधिकारों को बताया गया है। ये आयुक्त की शक्तियां हैं और उनके पास संस्थानों /प्रतिष्ठानों आदि द्वारा अनुपालन की जांच करने और यह निर्धारण करने कि क्या वे उचित /पर्याप्त हैं, और यदि नहीं, तो प्रतिष्ठानों के खिलाफ बकाया राशि और क्षति (गैर अनुपालन के लिए) के निर्धारण के लिए पूर्ण प्राधिकार हैं। आकलन अधिकारी को कुछ मामलों में नियोक्ताओं के रिकॉर्डों को विशेषज्ञों द्वारा लेखा परीक्षा करवाने की शक्ति भी प्रदान की गई है।

नियोक्ता/ संस्थान के धारा 122 के तहत किए गए निर्धारण से व्यथित होने की स्थिति में इस भाग में समीक्षा और अपील तंत्र का प्रावधान किया गया है। ऐसे मामलों में जहां नियोक्ता आयुक्त द्वारा की गई अनुपालन कार्रवाई से व्यथित है, प्रथम स्तर की अपील अपीलीय अधिकारी नामक प्राधिकारी के समक्ष की जा सकती है

अन्यत्र , संहिता (भाग Q) में किसी भी श्रमिक/ लाभार्थी (या ट्रेड यूनियनों) को कवरेज न मिलने, सेवाओं की मनाही आदि के मामलों में सुविधाकर्ता के पास शिकायत दर्ज कराने की सुविधा देता है। सुविधाकर्ता ऐसी शिकायत पर निर्धारित कार्रवाई करने के लिए बाध्य है और आयुक्त सुविधाकर्ता की रिपोर्ट पर कार्रवाई करने के लिए बाध्य है। जहां शिकायत पर आयुक्त द्वारा की गई कार्रवाई (या गैर- कार्रवाई) से लाभार्थी व्यथित है, प्रथम स्तर की अपील उसी अपीलीय अधिकारी के समक्ष दायर की जा सकती है।

प्रथम अपीलीय अधिकारी प्राधिकृत अधिकारियों के अन्य आदेशों (संहिता के तहत) के खिलाफ जैसे कि पंजीकरण (या उसकी अस्वीकृति) से संबंधित आदेश/ ग्रेच्युटी की पात्रता से संबंधित आदेश, बेदावा राशि आदि को जब्त करने आदि के आदेशों के बारे में भी अपील सुनता है। उन्हें कुछ प्रश्नों और विवादों का निर्धारण करने की भूमिका भी दी गई है , जैसे कि किसी भी व्यक्ति को कर्मचारी माना जाएगा या नहीं, कोई संस्था प्रमुख नियोक्ता है या नहीं, आदि।

अपीलीय अधिकारियों के समक्ष अपील को दाखिल करने से पहले(प्रथम स्तर) आकलित विवादित राशि को जमा करने की कोई पूर्व शर्त नहीं है। हालांकि, अपील पर कार्रवाई से पहले स्वीकार्य राशि का भुगतान करना होगा। इससे नियोक्ता के विवादों के आसान समाधान संभव होंगे।

आकलन अधिकारी / अपीलीय अधिकारी को अंशदान अथवा देयों के भुगतान में जानबूझकर की गई चूक या विलम्ब की स्थिति में जुर्माना लगाने की शक्ति है।

द्वितीय अपील (अपीलीय अधिकारी के आदेशों के खिलाफ) इस संहिता के तहत बनाए गए न्यायाधिकरण के समक्ष दाखिल की जा सकती है। द्वितीय अपील को दाखिल करने के लिए, अपीलकर्ता को ऐसी किसी भी राशि को जमा करना होगा जो

न्यायाधिकरण निर्धारित करेगा। न्यायाधिकरण मेडिकल बोर्ड के फैसलों और इंटरमीडिएट एजेंसियों के खिलाफ आयुक्त की कार्रवाई से संबंधित मामलों पर भी सीधे अपील सुनेगा।

अनुवर्ती अपील (कानून से संबंधित प्रश्न पर) संबंधित उच्च न्यायालय में की जा सकती है।

भाग -P:अपीलीय न्यायाधिकरण

संहिता में यह उल्लेख है कि सामाजिक सुरक्षा अपीलीय न्यायाधिकरण (एसएसएटी) में दो सदस्य होंगे: जिनमें से एक न्यायिक सदस्य होगा और दूसरा प्रशासनिक सदस्य होगा। यह आगे बताता है कि राष्ट्रीय राजधानी क्षेत्र दिल्ली में स्थित न्यायाधिकरण को प्रधान अपीलीय न्यायाधिकरण के रूप में माना जाएगा और इसके तीन सदस्य होंगे, जिनमें से एक न्यायिक सदस्य होगा और शेष दो प्रशासनिक सदस्य होंगे।

संहिता यह प्रावधान करता है कि एसएसएटी के अधिकारियों और कर्मचारियों का स्वरूप और श्रेणियां संबंधित राज्य सरकार निर्धारित करेगी और न्यायाधिकरण के अधिकारी और कर्मचारी पीठासीन अधिकारी की सामान्य देखरेख के अंतर्गत अपने कार्यों का निर्वहन करेंगे। संहिता में यह भी प्रावधान है कि एसएसएटी के अधिकारियों और कर्मचारियों के वेतन और प्रशासनिक व्यय का बोझ संबंधित राज्य बोर्ड द्वारा वहन किया जाएगा।

संहिता प्रावधान करता है कि न्यायाधिकरण के सदस्यों के बीच मतभेद के मामले में, प्रधान सामाजिक सुरक्षा अपीलीय न्यायाधिकरण का निर्णय बहुमत से तय किया जाएगा, जबकि अन्य न्यायाधिकरण के मामले में मतभेद को निपटारे के लिए प्रधान अपीलीय न्यायाधिकरण को भेजा जाएगा

अंततः, संवैधानिक भावना के अनुरूप, सम्बद्ध एसएसएटी संबंधित उच्च न्यायालय के पर्यवेक्षी क्षेत्राधिकार के अंतर्गत होगा।

भाग -Q:अनुपालन

इस भाग का उद्देश्य दोहरा है -

- (i) निरीक्षण को सुचारु रूप से अमल में लाने के लिए कुछ उदाहरणात्मक मापदंड का निर्धारण करके इस संहिता के प्रावधानों को लागू करने के लिए ठोस ढांचे की नींव रखना; तथा
- (ii) इस संहिता के तहत स्वीकार्य सामाजिक सुरक्षा और इस संहिता के तहत अधिसूचित योजनाओं को अधिकार आधारित बनाना अर्थात् सामाजिक सुरक्षा मित्र जो सभी कामगारों के पहुँच में स्थानीय निकायों के स्तर पर तैनात होंगे, के माध्यम से श्रमिकों के लिए एक आसान और सुलभ शिकायत निवारण तंत्र प्रदान करना।

आयुक्त संस्थाओं के निरीक्षण के लिए एक प्रणाली को अधिसूचित कर सकता है जिसे अन्य कारकों के साथ, ऐसी विशेषताओं को ध्यान में रखते हुए तैयार किया जाएगा, जैसे कि संस्था एक घर है, लघु व्यवसाय या बड़ा उपक्रम है, भौगोलिक फैलाव, रोजगार के प्रकार, काम की प्रकृति जैसे लम्बे और अनियमित काम के घंटे, अनियमित आय, आदि।

प्रत्येक श्रमिक को इस संहिता और योजना के तहत सदस्यों और उनके परिवारों को प्रदान की जाने वाली सामाजिक सुरक्षा व्यवस्था प्रणाली के तहत कवरेज का अधिकार होगा और उन्हें इसके कार्यक्रम के क्रियान्वयन की स्पष्ट, सरल और समय पर जानकारी उपलब्ध कराई जायेगी। अधिकारों की मनाही के मामले में, श्रमिक / पंजीकृत ट्रेड यूनियन / पंजीकृत संगठन या कामगारों का संगठन सामाजिक सुरक्षा मित्र के पास, पावती का साक्ष्य प्राप्त कर, शिकायत दर्ज कर सकता है। सामाजिक सुरक्षा मित्र के पास शिकायत के आधार पर या उनके पास स्वतः उपलब्ध जानकारी के आधार पर भी जाँच करने और आयुक्त को रिपोर्ट प्रस्तुत करने का अधिकार रहेगा।

आयुक्त को श्रमिकों के अधिकारों की सुरक्षा के लिए सुधारात्मक कार्रवाई करने की जिम्मेदारी सौंपी गई है, जिसमें सेवाओं में स्थापित कमी के मामले में क्षतिपूर्ति कोष से मुआवजे का भुगतान भी शामिल है। शिकायतकर्ता सामाजिक सुरक्षा मित्र के माध्यम से निर्धारित समय सीमा के भीतर आयुक्तों के निर्देशों की एक प्रति प्राप्त करने का हकदार होगा।

भाग- R :देय राशि की वसूली

इस भाग में सामाजिक सुरक्षा कोष में ऐसी कोई भुगतान राशि जैसे अंशदान का बकाया , वैकल्पिक व्यापित तंत्र की अनुमति से संचालित एक प्रतिष्ठान द्वारा देय राशि, हर्जाना ,नियोक्ता की त्रुटि के कारण किसी कामगार को सुरक्षा के अंतर्गत न लाने से उसे हितलाभ के मूल्य का भुगतान , देय राशि पर ब्याज, उपकर और अंशदान संवर्धन निधि से संबंधित राशि आदि की किसी से भी वसूली करने के तरीकों और ऐसे विषय पर अधिकारियों की शक्तियों की व्याख्या की गई है ।

वसूली की प्रक्रियाओं का निष्पादन और इस से संबंधित शक्तियों के प्रयोग का अधिकार वसूली अधिकारी के रूप में निर्दिष्ट अधिकारी को सौंपा जाता है । निर्धारण अधिकारी वसूली अधिकारी के क्षेत्राधिकार में रह रहे या व्यवसाय कर रहे नियोक्ता या व्यक्ति से वसूली के लिए वसूली अधिकारी को वसूली प्रमाण पत्र जारी करेगा।

तत्पश्चात, वसूली अधिकारी वसूली करने के लिए संपत्ति की कुर्की और बिक्री, बैंक खातों की कुर्की, नियोक्ता या व्यक्ति की गिरफ्तारी व उसकी कैद (सिविल जेल में) या संपत्ति के प्रबंधन के लिए प्राप्तिकर्ता की नियुक्ति जैसे कोई एक या यह सभी तरीके अपना सकता है । हालांकि, इन शक्तियों के प्रयोग की प्राथमिकता का एक क्रम है और उनके प्रयोग करने के तरीकों और कारणों का लिखित रिकॉर्ड रखा जाएगा।

ऐसे मामलों में जहाँ एक से अधिक वसूली अधिकारी के क्षेत्राधिकार में एक प्रतिष्ठान या नियोक्ता अथवा व्यक्ति की संपत्ति आती है तब उस मामले में निर्धारक अधिकारी द्वारा उन सभी वसूली अधिकारियों को वसूली प्रमाण पत्र भेजा जाएगा।

जब एक बार वसूली प्रमाण पत्र जारी हो जाएगा, तब राशि में सुधार के लिए कोई भी विवाद या किसी भी आधार पर आपत्ति नहीं उठाई जाएगी। वसूली प्रमाण पत्र को वापस लेने , प्रमाण पत्र में किसी तरह की लिपिकीय या अंक गणितीय संबंधी त्रुटियों को सुधारने अथवा राशि के भुगतान के लिए समय सीमा को बढ़ाने की अनुमति देने का अधिकार और वसूली अधिकारी को सूचना भेजने की शक्ति केवल निर्धारक अधिकारी में निहित होगी।

यदि इस संहिता के तहत वसूली की राशि को अपील या अन्य कार्रवाई द्वारा कम करने का आदेश दिया जाता है लेकिन अपीलीय अधिकारी का आदेश आगे की कार्रवाई के अधीन है तो इस संहिता के तहत निर्धारक अधिकारी द्वारा दोनो में कम राशि के ऊपर राशि की वसूली को उस अवधि के लिए रोक दिया जाएगा जिस पर अपील या अन्य कार्यवाही लंबित है । हालांकि, अगर अपील के परिणाम के रूप में जारी आदेश अंतिम और निर्णायक होगा तो वसूली प्रमाण पत्र में संशोधन किया जाएगा या वापस लिया जाएगा ।

आयुक्त को उस व्यक्ति या नियोक्ता जिनसे मूल में वसूली करनी है के देनदार से देय राशि की वसूली के लिए प्राधिकृत किया गया है । आयुक्त ऐसे देनदार को राशि का तत्काल भुगतान करने का निर्देश दे सकते हैं या कुछ समय के लिए देय राशि के भुगतान पर रोक लगा सकते हैं और आयुक्त के समक्ष देनदार मूल चूककर्ता के समान ही जिम्मेदार होगा । जहां पर देनदार द्वारा अन्य व्यक्ति के साथ मिलकर संयुक्त रूप से धन जमा किया जाता है वहां पर ऐसे खातों के संयुक्तधारकों की हिस्सेदारी समान समझी जाएगी जब तक की वह प्रतिकूल साबित ना हो । व्यक्ति (अर्थात देनदार) द्वारा राशि के अनुपात में किए गए भुगतान के पश्चात नियोक्ता अर्थात चूककर्ता या अन्य कोई व्यक्ति के प्रति उसकी भुगतान की जिम्मेदारी से पूर्णतया मुक्ति दे दी जाएगी। आयुक्त ऐसे आदेश को रद्द कर सकता है या भुगतान की समय सीमा को भी बढ़ा सकता है । आयुक्त देय राशि के भुगतान के लिए उस न्यायालय में भी अपील कर सकता है जिसके संरक्षण में नियोक्ता की धन संपत्ति है ।

भारतीय आयकर अधिनियम, 1961 के उद्देश्य के लिए उन प्रावधानों को छोड़कर जो निधि स्थापना संबंधी योजना के किसी प्रावधानों को अप्रभावी बनाते हैं , इस अधिनियम के अध्याय 1 के अर्थातर्गत इस संहिता के अंतर्गत आनेवाले सभी निधियों को मान्यताप्राप्त भविष्यनिधि माना जाएगा । जहां बोर्ड के द्वारा अथवा बोर्ड की ओर से अथवा किसी भी वैकल्पिक कवरेज तंत्र चलाने के लिए अनुमति प्राप्त ट्रस्ट द्वारा किसी भी निगमित निकाय, संस्था, कंपनी, निगम या अन्य किसी संगठन में निधि का निवेश किया गया हो और वह नियत तारीख से 3 माह से अधिक समय तक बकाया शेष रहने पर भुगतान में चूक करता है तो ऐसे मामले में देय राशि के निर्धारण की जांच करने की शक्तियां महानिदेशक और कुछ अधिकारियों के पास निहित होगी ।

भाग S -नियंत्रण

यह भाग अनिवार्यतः सामाजिक सुरक्षा संगठनों के कार्यकरण के संदर्भ में निर्णय लेने के पदानुक्रम को स्थापित करता है। इससे भी अधिक यह उपयुक्त सरकारों की भूमिका को निर्धारित करता है। यह संघीय लोकतंत्र के लिए महत्वपूर्ण भी है जहां सरकार विधायिका के प्रति जवाबदेह होती है। यह इसलिए भी महत्वपूर्ण है क्योंकि सामाजिक आर्थिक संवर्ग 4 की अंशदान के लिए बजट में प्रावधान को उपयुक्त सरकारों द्वारा सुनिश्चित किया जाएगा। राष्ट्रीय परिषद संहिता में अपनी स्थिति के कारण सामाजिक सुरक्षा संगठनों में सर्वोच्च प्राधिकरण है। यह सामाजिक सुरक्षा संगठनों के कामकाज से संबंधित किसी भी मामले की जांच कर सकती है और निष्पक्ष जांच करने के पश्चात केंद्रीय या राज्य बोर्ड को समाप्त करने के आदेश दे सकती है। यह अपनी रिपोर्ट केंद्र सरकार के समक्ष प्रस्तुत कर सकती है। उपयुक्त सरकार को यह अधिकार है कि संहिता के उपयुक्त और प्रभावी प्रवर्तन को सुनिश्चित करने के लिए सूचना मांगने के साथ-साथ निर्देश भी जारी करे।

यह भाग केंद्र सरकार को राज्य सरकार की तुलना में उच्च पदानुक्रमिक स्थिति प्रदान करती है। तथापि इस संघीय ढांचे में राज्यों के प्राधिकार को कम करने के प्रयास के रूप में नहीं देखा जाना चाहिए।

भाग-T- परिवर्तन कालीन प्रावधान

संहिता के कार्यान्वयन के लिए विभिन्न अधिनियम के अंतर्गत मौजूदा 16 योजनाओं के तदनुसंध संहिता के तहत नई योजनाओं में परिवर्तन की जरूरत होगी। अतः वर्तमान योजना निधियों के संचालन को बंद कर दिया जाएगा और इस संहिता के तहत नई योजना निधियाँ इस संहिता की अधिसूचना की तारीख से लागू हो जाएंगी।

संहिता में मौजूदा योजना निधी की परिसंपत्तियों के विभाजन के लिए प्रावधान है। जिससे प्रत्येक राज्य बोर्ड का हिस्सा निर्धारित किया जा सके। मौजूदा योजना निधि की देनदारियों को इस संहिता के अंतर्गत आनेवाली योजना निधि में तत्काल अंतरित कर दिया जाएगा और इसको वहन करने का दायित्व उत्तराधिकारी बोर्ड का होगा।

मौजूदा संगठनों द्वारा लिए गए ठेकों से संबंधित अधिकार और देनदारियाँ संबंधित राज्य बोर्ड के अधिकार एवं देनदारियाँ हो जाएंगी, यदि ठेका का विषय एक राज्य के उद्देश्यों से अधिक हों तो ये केंद्रीय बोर्ड की हो जाएंगी।

मौजूदा योजना के अंतर्गत लाभार्थियों के अधिकारों को इस संहिता में संरक्षित रखा गया है और प्रावधान यह है कि इस संहिता में लाभार्थियों के लिए हितलाभ लेने की पात्रता कुलमिलाकर उनसे अधिक अनुकूल होगी जिन्हें वह बंद योजनाओं के तहत प्राप्त करते थे।

यह संहिता कर्मचारी के नाम जमा किसी भी चालू भविष्य निधि संचित धन को उसपर देय अवितरित ब्याज के साथ इस संहिता के निधि के तहत उस संबंधित कर्मचारी के नाम से खुले भविष्य निधि खाता में अंतरित करने की व्यवस्था प्रदान करता है।

यह संहिता चल रहे मुकदमे के संबंध में यह व्यवस्था करती है कि ईपीएफ अपीलीय न्यायाधिकरण (ईपीएफ एवं एमपी अधिनियम, 1952 के तहत) या कर्मचारी बीमा न्यायालय (ईएसआई अधिनियम, 1948 के तहत) या कामगार क्षतिपूर्ति अधिनियम, 1923 के तहत उच्च न्यायालय में या ग्रेच्युटी संदाय अधिनियम, 1972 के तहत सरकार के समक्ष लंबित आवेदनों को उपयुक्त सामाजिक सुरक्षा अपीलीय न्यायाधिकरण में तत्काल स्थानांतरित किया जा सकता है जिसे इस संहिता के तहत गठित किया जाएगा।

इस संहिता के तहत वर्तमान (पूर्ववर्ती) संगठनों की जनशक्ति के पुनर्गठन के लिए भी व्यवस्था की गई है। राष्ट्रीय परिषद के परामर्श से ई.पी.एफ.ओ., ई.एस.आई.सी. और डी.जी.एल.डब्ल्यू में विभिन्न संवर्गों के पदों के पुनर्गठन और विभाजन तथा केंद्रीय व राज्य बोर्ड में नए संवर्गों का सृजन करने के लिए योजना को तैयार करने के लिए यह केंद्र सरकार को सशक्त बनाती है। वहीं दूसरी तरफ वर्तमान संगठनों के कामगारों के संबंध में उत्तराधिकारी सामाजिक सुरक्षा संगठन का निर्धारण उपर्युक्त पुनर्गठन योजना के अनुसार तैयार आवंटन योजना के अनुसार केंद्रीय बोर्ड द्वारा होगा।

यह संहिता वर्तमान संगठनों के कामगारों की सेवा शर्तों को भी संरक्षण प्रदान करता है। यह नियुक्ति के दिन से पहले सेवा की शर्तों को तुरंत लागू करने की व्यवस्था करता है यदि किसी मामले में जहां कोई व्यक्ति उत्तराधिकारी बोर्ड को आवंटित समझा जाए तब वहां नियुक्ति के दिन से पहले लागू की गई सेवा शर्तों और इसके पश्चात समय-समय पर इसमें किए गए संशोधनों द्वारा सतत् अभिशासित माना जाएगा।

वर्तमान में जिन छूटों(exceptions) का लाभ प्रतिष्ठानों द्वारा उठाया जा रहा है यह संहिता उन छूटों को ईपीएफ एवं एमपी अधिनियम, 1952 के तहत अथवा ईएसआईसी अधिनियम, 1948 के तहत सुरक्षित रखने के लिए, इस संहिता की धारा 94 के तहत वैकल्पिक कवरेज तंत्र के संचालन की अनुमति के रूप में माने जाने का प्रावधान करता है।

भाग- U: अपराध और जुर्माना

इस भाग का उद्देश्य इस संहिता के तहत अपराध माने जाने वाले कृत्य/ चूकों के संबंध में जुर्माने का प्रावधान करना है। किसी भी कानून में जुर्माने की व्यवस्था के उद्देश्य दो होते हैं (1)दंड देना और (2) इससे भी महत्वपूर्ण, अपराध होने से बचाव के रूप में कार्य करना। यह भाग इन दोनों उद्देश्यों को प्राप्त करने का प्रयास करता है।

7वीं अनुसूची अपराधों और इन अपराधों के तदनु रूप जुर्माने को सूचीबद्ध करती है।

संहिता ऐसे अपराध के मामले में जो इस संहिता के तहत कारावास के साथ दंडनीय नहीं है अभियोजन से पहले या उसके बाद आरोपी व्यक्ति के आवेदन पर ऐसी राशि के भुगतान सहित ऐसे नियमों और शर्तों पर आयुक्त द्वारा उस अपराध के प्रशमन (compounding) का प्रावधान करता है।

ऐसे मामलों में किए गए अपराध के लिए जहाँ दो साल से अधिक कारावास के दंड का प्रावधान नहीं है और अदालत उसे सामुदायिक सेवा आदेश देने के लिए उपयुक्त मामला समझता है अदालत के आदेशानुसार अवैतनिक कार्य करने के लिए सामुदायिक सेवा आदेश का प्रावधान करता है।

सामुदायिक सेवा आदेश का तर्क: - सामाजिक सुरक्षा कानून के संबंध में अपराध करने वाला कोई भी व्यक्ति किसी व्यक्ति के विरुद्ध कोई अपराध नहीं करता है, बल्कि पूरे समाजिक सुरक्षा तंत्र को खतरे में डालता है और इसलिए ऐसे व्यक्ति के सुधार के उपाय किए जाने चाहिए जिससे वह भविष्य में ऐसे कृत्य न करे।

केंद्र सरकार को उपभोक्ता मूल्य सूचकांक में होने वाले बदलाव की बढ़ोतरी या कटौती के अनुसार इस भाग तथा सातवीं अनुसूची में विनिर्दिष्ट जुर्माने में बदलाव करने का अधिकार दिया गया है। लम्बे समय तक अचल रहने वाले किसी जुर्माने की सम्भावना से बचाव के लिए इस प्रावधान की आवश्यकता महसूस की गई है।

भाग - V: अधीनस्थ कानून

यह संहिता अनेक प्राधिकरणों को अधीनस्थ कानून बनाने की शक्तियां देता है। केन्द्र सरकार तथा राज्य सरकार नियम बना सकती हैं ; राष्ट्रीय परिषद 'विनियम' बना सकती है तथा केन्द्रीय बोर्ड 'उपनियम' बना सकती है। तीन विभिन्न शब्दों अर्थात् (नियम, विनियम तथा उपनियम) इनके बीच भेद करने के लिए प्रयोग किए गए हैं। विभिन्न स्थानों पर संहिता में केन्द्र सरकार द्वारा बनाए गए नियमों के संबंध में 'विहित'(prescribed) शब्द का प्रयोग किया गया है। राष्ट्रीय परिषद द्वारा बनाए गए 'विनियमों' के संबंध में 'निर्धारित'(stipulated) शब्द तथा केन्द्रीय बोर्ड द्वारा बनाए उपनियमों के संबंध में 'उपनियम में विनिर्दिष्ट' (specified in by-laws) शब्द का उल्लेख किया गया है। इसके अतिरिक्त यदि किसी विषय पर राज्य सरकार द्वारा नियम बनाए जाते हैं तो अलग-अलग उपबंधों में इसका उल्लेख विशेष रूप से किया गया है।

यह भाग ऐसे विषयों को समेकित करता है जिस पर अधीनस्थ कानून बनाए जा सकते हैं। साथ ही, संहिता अनुसूची I से VII तक का उल्लेख करता है, जो कि संहिता के साथ संलग्न हैं। यह भाग इन अनुसूचियों में संशोधन के लिए केन्द्र तथा राज्य सरकार को शक्तियां भी प्रदान करता है। यह ध्यातव्य में रखा जाए कि अनुसूची VII जुर्माने को निर्धारित करती है, जो कि प्रशासक की अधिसूचना द्वारा संशोधित नहीं किया जा सकता, क्योंकि यह विधायिका का विशेषाधिकार है।

भाग- W : निरस्तीकरण एवं शेष

यह संहिता सामाजिक सुरक्षा संबंधी मौजूदा 15 अधिनियमों को निरस्त करेगा। हालांकि यह भाग धीरे-धीरे संहिता को लागू करने का अवसर प्रदान करता है, तथा ये पुराने नियम केवल उन अधिकार क्षेत्रों में निरस्त किए जा सकते हैं जहां संहिता के प्रावधान

लागू हो गए है। जहां अधिनियम लागू नहीं हुआ है मौजूदा नियम पूर्व की भांति चलते रहेंगे। साथ ही संस्थाओं के मामले में जिन पर अनुसूची - I में शामिल होने के कारण संहिता लागू नहीं होती है पुराने नियम उन पर पहले की भांति लागू होते रहेंगे। इसी प्रकार, पुरानी ईपीएफओ / ईएसआईसी योजनाएं तब तक लागू रहेंगी जब तक नई योजना पुरानी योजना को निरस्त नहीं कर देती।

यह भाग केन्द्र सरकार को हो रही कठिनाईयों को दूर करने की भी शक्तियां प्रदान करता है जिससे कि केन्द्र सरकार किसी भी प्रारंभिक रूकावट को दूर करने हेतु सक्षम हो सके।

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.

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.

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
- (vii) The Unorganised Mines Labour Welfare Fund Act, 1946
- (viii) The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
- (ix) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
- (x) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
- (xi) The Beedi Workers Welfare Cess Act, 1976
- (xii) The Beedi Workers Welfare Fund Act, 1976
- (xiii) The Cine Workers Welfare (Cess) Act, 1981
- (xiv) The Cine Workers Welfare Fund Act, 1981
- (xv) The Building and Other Construction Workers Cess Act, 1996

उद्देश्य एवं औचित्य का विवरण

श्रम पर दूसरे राष्ट्रीय आयोग ने जून 2002 में अपनी रिपोर्ट प्रस्तुत की। इस आयोग ने सिफारिश की थी कि सामाजिक सुरक्षा से संबंधित मौजूदा श्रम कानूनों का समूह एक ही सामाजिक सुरक्षा संहिता में एकीकृत कर दिया जाए। रोजगार की प्रकृति से निरपेक्ष सम्पूर्ण श्रमिकों के लिए पर्याप्त सामाजिक सुरक्षा का प्रावधान सतत विकास लक्ष्यों की कार्यसूची सितम्बर, 2015 में आयोजित संयुक्त राष्ट्र शिखर सम्मेलन में अपनाए गए 2030 स्थाई विकास लक्ष्यों के लक्ष्य 8 (सम्माननीय कार्य एवं आर्थिक विकास) को प्राप्त करने की दिशा में मौलिक आवश्यकता के रूप में स्वीकार किया गया है। श्रम पर राष्ट्रीय आयोग की सिफारिशों के अनुसरण में तथा सतत विकास के लक्ष्यों की प्राप्ति की दिशा में प्रतिबद्धता को पूरा करने के लिए भारत सरकार ने सामाजिक सुरक्षा संबंधी व्यापक संहिता को तैयार करने का निर्णय लिया।

इस संहिता का उद्देश्य देश में सभी श्रमिकों के लिए अधिकार आधारित सार्वभौमिक मूलभूत सामाजिक सुरक्षा के लिए एक वैधानिक आधार तथा प्रशासनिक ढांचा उपलब्ध कराना है। अन्य बातों के साथ-साथ इस संहिता का उद्देश्य निम्नलिखित को प्राप्त करना भी है:-

क. पेन्शन, बीमारी हितलाभ, प्रसूति हितलाभ, अपंगता हितलाभ, निशक्तता हितलाभ, आश्रितजन हितलाभ, चिकित्सा हितलाभ, सामूहिक बीमा हितलाभ, भविष्य निधि, बेरोजगारी हितलाभ तथा अंतर्राष्ट्रीय कामगारों का पेन्शन हितलाभ सहित व्यापक सामाजिक सुरक्षा प्रदान करना।

ख. अंशकालिक कामगार, नैमित्तिक कामगार, नियत अवधि के कामगार, खुदरा दर/ कमिशन पर कार्य करने वाले कामगार, घरेलू कामगार, स्वयं की जिम्मेदारी पर कार्य करने वाले कामगार इत्यादि सहित सभी प्रकार के रोजगार को शामिल करना।

ग. सामाजिक सुरक्षा पर योजनाओं तथा विखंडित श्रम कानूनों को एकीकृत करना, सरलीकरण, तर्कसंगत बनाना तथा समेकित करना ताकि उन्हें कम जटिल बनाते हुए अधिक सरल करने, व्यापक तथा प्रभावी रूप से प्रवर्तित करने के साथ उपयुक्त तात्कालिक प्रावधानों के जरिए पहले से ही शामिल लोगों की सुरक्षा का मौजूदा स्तर कायम रखते हुए सामाजिक सुरक्षा प्रदान की जा सके।

घ. व्यावसायिक सुरक्षा एवं स्वास्थ्य तथा रोजगार दुर्घटना के बीच, नीति स्तर पर तालमेल बनाने तथा कार्य निष्पादन की अच्छी स्थितियों को प्रोत्साहित करने के लिए रोजगार नीति तथा बेरोजगारी हितलाभ के बीच कारण संबंध बनाना।

च. विखंडित सामाजिक सुरक्षा योजनाओं को एक छत के नीचे लाने के लिए विभिन्न प्राधिकारियों द्वारा अभिशासित सामाजिक सुरक्षा योजनाओं के विनियमन के लिए राष्ट्रीय सामाजिक सुरक्षा परिषद की स्थापना करना।

छ. केन्द्रीय बोर्ड तथा राज्य बोर्डों के स्थापना के द्वारा सामाजिक सुरक्षा के अभिशासन के लिए एकल विन्डो विकेन्द्रीकृत ढांचे का गठन।

ज. सेवाओं को लागू करना, सुविधाजनक बनाना तथा प्रदान करने के लिए स्थानीय निकायों तथा पंचायतों को सशक्त बनाना।

झ. विभिन्न संवर्ग के श्रमिकों के लिए एक विशिष्ट आधार आधारित पंजीकरण प्रणाली स्थापित करना तथा एक सुवाह्य सामाजिक सुरक्षा खाता प्रदान करना।

ञ समाज के अत्यंत वंचित वर्गों तक सरकार के अंशदान तथा अन्य श्रेणी के कामगारों के लिए नियोक्ता एवं श्रमिक के अंशदान की व्यवस्था द्वारा सामाजिक सुरक्षा की पहुंच को विस्तृत करना।

ट. प्रभावी अधिकार आधारित सामाजिक सुरक्षा को सुनिश्चित करने के लिए एक व्यापक शिकायत निपटान प्रणाली की स्थापना करना।

इस प्रयास में निम्नलिखित 15 केन्द्रीय श्रम अधिनियमों के संबंधित उपबंधों को समेकित, सरलीकृत तथा तर्कसंगत बनाने के बाद एक विधेयक के रूप में सामाजिक सुरक्षा संहिता तैयार की गई है।

- (i) असंगठित कामगार सामाजिक सुरक्षा अधिनियम, 2008
- (ii) अभ्रक कामगार क्षतिपूर्ति अधिनियम, 1923
- (iii) कर्मचारी राज्य बीमा अधिनियम, 1948
- (iv) कर्मचारी भविष्य निधि तथा विविध प्रावधान अधिनियम, 1952
- (v) मातृत्व हितलाभ अधिनियम, 1961
- (vi) ग्रेच्युटी संदाय अधिनियम, 1972
- (vii) असंगठित खदान श्रम कल्याण निधि अधिनियम, 1946
- (viii) चूना पत्थर तथा डोलामाइट खदान श्रम कल्याण निधि अधिनियम, 1972
- (ix) लौह अयस्क खदान, मैंगनीज अयस्क खदान तथा क्रोम अयस्क खदान श्रम कल्याण (उपकर) अधिनियम, 1976
- (x) लौह अयस्क खदान, मैंगनीज अयस्क खदान तथा क्रोम अयस्क खदान श्रम कल्याण निधि अधिनियम, 1976
- (xi) बीड़ी कामगार कल्याण उपकर अधिनियम, 1976
- (xii) बीड़ी कामगार कल्याण निधि अधिनियम, 1976
- (xiii) सिनेमा कामगार कल्याण (उपकर) अधिनियम, 1981
- (xiv) सिनेमा कामगार कल्याण निधि अधिनियम, 1981
- (xv) भवन एवं अन्य निर्माण कामगार उपकर अधिनियम, 1996

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

CLAUSE		Ref.
1.	Short title, extent, application and commencement	
1.1.	This Code may be called the Labour Code on Social Security 2017.	
1.2.	It shall extend to the whole of India	
1.3.	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.	
1.4.	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.	EPF 16 MBA 26
1.5.	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.	
1.6.	The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956 (31 of 1956).	EPF 17AA
1.7.	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.	MBA 27
1.8.	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.,	MBA 27
2.	Definitions. -In this code, unless the context otherwise requires or elsewhere in this code provide-	
2.1.	“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.	
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;	

LABOUR CODE ON SOCIAL SECURITY 2018

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	<ul style="list-style-type: none"> (a) In the matters relating to the National Social Security Council or 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	<ul style="list-style-type: none"> (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- <ul style="list-style-type: none"> (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 -		ECA 5 PGA 4(4)
	Condition	Method of calculation of Benefit Wage	
	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	the average monthly wage or income (or both where applicable) on which the contribution was received, during the said period of twelve months	
	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-	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	
	Provided that the Benefit wage shall not exceed such amount as may be prescribed.		
	Explanation – Different maximum amounts can be prescribed for different benefits.		

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2.12.	“Boards” means the Central Board or the State Boards.	
2.13.	<p>“building or other construction work” means the construction, alteration, repairs, maintenance or demolition of or in relation to;</p> <ul style="list-style-type: none"> (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.	<p>“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—</p> <ul style="list-style-type: none"> (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.	<p>“business includes –</p> <ul style="list-style-type: none"> (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 ancillary to, any trade, commerce or manufacture, adventure or concern; <p>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;</p> <p>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.</p> <p>Explanation 2- Provision of service includes service provided by professionals such as Chartered Accountants, Doctors, Lawyers, Architects, Consultants, Priests etc.</p>	
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	

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	<p>basis, and such work is essentially sporadic in nature and comes without regularity, and does not include-</p> <p>(a) Seasonal worker, or</p> <p>(b) Worker engaged or employed for a work that is the main work carried out by the establishment, or</p> <p>(c) Any worker employed or engaged on 'retainer-ship fee' basis.</p> <p>Explanation - A casual worker is not a part of permanent workforce of an entity but supplies services on irregular or flexible basis.</p>	
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.	<p>"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;</p> <p>Explanation: It shall not include a person directly employed by the employer on a contract</p>	
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.	<p>"contribution" means the sum or money payable under this Code to the State Board –</p> <p>(a) by the principal employer or contractor in respect of an employee; or</p> <p>(b) by the worker himself in case of a non-employee</p> <p>and includes the employers' contribution and the employees' contribution;</p>	
2.33.	<p>"contribution period" means</p> <p>(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;</p> <p>(b) in relation to a non-employee, a calendar month.</p>	
2.34.	<p>"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-</p> <p>(a) Profit</p> <p>(b) Income Tax Liability</p> <p>(c) Cost of finance</p> <p>(d) Expenses on staff welfare incurred beyond minimum statutory provisions</p> <p>(e) Donation as exempted under income tax act 1961 (43 of 1961)</p> <p>(f) Advertising and business promotion expenses except salaries and wages of employees/labourers</p> <p>(g) Audit fees</p> <p>(h) Tender expenses</p> <p>(i) Puja expenses</p> <p>(j) Legal charges and fees</p> <p>(k) Loss on sale of assets and bad debts written off</p> <p>(l) Electric and electronic appliances not covered under the category of furniture and fixtures.</p>	

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	<p>(m) Cost of land</p> <p>(n) Any compensation paid or payable to a worker or his kin under section 61.</p> <p>(o) The cost incurred on purchase and transportation of plant and machinery meant to be used in a factory.</p> <p>Explanation: The cost of plant and machinery used in any construction shall be included in the cost of construction in the following manner, namely:</p> <p>(i) If plant and machinery are hired for construction work, hiring charges during the project period.</p> <p>(ii) If plant and machinery are purchased or owned, the depreciation incurred during the project period.</p>									
2.35..	“covered worker” means a worker to whom this Code applies under sub-section (4) of section 1									
2.36.	<p>“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-</p> <table border="1"> <tr> <td>(a) In case where employee has been in the service of employer or employers who is/are liable to pay contribution for a continuous period of not less than twelve months immediately preceding the date of such liability</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) In case where employee has been in the service of employer or employers who is/are liable to pay contribution, for a continuous period of less than one month immediately preceding the date of such liability</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) In case where employee has been in the service of the employer or employers who is/are liable to pay contribution, for a continuous period not less than one month, but less than twelve months immediately preceding the date of such liability</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) in cases in which it is not possible for want of necessary information to calculate the monthly wages</td> <td>at such rate as may be stipulated for various classes of employment.</td> </tr> </table> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	(a) In case where employee has been in the service of employer or employers who is/are liable to pay contribution for a continuous period of not less than twelve months immediately preceding the date of such liability	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.	(b) In case where employee has been in the service of employer or employers who is/are liable to pay contribution, for a continuous period of less than one month immediately preceding the date of such liability	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.	(c) In case where employee has been in the service of the employer or employers who is/are liable to pay contribution, for a continuous period not less than one month, but less than twelve months immediately preceding the date of such liability	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.	(d) in cases in which it is not possible for want of necessary information to calculate the monthly wages	at such rate as may be stipulated for various classes of employment.	<p>ECA 5</p> <p>PGA 4(4)</p>
(a) In case where employee has been in the service of employer or employers who is/are liable to pay contribution for a continuous period of not less than twelve months immediately preceding the date of such liability	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.									
(b) In case where employee has been in the service of employer or employers who is/are liable to pay contribution, for a continuous period of less than one month immediately preceding the date of such liability	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.									
(c) In case where employee has been in the service of the employer or employers who is/are liable to pay contribution, for a continuous period not less than one month, but less than twelve months immediately preceding the date of such liability	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.									
(d) in cases in which it is not possible for want of necessary information to calculate the monthly wages	at such rate as may be stipulated for various classes of employment.									
2.37.	<p>“dependent ” means any of the following relatives of a deceased person, namely : –</p> <p>(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 ;</p> <p>(ii) parents ;</p> <p>(iii) a biological or adopted offspring who has attained the age of twenty-five and who is infirm, if</p>									

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	<p>wholly dependent on the earnings of the deceased person at the time of his death;</p> <p>(iv) if wholly or in part dependent on the earnings of the deceased person at the time of his death, —</p> <p>(a) a minor biological or adopted daughter, married or widowed ,</p> <p>(b) a minor brother, minor transgender sibling or an unmarried sister or a widowed sister if a minor,</p> <p>(c) a widowed daughter-in-law,</p> <p>(d) a minor offspring of a pre-deceased son,</p> <p>(e) a minor offspring of a pre-deceased daughter where no parent of the said offspring is alive, or</p> <p>(f) a grand-parent if no earning parent of the person is alive ;</p> <p>(g) parents of the spouse if the spouse is not alive.</p>	
2.38.	<p>“immediate family”, in respect of a person, means all or any of the following relatives of such person, namely : —</p> <p>(i) a spouse ;</p> <p>(ii) a minor biological or adopted child dependent upon the person ;</p> <p>(iii) a child who is wholly dependent on the earnings of the person and who is —</p> <p>(a) receiving education, till he or she attains the age of twenty-five years,</p> <p>(b) an unmarried daughter ;</p> <p>(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 ;</p> <p>(v) dependent parents, whose income from all sources does not exceed such amount as may be prescribed;</p> <p>(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 ;</p>	
2.39.	<p>“Director General” means the Director General of Central Board appointed under sub-section (1) of Section 110.</p>	
2.40.	<p>“domestic worker” means, a person who is employed for remuneration whether in cash or kind , in any house hold 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;</p> <p>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.</p>	
2.41.	<p>“dues” means any amount payable or assessed to be payable under the Code or the Schemes framed thereunder and includes-</p> <p>(a) Any Contributions payable by employer or worker,</p> <p>(b) Any Cess payable under the Code,</p> <p>(c) Any Interest or damages payable under the Code,</p> <p>(d) Any Administrative Charges payable under the Code,</p> <p>(e) Any other fees, charges or any other amount payable under the Code, Schemes, Rules, Regulation or By-laws</p> <p>(f) Any charges imposed by the Commissioner or Board</p> <p>(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.</p>	
2.42.	<p>“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 –</p> <p>(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;</p> <p>(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;</p> <p>(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 ;</p> <p>(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;</p>	

	<p>and who gets wages directly or indirectly from the employer of the entity, but does not include a person-</p> <ul style="list-style-type: none"> (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; <p>Explanation – for removal of doubts, the term employee would include all kinds of contracts of employments and includes -</p> <ul style="list-style-type: none"> (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. 									
<p>2.43.</p>	<p>“Employer” means-</p> <table border="1" data-bbox="244 1137 1428 1859"> <tr> <td data-bbox="244 1137 836 1397">(a) in relation to an establishment which is a factory or a mine,</td> <td data-bbox="836 1137 1428 1397">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;</td> </tr> <tr> <td data-bbox="244 1397 836 1592">(b) in relation to an establishment which is under the control of any department of the Central Government or the State Government,</td> <td data-bbox="836 1397 1428 1592">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;</td> </tr> <tr> <td data-bbox="244 1592 836 1792">(c) in relation to any other establishment</td> <td data-bbox="836 1592 1428 1792">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,</td> </tr> <tr> <td data-bbox="244 1792 836 1859">(d) In case of household or an enterprise undertaken by an household</td> <td data-bbox="836 1792 1428 1859">The head of household.</td> </tr> </table> <p>Explanation 1– “employer” includes,</p> <ul style="list-style-type: none"> (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, 	(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.	
(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.									

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	<p>(iii) the legal representative of a deceased employer, and,</p> <p>(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;</p> <p>(v) any land-owner who allows a tenant to use his land on sharecropping basis.</p> <p>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.</p>	
2.44.	<p>“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;</p> <p>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.</p>	
2.45.	<p>“Enterprise” means any project, undertaking or business carried out by any-</p> <p>(a) Organization; or</p> <p>(b) Institution; or</p> <p>(c) Corporation; or</p> <p>(d) local body; or</p> <p>(e) company; or</p> <p>(f) co-operative society or Society registered under Societies Registration Act 1860; or</p> <p>(g) trust; or</p> <p>(h) Political Party; or</p> <p>(i) Trade Union; or</p> <p>(j) Religious institution; or</p> <p>(k) self- help group; or</p> <p>(l) partnership; or</p> <p>(m) person; or</p> <p>(n) Hindu Undivided family; or</p> <p>(o) association of person or body of individuals whether incorporated or not; or</p> <p>(p) any Ministry, Department, Boards, and Authorities of Central, State or Union Territory Government; or</p> <p>(q) any other person or legal entity;</p> <p>and includes any organization under the control of Central or State Government, but does not include households.</p>	
2.46.	<p>“Entity” means –</p> <p>(a) An enterprise; or</p> <p>(b) A household;</p>	
2.47.	<p>“establishment registration officer” means such officers who have been delegated powers to register or de-register establishment under sub-section (5) of section 116.</p>	
2.48.	<p>“Establishment” means an enterprise that employs one or more worker.</p> <p>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</p>	
2.49.	<p>“Executive Committee” means the committee constituted in accordance with the provisions of sub-section (1) of section 5</p>	
2.50.	<p>“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-</p> <p>(a) a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or</p> <p>(b) a mobile unit belonging to the armed forces of the Union, or</p> <p>(c) a railway running shed or</p> <p>(d) a hotel, restaurant or eating place.</p>	
2.51.	<p>“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.</p> <p>Explanation.--Any child lawfully adopted by him/her shall be deemed to be included in his family, and where</p>	

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	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.	<p>“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.</p> <p>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</p>	
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.	<p>“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.</p> <p>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.</p>	
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.	<p>“International Worker” means an employee other than an Indian Citizen working for an entity situated in India, and excludes —</p> <p>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:</p> <p>Explanation - The employee who is citizen or permanent resident of such excluded countries shall have the status of an Indian employee under this Code;</p>	
2.64.	<p>“landlord” in relation to a building or other construction work means person or entity commissioning any building or other construction work.</p> <p>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.</p>	
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.	<p>“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:</p> <p>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</p>	
2.68.	<p>“manufacturing process” means any process for-</p> <ul style="list-style-type: none"> (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 (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or (vi) preserving or storing any article in cold storage; or 	

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	(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 for 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 – (i) any person who is the immediate proprietor or lessee or occupier of the enterprise or any part thereof; and	

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	<p>(ii) 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—</p> <p>(a) merely receives a royalty, rent or fine from the enterprise, subject to any lease, grant or license for the working thereof; or</p> <p>(b) is merely the owner of the premises and not interested in the activities of the enterprise: 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 lessor from any liabilities under this Code.</p>							
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.	<p>“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:</p> <p>Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement.</p>							
2.89.	<p>“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:</p> <p>Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred percent or more ;</p>							
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;							
2.93.	<p>“predecessor organizations” means the Employees’ Provident Fund Organisation, the Employees’ State Insurance Corporation and the Directorate General Labour Welfare under the Ministry of Labour and Employment of the Central Government.</p> <p>Explanation - The term “Employee Provident Fund Organisation” means the institution established under the Employee Provident Fund Act 1952.</p>							
2.94.	“prescribed” means prescribed by rules made by the central government (unless otherwise specified) under this Code;							
2.95.	<p>“Principal Employer” in respect of any worker means –</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">(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.</td> <td style="width: 30%;">the employer of such entity whose work is getting executed;</td> </tr> <tr> <td>(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</td> <td>the employer of such entity that has employed the employee;</td> </tr> <tr> <td>(c) In case of a non-employee worker</td> <td>The said non-employee worker himself.</td> </tr> </table>	(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.	
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(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 temporary nature of projects indicates that a project has a definite beginning and end.							
2.97.	“medical practitioner” means any person registered under any Central Act, Provincial Act, or an Act of the							

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	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.	
2.104.	"Regulator General" means the Regulator General of Social Security appointed under sub-section (1) of section 109.	
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 (d) Food and Nutrition support	
2.119.	"social security" means the measures of protection afforded to worker to ensure access to health care and	

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	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.	<p>“Social Security Organisations” mean the organisations established under this Code, that is to say-</p> <ul style="list-style-type: none"> (a) The National Council, (b) The Central Board and (c) the State Boards; <p>and the term ‘Social Security Organisation’ shall be construed as the concerned National Council , Central Board or State Boards as the context may imply.</p>	
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.	<p>“State Government” means –</p> <ul style="list-style-type: none"> (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 of 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.	<p>“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:</p> <p>provided that in relation to application of a Scheme, superannuation shall mean the attainment of such age, as may be specified in the Schemes.</p>	
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.	<p>“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:</p> <p>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).</p>	
2.130.	<p>“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:</p> <p>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;</p>	
2.131.	“Tribunal” means the Social Security Appellate Tribunal constituted under section 129 and includes the Principal Appellate Tribunal;	
2.132.	<p>“unclaimed amount” means –</p> <ul style="list-style-type: none"> (a) Any amount credited to State Social Security Fund under suspense account (or any other account) which can-not 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.	<p>“Unorganzaed sector” includes –</p> <ul style="list-style-type: none"> (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.	<p>“unorganised worker” means –</p> <ul style="list-style-type: none"> (a) a worker (including home-based worker, own account worker, owner-cum-worker or a wage worker) 	

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	<p>working in the unorganised sector; or</p> <p>(b) a person who gets employed by any entity through an informal contract or in absence of any written contract.</p>	
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.	<p>“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, –</p> <ul style="list-style-type: none"> (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; <p><i>but does not include-</i></p> <ul style="list-style-type: none"> (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.	<p>“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.</p> <p>Explanation – any worker undertaking tenancy of land on sharecropping basis shall be treated as a wage worker.</p>	
2.140.	<p>“worker” means any person who –</p> <ul style="list-style-type: none"> (i) performs a work (intellectual, mental or physical) for an entity; or (ii) provide services, whether regular or part-time to an entity, <p>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-</p> <ul style="list-style-type: none"> (a) an employee; (b) a non-employee (c) an international worker <p>but does not include –</p> <ul style="list-style-type: none"> (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. 	

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	<p>Explanation 1: All employees of an entity shall be workers irrespective of nature of work performed by them.</p> <p>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.</p> <p>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.</p>	
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.	<p>“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-</p> <ul style="list-style-type: none"> (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 Organizations.	
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.	<p>It shall be the function of the National Council to-</p> <ul style="list-style-type: none"> (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.	<p>The National Council shall consist of the following members, namely : –</p> <ul style="list-style-type: none"> (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 	

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	<p style="text-align: center;">the Council of States ; and</p> <p style="text-align: center;">(l) The Regulator-General of the Social Security, ex-officio:</p> <p>Provided that at least one person nominated under each of the clause (g) and (h) shall be a woman.</p>	
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').	EPF 5A ESIC 3
3.5.	<p>It shall be the function of the Central Board –</p> <p>(a) to administer the Scheme funds vested in it in such manner as may be specified in the respective Scheme.</p> <p>(b) to administer other funds including National Stabilization Fund in such manner as may be stipulated.</p> <p>(c) to design and manage the Centralized system of Registration of workers and entities.</p> <p>(d) to develop and manage the Centralized database and Information Technology Infrastructure for implementation of the Code</p> <p>(e) develop and manage the systems for portability of accounts and claims for implementation of Social Security Schemes.</p> <p>(f) coordination and ensure data sharing between State Boards.</p> <p>(g) protecting the interests of scheme members by—</p> <p style="padding-left: 20px;">(i). ensuring safety of the contribution of scheme members to various social security schemes;</p> <p style="padding-left: 20px;">(ii). ensuring that the intermediation and other operational costs under the Social Security Schemes are economical and reasonable;</p> <p>(h) establishing mechanism for redressal of grievances of scheme members;</p> <p>(i) promoting professional organisations connected with the Social Security;</p> <p>(j) undertaking steps for educating members and the general public on issues relating to social security schemes;</p> <p>(k) standardising dissemination of information about performance of social security funds and performance benchmarks;</p> <p>(l) specifying fees or other charges for carrying out the purposes of this Code;</p> <p>(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;</p> <p>(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.</p> <p>(o) monitor utilization of and expenditure from Contribution Augmentation Funds administered by the State Boards;</p> <p>(p) review the record keeping functions performed at the State level;</p> <p>(q) advise the Central Government on such matters arising out of the administration of the Code and Schemes as may be referred to it;</p> <p>(r) perform such other functions as it may be required to perform by or under any provisions of the Schemes framed under this Code,</p> <p>(s) regulating intermediate agencies for implementation of social security schemes;</p> <p>(t) issuing to an intermediate agency, a license and renewing, modifying, withdrawing, suspending or cancelling such license;</p> <p>(u) adjudication of disputes between</p> <p style="padding-left: 40px;">i) intermediate agencies,</p> <p style="padding-left: 40px;">ii) intermediate agencies and State Boards,</p> <p style="padding-left: 40px;">iii) intermediate agencies and scheme members,</p> <p style="padding-left: 40px;">iv) State Boards and scheme members and</p> <p style="padding-left: 40px;">v) State boards</p> <p>(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;</p> <p>(w) exercising such other powers and functions as may be prescribed, or are assigned to it by the Central Government or the National Council.</p>	UWSSA 5(1) UWSSA 5(8)
3.6.	The Central Board shall consist of the following members, namely : —	EPF 5A(1)
	(a) Minister of Labour and Employment as Chairperson;	

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	<p>(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</p>	<p>ESIC 4 UWSSA 5(2)</p>
<p>3.7.</p>	<p>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').</p>	<p>EPF 5B UWSSA 6</p>
<p>3.8.</p>	<p>It shall be the function of the State Board-</p> <p>(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.</p>	<p>UWSSA 6(8) UWSSA 8</p>
<p>3.9.</p>	<p>The State Board shall consist of the following members, namely : – (a) Chief minister of the state as the chairperson.</p>	<p>UWSSA 6(2)</p>

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	<p>(b) Minister incharge of Labour of respective state government as vice Chairperson;</p> <p>(c) Chief secretary in charge of labour department of the state;</p> <p>(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;</p> <p>(e) One officer from Central Government or Central Board as may be nominated by the Central Government;</p> <p>(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;</p> <p>(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.</p> <p>(h) one person representing own account workers to be nominated by the State Government in consultation with such organisations of own account workers</p> <p>(i) one person representing pensioners, having such qualification and experience as may be prescribed, to be appointed by the state government.</p> <p>(j) two members of State Legislative assembly elected by the members of the Legislative assemble of the concerned State;</p> <p>(k) one expert each, having such qualification and experience as may be prescribed, to be appointed by the State Government, having knowledge in –</p> <p>(i). medical sciences and public health</p> <p>(ii). social Security; and</p> <p>(iii). Banking or Finance</p> <p>(iv). Actuarial sciences</p> <p>(l) Commissioner of the State board, ex-officio:</p> <p>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.</p> <p>Provided further that at least –</p> <p>(i). Two persons nominated under each of the clause (f) and (g)</p> <p>(ii). One expert appointed under clause (j)</p> <p>shall be women.</p>	
4.	Procedures and processes of the Social Security Organisations.	
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.	EPF 5C
4.2.	The term of a Social Security Organisation, unless dissolved or superseded earlier, shall be such as may be prescribed.	UWSSA 4(5)
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.	EPF 5A(3) UWSSA 4(4)
4.4.	<p>Disqualification and removal of a member of a Social Security Organisation:</p> <p>No person shall be chosen as, or continue to be, a member of a Social Security Organisation who,-</p> <p>(a). is or at any time has been adjudged insolvent; or</p> <p>(b). is found to be a lunatic or become of unsound mind; or</p> <p>(c). is or has been convicted of any offence involving moral turpitude; or</p> <p>(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</p> <p>(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</p> <p>(f). If he is a member of Parliament or member of State Legislative Assembly, and he becomes a –</p> <p>(i). Minister of Central or State Government or</p> <p>(ii). Speaker or Deputy Speaker of House of People or State Legislative assembly, or</p> <p>(iii). Deputy Chairman of Council of States</p>	ESIC 12 ESIC 13

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	<p>Explanation 1 - If any question arises whether any person is disqualified under point (d) it shall be referred to the appropriate Government and the decision of the appropriate Government on any such question shall be final.</p> <p>Explanation 2 – clause (f) shall not apply in case of persons who are member of the Social Security Organisation ex-officio, by virtue of being a Minister</p>	
4.5.	<p>The appropriate Government may remove from office any member, who,--</p> <p>(a). is or has become subject to any of the disqualifications mentioned in sub-section (4); or</p> <p>(b). is absent without leave of the concerned Social Security Organisation, for more than three consecutive meetings of the concerned Social Security Organisation;</p> <p>(c). in the opinion of the appropriate Government, has so abused the position of member as to render that persons continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member:</p> <p>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.</p>	
4.6.	<p>The members shall hold office for such tenure as may be prescribed:</p> <p>provided that no member shall hold office for more than two consecutive terms.</p>	ESIC 5(1)
4.7.	<p>If in the opinion of the appropriate Government,--</p> <p>(a). the member representing employers and the workers, ceases to adequately represent the employers or, as the case may be, the workers, or</p> <p>(b). the member representing to be an expert in the field, is found not to possess sufficient expertise in the relevant field, or</p> <p>(c). having regard to exigencies of circumstances or services in the Government, the member representing the Government cannot continue to represent the government,</p> <p>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:</p> <p>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.</p>	ESIC 12(2)
4.8.	<p>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.</p>	ESIC 11
4.9.	<p>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:</p> <p>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.</p>	ESIC 14
4.10.	<p>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.</p>	
4.11.	<p>The Central or the State Board shall exercise such administrative and financial powers as are conferred on it by the schemes.</p>	
4.12.	<p>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.</p>	ESIC 20 UWSSA 4(6)
4.13.	<p>Members of the Social Security Organisations, the Executive Committee, and the Standing Committee shall receive such fees and allowances as may be prescribed.</p>	ESIC 15 UWSSA 4(7)
4.14.	<p>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.</p>	ESIC 7
4.15.	<p>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.</p>	ESIC 24 UWSSA 12
5.	Executive Committee of the National Council, Standing Committee of State Boards and Medical	EPF

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	Benefit Council	5AA#
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. (g) The Regulator General, ex-officio: Provided further that at least two persons from amongst persons nominated by the Central Government shall be women.	
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. (h). The Commissioner, ex-officio: provided further that at least one person from amongst persons nominated shall be women.	ESIC 8
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.	ESIC 10
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	ESIC 9

	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.	ESIC 18
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	BOCWA 3(1)
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.	BOCWA 4
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	BOCWA 4

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	<p>(d) One officer of the State Board to be nominated by the Commissioner</p> <p>(e) Two persons representing the employers of the concerned sector, to be nominated by the State Government</p> <p>(f) Two persons representing the workers of the concerned sector, to be nominated by the State Government</p> <p>(g) Two persons nominated by the state government, who in the opinion of the state government represent any other interests, stakeholders or experts, and ought to be represented:</p> <p>Provided that at least one third of the total number of persons nominated under (e), (f) and (g) shall be women.</p>	
6.5.	<p>The State Advisory Committee shall perform the following functions:</p> <p>(a) advise, promote and facilitate the registration of worker and employers and contractors as per the procedure specified under this Code;</p> <p>(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</p> <p>(c) advise the State Board, measures to promote compliance amongst employers.</p> <p>(d) Advise on the matters relating to administration of the concerned Contribution Augmentation Funds</p> <p>(e) Advise such other measures to be taken to promote and strengthen social security coverage and benefits to the concerned workers.</p> <p>(f) Advise on dissemination of information on available social security schemes for the concerned Workers;</p> <p>(g) To advise on such matters so as to prevent misuse and irregularity of the scheme.</p>	
6.6.	<p>The –</p> <p>(a) number of persons to be appointed as members from the categories specified in sub-section (2)</p> <p>(b) term of office and other condition of service of the members of,</p> <p>(c) procedure to be followed in the discharge of their functions by,</p> <p>(d) fee and allowances to be paid to (for attending the meetings) to the members of, and</p> <p>(e) manner of filling vacancies of</p> <p>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.</p>	BOCWA 3(3)
6.7.	<p>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.</p>	
7.	<p>Executive Heads of the Social Security Organisations</p>	
7.1.	<p>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.</p>	
7.2.	<p>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.</p>	
8.	<p>Supersession of the Boards</p>	
8.1.	<p>If the Central Government, on the report of National Council or State Government or otherwise is satisfied that,</p> <p>(a) the Central Board or State Board is unable to perform its functions, or</p> <p>(b) The Central or State Board has persistently made delay in the discharge of its functions or has exceeded or abused its powers,</p> <p>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.</p> <p>Provided that, before issuing a notification under this sub-section on any of the grounds Central</p>	ESIC 21(1)

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	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.	ESIC 21(1)
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.	PFRDA 14(3)

PART C

Registration of Workers and Establishments

11.	Registration of workers	
	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:	
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 by-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 sub-section (64) of section 2 can be provisionally registered without requirement of Aadhaar till such period they become eligible to be registered under Aadhaar. 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	UWSSA 10(1) BOCA 11
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 by-laws, an application for registration, providing such details of the employer and the employee, and such other particulars as may be specified in the by-laws.	UWSSA 10(2) BOCA 12
11.6.	A non-employee shall, within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the by-laws, an application for registration, providing such details about himself and his occupation and such other particulars as may be specified in the by-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).	UWSSA 10(2)
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 by-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 by-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, submit to the Registering Authority, in the manner specified in the by-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 by-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(3)

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	<p>(d) Belongs to the category to which he has applied for. it shall register the applicant:</p> <p>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:</p> <p>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:</p> <p>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.</p> <p>Explanation : The Registering Authority may conduct such inquiry as it may deem fit to satisfy itself that the applicant is eligible for registration under the category he has applied for.</p>	
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.	<p>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:</p> <p>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.</p>	
11.12.	<p>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.</p> <p>Explanation: If an unregistered worker undertakes an employment, he may inform the fact of being unregistered to the employer.</p>	
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.	<p>No –</p> <p>(a) entity shall employ any worker beyond such period as may be stipulated; or</p> <p>(b) contractor shall undertake execution of any work for an entity or provide services of contract workers to any entity</p> <p>unless the said worker or workers are registered.</p>	
11.15.	<p>Whenever -</p> <p>(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,</p> <p>(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 .</p> <p>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.</p>	
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.	<p>It shall be the duty of the employer to provide to his employees-</p> <p>(a) The (Establishment) Registration Number of the Employer, or</p> <p>(b) If the employer is not required to be registered, the Aadhar Number of the Employer,</p> <p>At the time when the worker is employed.</p>	
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-	

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	<ul style="list-style-type: none"> (a) Socio-Economic Status, (b) Occupation, (c) Nature of employment, (d) Citizenship 	
11A.3	<p>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.</p> <p>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.</p>	
11A.4	<p>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-</p> <ul style="list-style-type: none"> (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 –	BOCA 14
12.1.	A worker registered under this Code shall cease to be such in case he or she - <ul style="list-style-type: none"> (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 by-laws.	
12.3.	<p>Any registered worker shall be deemed to be deactivated if he</p> <ul style="list-style-type: none"> (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 <p>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.</p> <p>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 by-laws.</p>	
12.4.	<p>Where it comes to the notice of the Commissioner that a registered worker –</p> <ul style="list-style-type: none"> (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, <p>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.</p>	
13.	Registration certificate, Surveys etc.	UWSSA 10
13.1.	The Commissioner- <ul style="list-style-type: none"> (a) upon registration of a worker shall issue him a VIKAS Certificate which shall inter-alia contain 	BOCA 13

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	his Registration Details and such other information as may be specified in by-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 by-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.	ESIC 2A BOCW 7
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 specified in the by-laws and within such time as may be stipulated. 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	

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	<p>registration under this code if :-</p> <ul style="list-style-type: none"> (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.	<p>Where –</p> <ul style="list-style-type: none"> (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 <p>the Commissioner shall register the entity.</p>	
14.6.	<p>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–</p> <ul style="list-style-type: none"> (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 specified in the notice, as to why his application should not be rejected <p>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.</p>	
14.7.	<p>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.</p>	
14.8.	<p>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.</p>	
14A	Classification of Registered Entities	
14A.1	<p>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:</p> <p>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.</p>	
14A.2	<p>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.</p>	
14A.3	<p>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.</p> <p>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.</p>	
14A.3	<p>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 -</p> <ul style="list-style-type: none"> (a) General Facility Design in relation to Occupational health and safety measures such as- <ul style="list-style-type: none"> (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 - <ul style="list-style-type: none"> (i) Workers’ (and Contractor’s) orientation and training measures (ii) Visitor Orientation programme (iii) Area Signage , Equipment labelling 	

	<p>(iv) Hazard Code implementation</p> <p>(c) Exposure to Hazards in workplaces such as-</p> <ul style="list-style-type: none"> (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 hazard (xvi) Radiological Hazard <p>(d) Protection and prevention measures adopted such as-</p> <ul style="list-style-type: none"> (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.	<p>A registered entity shall inform the Commissioner in the prescribed manner within such time as may be stipulated, if he -</p> <ul style="list-style-type: none"> (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; (f) makes any other change in the ownership or management of the entity or other prescribed particulars <p>and if any such registered entity dies or dissolves or ceases to exist, his legal representative shall, in like manner, inform the said Commissioner</p>	BOCW 7 (4)
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	BOCW 8
16.1.	<p>Where it comes to the notice of the Commissioner that-</p> <ul style="list-style-type: none"> (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, <p>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.</p>	

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	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.	BOCA 10
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	UWSSA 9
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.	

PART D

Funds and Schemes

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.		EPF 5 ESIC 26															
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.		EPF 5(1A)															
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.		ESIC 26(3)															
20.	Contribution to be paid by the employers and workers		ESIC 39															
20.1.	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Explanation 2 – Contribution will also be payable if the worker is an international worker.</p>		EPF 6*															
20.2.	<p>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.</p> <p>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.</p> <p>Explanation 2: In case of workers employed through a contractor, the contribution to State Gratuity Fund shall be paid by the Principal Employer.</p>																	
20.3.	<p>The contribution which shall be payable by the worker to the State Social Security Fund shall be as follows –</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 60%;">If the worker is</th> <th style="width: 30%;">Rate of contribution to be paid</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">(a)</td> <td>Employee not belonging to SEC IV</td> <td>12.5% of wage or wage ceiling whichever is lower</td> </tr> <tr> <td style="text-align: center;">(b)</td> <td>Employee belonging to SEC IV</td> <td>0</td> </tr> <tr> <td style="text-align: center;">(c)</td> <td>Non-Employees belonging to SEC IV</td> <td>0</td> </tr> <tr> <td style="text-align: center;">(d)</td> <td>Non-Employees belonging to SEC III</td> <td>20% of national minimum wage</td> </tr> </tbody> </table>		If the worker is	Rate of contribution to be paid	(a)	Employee not belonging to SEC IV	12.5% of wage or wage ceiling whichever is lower	(b)	Employee belonging to SEC IV	0	(c)	Non-Employees belonging to SEC IV	0	(d)	Non-Employees belonging to SEC III	20% of national minimum wage		
	If the worker is	Rate of contribution to be paid																
(a)	Employee not belonging to SEC IV	12.5% of wage or wage ceiling whichever is lower																
(b)	Employee belonging to SEC IV	0																
(c)	Non-Employees belonging to SEC IV	0																
(d)	Non-Employees belonging to SEC III	20% of national minimum wage																

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	(e)	Non-Employees not belonging to SEC III or IV	20% of (i) monthly income or wage ceiling whichever is lower; or (ii) national minimum wage whichever is higher		
<p>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:</p> <p>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:</p> <p>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.</p> <p>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.</p> <p>Explanation 3 – Worker’s contribution as specified in this sub-section shall also be payable by an International worker.</p>					
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.	<p>In the case of a covered worker who is-</p> <p>(a) an Indian citizen, or</p> <p>(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.</p> <p>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.</p>				
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.	<p>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.</p> <p>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</p>				

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	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.	ESIC 39(3)
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.	ESIC 39(4)
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.	ESIC 40
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.	ESIC 40
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.	ESIC 40
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 can-not 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.	UWSSA 4(1) UWSSA 7(1)

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22.2.	<p>Notwithstanding the generality of sub-section (1), the Central Government may establish the following Contribution Augmentation Funds under each State Board-</p> <ul style="list-style-type: none"> (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 (o) Agricultural workers Contribution Augmentation Fund <p>Provided that the government may establish one fund for more than one class of workers.</p>	
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.	<p>The State Board, in consultation with their respective Advisory Committees where constituted, shall apply the Contribution Augmentation Funds to meet the expenditure incurred towards -</p> <ul style="list-style-type: none"> (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) reimburse 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.	<p>The grant, donation or gifts received under sub-section (8) shall, if the donor has specified –</p> <ul style="list-style-type: none"> (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. 	
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.	<p>The Social Security Reparation fund shall be expended, only for the following purposes –</p> <ul style="list-style-type: none"> (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 	

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	<p>(iii) 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.</p> <p>(iv) Collection of information to detect defaulters</p> <p>(v) Expenses towards conduct of special audit under section 118</p> <p>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.</p>																							
24.	Schemes for Social Security																							
24.1.	<p>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.</p> <p>Provided that the Schemes framed in respect of International workers shall be subject to Social Security Agreements executed between India and the concerned Country:</p> <p>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.</p>	UWSSA 3																						
24.2.	<p>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).</p>	UWSSA 3(3)																						
24.3.	<p>The Appropriate Government, in framing the schemes under sub-section (1) or (2) as the case may be, specify –</p> <p>(a) the entities or class of entities; or establishments or class of establishments to which the said Scheme shall apply or not apply; and</p> <p>(b) workers or class of workers; or employees or class of employees who can be covered under the scheme.</p> <p>(c) Eligibility and conditions for availing the benefits of the Scheme.</p> <p>Explanation: The Appropriate government may frame different schemes for different class of workers for the same purpose.</p> <p>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.</p>	EPF 5(1)																						
24.4.	<p>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.</p>																							
24.5.	<p>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-</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 20%;">Name of the Scheme</th> <th style="width: 40%;">Benefits</th> <th style="width: 35%;">Situations under which benefits shall be provided</th> </tr> </thead> <tbody> <tr> <td rowspan="2">(a)</td> <td rowspan="2">Pension Scheme</td> <td>Superannuation Pension and Retirement Pension</td> <td>Upon cessation of employment due to superannuation or retirement.</td> </tr> <tr> <td>family pension to family members</td> <td>upon death of the pensioner</td> </tr> <tr> <td>(b)</td> <td>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)</td> <td>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)</td> <td>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>		Name of the Scheme	Benefits	Situations under which benefits shall be provided	(a)	Pension Scheme	Superannuation Pension and Retirement Pension	Upon cessation of employment due to superannuation or retirement.	family pension to family members	upon death of the pensioner	(b)	Dependents' benefit Scheme	Dependents' benefits to dependents of a scheme member	upon death of the scheme member during work life	(c)	Disablement benefit Scheme	disablement benefit to a scheme member	A scheme member who meets with an accident during service or work life	(d)	Sickness Benefit Scheme	providing for periodical cash payments to scheme member	in case scheme member contracts sickness that requires confinement.	EPF 6A EPF 6C ESIC 46 UWSSA 3(1)
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	(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.				EPF 5(1B) UWSSA 4(2)	
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.				EPF 6D	
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				EPF 6A(7)	

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	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 the 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.	EPF 5(1) 6A
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 – (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.	

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25A	National Stablisation Fund	
25A.1	There may be established, a Fund, to be called as National Stablisation Fund, which shall vest in, and be administered by the Central Board in such manner as may be stipulated.	
25A.2	The Unclaimed amounts confiscated under section 108 shall be credited to the National Stablisation Fund.	
25A.3	Upon Actuarial evaluation of any Scheme Fund, (including Schemes and Funds under the Employees' Provident Fund Act 1952 or Employees' State Insurance Act 1948), if the assessed scheme assets are in excess of the projected scheme liabilities, then, subject to regulations made in this regard, such percentage of the said excess as may be stipulated shall be debited from the Scheme Fund and credited to the National Stabilization Fund.	
25A.4	The Central Government may, after due appropriation by Parliament by law make grants to the National Stablisation Fund from time to time and the moneys so received shall be credited to the National Stablisation fund.	
25A.5	The National Stablisation Fund shall be expended, only for the following purposes – (i) Providing loans or grants to State Boards in the Scheme Funds where the Actuarial evaluations assess the scheme to be in deficit, or (ii) Providing loans or grants to the State Boards to meet any contingent expenditures arising out of calamities or disasters, Provided that no loan or grant from the National Stablisation Funds under clause (i) shall be granted unless the concerned State Board has taken, to the satisfaction of the Central Board, sufficient remedial steps to overcome the deficits in the Scheme.	
25A.6	The – (a) manner in which, (b) eligibility conditions subject to which, and (c) terms and conditions on which the loans or grants from the National Stablisation Fund shall be provided shall be such as may be prescribed.	
25B	Investment of Funds	
25B.1	Any surplus (that is, amount credited minus expenditure incurred or apportionment made) in a Contribution Augmentation Fund, Scheme Fund or State Gratuity Fund, Reparation Fund, if any, shall be credited by the State Boards to the Central Board on such intervals as may be stipulated for professional management of investment of the Scheme Funds. Provided that the State Boards shall maintain a reserve of such amount as may be stipulated to meet contingent obligations.	
25B.2	The Central Board shall – (a) manage the investment of – (i) the Funds mentioned in sub- Section (1) on behalf of the States ; and (ii) the National Stablisation Fund. in accordance with the investment pattern notified by the Central Government; and (b) remit to the State Boards, from time to time, such amounts from the State's Scheme Fund or Gratuity Fund being managed by it, as may be required by the State Board to meet the Scheme obligations.	
25C	Social Assistance Scheme	
25C.1	The State Government may, after previous publication in the manner prescribed, make one or more schemes for Social Assistance of persons registered under Section 13A.	
25C.2	Provisions of Section 24.6 shall apply mutatis – mutandis to the Social Assistance Schemes framed under sub-section (1)	
25C.3	There may be established, a Fund, to be called as Social Assistance Fund, which shall vest in, and be administered by the State Board in such manner as may be stipulated.	
25C.4	The State Government may, after due appropriation by State Legislature by law make grants to the Social Assistance Fund from time to time and the moneys so received shall be credited to the Social Assistance Fund.	
25C.5	The benefits of the Social Assistance Scheme shall be paid from the Social Assistance Fund.	
26.	Assistance or Benefit not assignable or attachable. —	ESIC 60
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.	

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26.3.	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.	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.	EPF 10(1)
26.5.	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 dependents or nominee under the Scheme, subject to any deduction authorised by the said Scheme, vest in the dependent 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.	10(2)
27.	Certain Restrictions and prohibitions on Scheme Beneficiaries.-	
27.1.	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.	ESIC 62
27.2.	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.	ESIC 63
27.3.	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.	ESIC 65
27.4.	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.	ESIC 91(B)
28.	Allowing of Benefits even when contribution is not received.	ESIC 68
28.1.	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 dependents 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.	

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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.	EPF 11 ESIC 94
29.1.	<p>Where any employer is adjudicated insolvent or, being a company, an order for winding up or dissolution is made, the amount due -</p> <p>(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;</p> <p>(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 –</p> <p>(i). any contribution payable by him towards the Scheme Fund under sub-section (3) of section 95, or</p> <p>(ii). any damages recoverable under section 121 or</p> <p>(iii). any charges payable by him to the appropriate Government under any provision of this Code, or</p> <p>(iv). Any accumulations required to be transferred by him under sub-section (4) of section 96, or</p> <p>(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.</p>	11(1)
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.	11(2)
30.	Fund to be recognised under Income Tax Act, 1961.	EPF 9
30.1.	<p>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:</p> <p>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.</p>	
31.	Portability of worker's social security account	
31.1.	<p>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, –</p> <p>(a) request for continuance of his social security account in the source state, or</p> <p>(b) Request for transfer of his social security account to the destination state where he works or to the State of his permanent residence:</p> <p>Provided that if no request is made, the social security account shall be continued to be maintained in the source state.</p>	
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.	<p>Where a worker works in a State and the social Security Account is maintained by another state,</p> <p>(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:</p> <p>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.</p> <p>(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.</p>	

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	<p>Explanation- 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.</p> <p>(c) The worker shall be entitled to claim or avail medical benefits available in the Medical benefit scheme, from the state where he works.</p>	
31.4.	<p>Where a worker requests for transfer of his social security account from one state (first state) to another (second state),-</p> <p>(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.</p> <p>(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):</p> <p>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)</p>	
31.5.	<p>The manner and procedure for transfer of funds under sub-section (4) shall be such as may be specified in by-laws.</p>	

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.	BOCWCA 3(1)
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.	BOCWCA 3(2)
32.3.	The Central Board may, through by-laws, specify procedure 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.	BOCWCA 3(3)
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 State Board shall refund the overpaid amount to the landlord in such manner and such time as may be prescribed.	
33.	Levy 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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	modifications as may be specified in the notification.	
34.2.	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.	
35.	Deleted	
36.	Deleted	

PART F

Obligations

37.	Method of payment of contribution, maintenance of registers and filing of returns	ESIC 43
37.1.	<p>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 –</p> <ul style="list-style-type: none"> (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, <p>as may be specified in the by-laws.</p> <p>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.</p>	ESIC 44 BOCWCA 4
37.2.	<p>Every –</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>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.</p>	BOCWCA4
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 sub-section (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.	ESIC 44 MBA 20
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.	BOCWCA 4
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	BWCA 5

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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 schmes, 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	ESIC 28A
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	EPF 7Q
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)	ESIC 39(5) BOCWCA 8
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.	ESIC 70(1)
40.2.	The Commissioner may, after conducting such inquiry as deemed fit, and after giving the affected	ESIC 70(2)

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	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; (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	

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	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 works contractor to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that contribution has been deducted, and specifying the amount so deducted, the rate at which the contribution has been deducted, and such other particulars as may be stipulated.	
42.4.	Any works contractor entitled to receive any sum or income or amount, on which contribution is deductible shall furnish his Registration Number to the person responsible for deducting such contribution.	
42.5.	Subject to by-laws made in this regard, where, in the case of any works contract, the Commissioner is satisfied that the works contractor justifies deduction of contribution at any lower rates or no deduction of contribution as the case may be, the Commissioner shall, on an application made by the works contractor in this behalf, give to him such certificate as may be appropriate.	
42.6.	Where any such certificate is given, the person responsible for paying the sum to the works contractor shall, until such certificate is cancelled by the Commissioner, deduct contribution at the rates specified in such certificate or deduct no contribution as the case may be.	
42.7.	Any deduction of contribution made in accordance with the foregoing provisions and paid to the State Social Security Fund shall be treated as part-payment of contribution payable by the works contractor in respect of the persons employed by him (or through its contractor) for the execution of the works contract.	
42.8.	Any person deducting any sum in accordance with the foregoing provisions shall pay within the stipulated time, the sum so deducted to the credit of the State Social Security Fund.	
42.9.	Where any person, including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of this section, does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the contribution, as required by or under this Code, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an employer in default in respect of such contribution.	
42.10.	Every person, deducting contribution in accordance with the foregoing provisions, who has not been registered shall, within such time as may be stipulated, apply to the Establishment Registration Authority for registration.	
42.11.	Every person, required to deduct contribution at source shall quote his registration number and the registration number of the Contractor— (a) in all challans for the payment of any sum in accordance with the foregoing provisions (b) in all certificates furnished under sub-section (3) (c) in all other documents pertaining to such transactions as may be specified by commissioner in the interests of workers/operations of the Social Security Fund.	
43.	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.	ESIC 40
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,	EPF 8A ESIC 41

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	<p>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.</p> <p>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.</p>	
43.5.	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.	
43.6.	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.	
43.7.	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.	ESIC 72
44.	Liability in case of transfer of establishment -	EPFO 17B
44.1.	<p>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 upto the date of such transfer:</p> <p>Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer:</p> <p>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.</p>	ESIC 93A
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.	<p>Nothing in this section shall apply to the disclosure –</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(e) of any such particulars by any public servant where the disclosure is occasioned by the</p>	

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	<p>lawful exercise by him of his powers under the Indian Stamp Act, 1899 (2 of 1899) to impound an insufficiently stamped document;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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.</p>	
45A	Obligation not to disclose or access the information otherwise than as provided	
45A.1	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 in to pursuant to the provisions of this code.	
45A.2	<p>No person except as authorized by appropriate Social Security Organization, shall intentionally –</p> <ol style="list-style-type: none"> 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. <p>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.</p>	

PART G Gratuity

46.	Application of Gratuity Scheme	
46.1.	<p>The Gratuity Scheme and the provisions of this part shall apply to –</p> <p>(a) All establishments which employ such minimum number of employees as may be prescribed.</p> <p>Provided that different minimum number may be prescribed for different class of establishments.</p> <p>(b) All employees employed by the establishment referred to in clause (a), whether employed directly or through contractor.</p> <p>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.</p>	PGA 1(3)
46.2.	<p>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.</p> <p>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.</p>	PGA 4(1)
46.3.	The Gratuity shall be paid in one lump sum immediately after the termination of service.	
46.4.	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.	PGA 4(1)p
46.5.	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.	PGA 4(5)
46.6.	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.	PGA 4(6)(a)
46.7.	<p>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.</p> <p>Provided that no such order shall be passed by the Commissioner except after giving the concerned parties an opportunity of being heard.</p>	PGA 4(6)(b)
47.	Gratuity Amount payable	
47.1.	<p>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.</p> <p>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.</p>	PGA 4(2)
47.2.	Deleted	PGA 4(2)p
47.3.	The amount of Gratuity payable to an employee shall not exceed such amount as may be prescribed.	PGA 4(3)
48.	Liability of Principal Employer and Contractor in case of Gratuity	
48.1.	<p>The Principal employer shall have the liability to pay the Gratuity in the first instance.</p> <p>Explanation: If an employee meets the qualifying continuous service, serving for a Principal employer, the said principal employer shall pay the Gratuity.</p>	
48.2.	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.	
49.	Withdrawal from State Gratuity Fund to meet Gratuity liability	PGA 4A
49.1.	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	

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	his ex-employee.	
49.2.	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.	
49.3.	No withdrawal under this section shall be granted unless the Commissioner is satisfied that the withdrawal sought is against a bona-fide gratuity claim.	
50.	Continuous service - For the purposes of this Part,—	PGA 2A
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	PGA 7(2)
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	PGA 7(3)

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	to the employee directly from his own funds and the employer shall pay within fifteen days of receipt of such order.	
51.3.	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.	
51.4.	If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3) the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, 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.	PGA 7(3A)
51.5.	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.	PGA 7(4)(a)
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.	PGA 7(4)(e)
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	PGA 7(4)(b)
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.	PGA 7(4)(c)
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.	PGA 7(5)
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).	PGA 7(6)
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

53.	Obligations of Employers and Rights of woman in case of Maternity.—	MBA 4
53.1.	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.	MBA 4(1)
53.2.	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.	MBA 4(2)
53.3.	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.	MBA 4(3)
53.4.	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.	MBA 11
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); or (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	
54.	Maternity Benefit Scheme	ESIC 50
54.1.	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.	
54.2.	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.	
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	

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	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.	MBA 5(1) MBA 8 ESIC R 56A								
57.3.	<p>The maximum period for which any woman worker shall be entitled to maternity benefit shall be -</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">In case a woman</th> <th style="text-align: left;">Entitlement</th> </tr> </thead> <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> <p>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 :</p> <p>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:</p>	In case a woman	Entitlement	has less than two surviving children at the time of confinement	twenty six weeks of which not more than eight weeks shall precede the date of her expected delivery	has two or more surviving children at the time of confinement.	twelve weeks of which not more than six weeks shall precede the date of her expected delivery	Legally adopts a child or is a commissioning mother	twelve weeks from the date the child is handed over to the mother	MBA 5(3)
In case a woman	Entitlement									
has less than two surviving children at the time of confinement	twenty six weeks of which not more than eight weeks shall precede the date of her expected delivery									
has two or more surviving children at the time of confinement.	twelve weeks of which not more than six weeks shall precede the date of her expected delivery									
Legally adopts a child or is a commissioning mother	twelve weeks from the date the child is handed over to the mother									
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.	MBA 7								
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.	MBA 6(5)								
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.	MBA 9 ESIC R56(3)								
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.	MBA 9A ESIC R56(3)								
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.	MBA 10 ESIC R56(3)								
59.	Dismissal during absence or pregnancy.—	MBA 12								
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.									

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60.1.	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.	MBA 17(1)
60.2.	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.	MBA 17(2)
60.3.	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.	
60.4.	Any amount payable by an employer under this part shall be recoverable in the manner provided in section 137.	

PART I

Pension schemes-Retirement, Dependent and Disablement Benefits

60A.	Provision of Pension in cases of Retirement, death or disability	
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.	
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.	
61.	Compensation to be paid by employer in certain cases	ECA 3
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:	ECA 3(1)

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	<p>Provided further that such compensation shall be calculated in accordance with the provisions of section 63.</p> <p>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.</p> <p>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.</p>	
61.2.	<p>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-</p> <p>(a) The accident results in permanent total disablement; or</p> <p>(b) The employee dies in consequence thereof leaving a dependent wholly financially dependent upon him:</p> <p>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.</p> <p>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.</p>	ECA 3(1) p
61.3.	<p>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.</p>	ESIC 51A
61.4.	<p>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.</p>	
61.5.	<p>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;</p>	ECA 3(5)
61.6.	<p>No person –</p> <p>(a) shall claim compensation for a personal injury from more than one employer.</p> <p>(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.</p>	
61.7.	<p>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.</p>	ECA 17
61.8.	<p>If any question or dispute arises in any proceedings under this part –</p> <p>(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</p> <p>(b) entitlement of a person to receive compensation, or</p> <p>(c) as to the amount or duration of compensation (including any question as to the nature or extent of disablement),</p> <p>the question or the dispute shall be settled by the Commissioner.</p>	ECA 19(1)
61.9.	<p>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.</p>	ECA 19(2)
62.	<p>Compensation in case of occupational diseases</p>	ECA 3(2)
62.1.	<p>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.</p>	ESIC 52A
62.2.	<p>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</p>	

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	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).	ECA 3(2A)								
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.	ECA 3(4)								
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 – <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">(a) In case where the employee becomes continuously absent from work in consequence of the disablement caused by the disease</td> <td style="width: 50%; padding: 5px;">On the first day of such absence</td> </tr> <tr> <td style="padding: 5px;">(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,</td> <td style="padding: 5px;">On the day the employee gives notice of the disablement to his employer</td> </tr> <tr> <td style="padding: 5px;">(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</td> <td style="padding: 5px;">on the day on which the symptoms were first detected</td> </tr> </table>	(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			
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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.	ECA 3(3)								
63.	Amount of Compensation and interest thereupon	ECA 4								
63.1.	Subject to the provisions of this Chapter, the amount of compensation shall be as specified in the following table, namely :— <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 5px;">(a) where death results from the injury</td> <td style="padding: 5px;">An amount equal to fifty percent of the deemed wage of the worker multiplied by the relevant factor</td> </tr> <tr> <td style="padding: 5px;">(b) where permanent total disablement results from the injury</td> <td style="padding: 5px;">An amount equal to sixty percent of the deemed wage of the worker multiplied by the relevant factor</td> </tr> <tr> <td style="padding: 5px;">(c) Where permanent partial disablement results from the injury</td> <td style="padding: 5px;">(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;</td> </tr> <tr> <td style="padding: 5px;">(d) where temporary disablement, whether</td> <td style="padding: 5px;">a half-monthly payment of the sum equivalent to twenty-five per cent of deemed wage of the person,</td> </tr> </table>	(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,	ECA 4(1)
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(d) where temporary disablement, whether	a half-monthly payment of the sum equivalent to twenty-five per cent of deemed wage of the person,									

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	total or partial, results from the injury	to be paid in accordance with the provisions of sub-section (2)	
	<p>Explanation 1 - For the purposes of clause (a) and clause (b), "relevant factor", in relation to an employee means the factor specified in the second column of the sixth schedule against the entry in the first column of that schedule specifying the number of years which are the same as the completed years of the age of the employee on his last birthday immediately preceding the date on which the compensation fell due.</p> <p>Explanation 2-Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;</p> <p>Explanation 3.-In assessing the loss of earning capacity for the purposes of sub-clause (ii) of clause (c), the medical board, shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in the fourth Schedule;</p>		
63.2.	<p>The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day—</p> <p>(i). from the date of disablement where such disablement lasts for a period of twenty-eight days or more, or</p> <p>(ii). after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter:</p> <p>Provided that—</p> <p>(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</p> <p>(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the deemed wage of the employee before the accident exceeds half the amount of such wages which he is earning after the accident.</p> <p>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.</p>		ECA 4(2)
63.3.	<p>On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.</p>		ECA 4(3)
63.4.	<p>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.</p>		ECA 6(1)
63.5.	<p>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.</p>		ECA 6(2)
63.6.	<p>The employee shall be reimbursed, the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment, by his employer.</p>		ECA 4(2A)
63.7.	<p>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.</p>		ECA 4(4)
63.8.	<p>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:</p> <p>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>		ECA 4(1A)
63.9.	<p>The compensation to an employee shall be paid within fifteen days of the date of occurrence of</p>		ECA 4A(1)

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	<p>accident: Provided that the half-monthly payments referred to in clause (d) of sub-section (1) shall be paid within the period specified in sub-section (2)</p>	
63.10	<p>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-</p> <p>(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</p> <p>(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of damages:</p> <p>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:</p> <p>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.</p> <p>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).</p>	ECA 4A(3)
63.11	<p>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.</p>	ECA 9
63.12	<p>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 –</p> <p>(a) the said minimum amount, if the compensation calculated as per sub-section(1) is less than the said minimum amount; and</p> <p>(b) the said maximum amount, if the compensation calculated as per sub-section (1) is more than the maximum amount:</p> <p>Provided that the Central government may fix different minimum or maximum amounts for different nature of injury.</p>	
64.	Distribution of compensation.-	
64.1.	<p>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:</p> <p>Provided that, in the case of a deceased employee, an employer may make to any dependent advances on account of compensation of an amount equal to three months' wages of such employee and so much of such amount as does not exceed the compensation payable to that dependent shall be deducted by the Commissioner from such compensation and repaid to the employer.</p>	ECA 8(1)
64.2.	<p>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.</p>	ECA 8(2)
64.3.	<p>The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.</p>	ECA 8(3)
64.4.	<p>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.</p>	ECA 4A(2)
64.5.	<p>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.</p>	ECA 8(4)
64.6.	<p>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.</p>	ECA 8(5)
64.7.	<p>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.</p>	ECA 8(6)
64.8.	<p>Where any lump sum deposited with the Commissioner is payable to a person under a legal disability,</p>	ECA 8(7)

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	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.	
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.	ECA 8(4)
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.	ECA 8(8)
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	ECA 8(9)
65.	Notice of Claim for Compensation or benefits -	ECA 10
65.1.	Every person who sustains personal injury caused due to accident or occupational disease 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 worker 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.	ECA 10(4)
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.	ECA 10(3)
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 worker 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 worker 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 worker 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 worker for compensation.	
65.7.	In case of personal injury caused due to an accident or occupational disease 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 Commissioner in such manner and in such form and	

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	within such time as may be prescribed.	
66.	Report of Accident and submission of claim to Commissioner	
66.1.	Upon receipt of notice under Section 65, and where the concerned worker is covered under disablement benefit scheme or dependent benefit scheme, the employer shall examine the eligibility of the worker to receive benefits under the said Scheme and thereafter send claim (or claims) on behalf of the concerned worker 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.	
66.2.	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.	
66.3.	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.	
66.4.	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.	ECA 22(1)
66.5.	Subject to the provisions of sub-section (4), 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.	ECA 22(1A)
66.6.	An application under sub-section (4) 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.	ECA 22(2)
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.	ECA 22(3)
67.	Medical examination.-	ECA 11
67.1.	Where an worker 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 worker 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 a worker 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.	ECA 11(1)
67.2.	If a worker, 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.	ECA 11(2)
67.3.	If a worker, 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.	ECA 11(3)
67.4.	Where a worker, 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	ECA 11(4)

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	those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased worker.	
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.	ECA 11(5)
67.6.	Where an injured worker 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 worker 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 worker had been regularly attended by a authorised medical practitioner, whose instructions he had followed, and compensation (or benefits), if any, shall be payable accordingly.	ECA 11(6)
68.	Liabilities of Principal employer etc.	ECA 12
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.	ECA 12(1)
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 contractor from whom the employee could have recovered compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.	ECA 12(2)
68.3.	Nothing in this section shall be construed as preventing an employee from recovering compensation from the contractor instead of the principal employer.	ECA 12(3)
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.	ECA 12(4)
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.	ECA 13
69.	Insolvency of employer.-	ECA 14
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	

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	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	ECA 15 ECA 15A ECA 15B								
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 – <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">(a) In case of accident where the person injured is a seamen, but not the master of the ship</td> <td style="width: 50%; padding: 5px;">the master of the ship</td> </tr> <tr> <td style="padding: 5px;">(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</td> <td style="padding: 5px;">the captain of the aircraft</td> </tr> <tr> <td style="padding: 5px;">(c) In case of persons recruited by companies registered in India and working as such abroad,</td> <td style="padding: 5px;">The local agent of the company</td> </tr> <tr> <td style="padding: 5px;">(d) persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees</td> <td style="padding: 5px;">The local agent of the owner of the motor vehicle, in the country of the accident</td> </tr> </table> <p>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.</p>	(a) In case of accident where the person injured is a seamen, 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	15(1)
(a) In case of accident where the person injured is a seamen, 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									
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(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									
70.3.	The claim of compensation shall be made within - <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">(a) In the case of the death of an employee referred to in sub-section (1)</td> <td style="width: 50%; padding: 5px;">one year after the news of the death has been received by the claimant.</td> </tr> <tr> <td style="padding: 5px;">(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</td> <td style="padding: 5px;">eighteen months of the date on which the ship or the aircraft was, or is deemed to have been, so lost:</td> </tr> </table> <p>Provided that 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.</p>	(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:	15(2)				
(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:									
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;	15(3)								

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	<p>(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</p> <p>(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,</p> <p>and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.</p>	
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.	<p>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—</p> <p>(a) an application has been made for payment in respect of the injury under any of the schemes referred to in the preceding clause, and</p> <p>(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</p> <p>(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.</p>	15(6)
71.	Return and Information to be furnished by employers	
71.1.	<p>Every employer shall give notice of any accident occurring on his premises, 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:</p> <p>Provided that the notice of a fatal accident shall be given within 48 hours of such accident.</p>	ECA 10B (1)
71.2.	<p>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 :</p> <p>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.</p>	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 such time as may be stated in the notice.	ECA 22A(1)

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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.	ECA 22A(2)
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.	ECA 21(1)
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.	ECA 21(1A)
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.	ECA 21(2)
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.	ECA 21(3)
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.	ECA 21(4)
72.6.	The State Board may transfer any matter from any officer to any other office appointed by it.	ECA 21(5)
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.	ECA 25A
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).	ECA 23
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 person so authorised.	ECA 24

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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 shall 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 by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).	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

78.	Obligations of Employers and Rights of person in case of Sickness.—	
78.1.	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.	ESIC 73
78.2.	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.	
79.	Application of Sickness Benefit Scheme	
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; Provided that the wage (or income as the case may be) of the worker is not more than the income threshold.	
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.	Sickness Benefit Scheme	
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	ESIC 49
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.	Recipients of sickness benefits to observe conditions.	ESIC 64
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.	Liability of employer, etc. for excessive sickness benefit.	ESIC 69
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	

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	insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined upon him by or under any enactments, the Commissioner may send to the owner or occupier of the establishment or to the owner of the tenement or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the State Board as sickness benefit; and if the claim is not settled by agreement, the State Board may refer the matter, with a statement in support of its claim, to the Commissioner in charge of the Labour Department of the State Government (hereinafter referred to as Labour Commissioner).	
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.	ESIC 56 (1)
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.	ESIC 56(2)
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	ESIC 56(3)

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	<p>such permanent disablement :</p> <p>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:</p> <p>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</p>	
84.5.	<p>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 :</p> <p>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.</p>	ESIC 58(1)
85.	Obligations of State Governments in respect of Medical Benefit Scheme	
85.1.	<p>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:</p> <p>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.</p>	ESIC 58(2)
85.2.	<p>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.</p>	ESIC 58(5)
85.3.	<p>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.</p>	ESIC 58(6)
86.	Establishment and maintenance of hospitals, etc., by the State Board. –	ESIC 59
86.1.	<p>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.</p>	
86.2.	<p>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.</p>	
86.3.	<p>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.</p>	
87.	Usage of Medical Facilities by non-members of Medical benefit Scheme	
87.1.	<p>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.</p>	ESIC 73B
87.2.	<p>The user charges collected from the non-members shall be credited to Medical Benefit Scheme Fund.</p>	ESIC 73C
87.3.	<p>The Notification issued by the State Government under sub-section (1) may provide for all or any of the following matters, namely : –</p> <ul style="list-style-type: none"> (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.	<p>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 :</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Type of intermediate agency</td> <td>For the purposes of-</td> </tr> <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> </table> <p>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.</p> <p>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.</p>	Type of intermediate agency	For the purposes of-	(a) Fund manager Agency	management of accumulations in a social security fund in accordance with the regulations;	(b) Point of presence Agency	receiving contributions and instructions and transmitting them to the Trustee Bank or Record keeping agency;	(c) Service delivery Agency	providing any service to the scheme member;	(d) Benefit disbursement Agency	paying out benefits to the scheme members;	(e) Record keeping Agency	Receiving instructions from scheme members, transmitting instructions to board and fund managers	(f) Facilitation Agencies	To augment the registration process, dissemination of information to the stakeholders, increase public awareness and outreach	PFRDA 22(1)
Type of intermediate agency	For the purposes of-															
(a) Fund manager Agency	management of accumulations in a social security fund in accordance with the regulations;															
(b) Point of presence Agency	receiving contributions and instructions and transmitting them to the Trustee Bank or Record keeping agency;															
(c) Service delivery Agency	providing any service to the scheme member;															
(d) Benefit disbursement Agency	paying out benefits to the scheme members;															
(e) Record keeping Agency	Receiving instructions from scheme members, transmitting instructions to board and fund managers															
(f) Facilitation Agencies	To augment the registration process, dissemination of information to the stakeholders, increase public awareness and outreach															
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.	PFRDA 22(2)														
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.	PFRDA 27(1)														
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.	PFRDA 27(2)														
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	PFRDA 27(3)														
89.	Cancellation and Suspension of License															
89.1.	<p>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:</p> <p>Provided that no order under this sub-section shall be made unless the person concerned has been given an opportunity of being heard.</p> <p>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)</p>	PFRDA 27(4)														
90.	Investigation into affairs of Intermediate Agency															
90.1.	<p>Where the State Board has a reasonable ground to believe that any intermediate agency -</p> <p>(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</p> <p>(b) Carried out any activity in a manner detrimental to the interest of the scheme</p>	PFRDA 16(1)														

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	<p>members;</p> <p>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.</p>	
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.	PFRDA 16(5)
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.	PFRDA 16(6)
91.	Search and seizure	
91.1.	<p>Where the Commissioner, in consequence of information in its possession, has reason to believe that—</p> <ul style="list-style-type: none"> (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 <p>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—</p> <ul style="list-style-type: none"> (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. 	PFRDA 17(1)
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.	PFRDA 17(2)
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.	PFRDA 17(3)
91.4.	The authorised officer may, during the course of the search or seizure, examine on oath any	PFRDA 17(4)

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	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 are produced requires 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	PFRDA 19(2)

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	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,	PFRDA 19(2)
93.4.	<p>If the Central Board, -</p> <p>(a) after considering the report made under sub-section (1), or</p> <p>(b) suo-moto, after conducting an inquiry,</p> <p>comes to the conclusion that it is necessary to protect the interest of the scheme members, it may-</p> <p>(i). secure the fund managed by an intermediate agency, including moneys, assets and properties owned by or under the control of the intermediate agency;</p> <p>(ii). retain, preserve, take interim custody, or sell any asset or property owned by or under the control of the intermediate agency;</p> <p>(iii). Take such other interim measure as may appear to the Central Board to be just and necessary,</p> <p>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.</p>	
93.5.	<p>The Central Board or the State Board may, by order, for reasons to be recorded in writing, in the interest of subscribers, take any of the following measures, pending investigation or inquiry, namely:—</p> <p>(i). restrain any person from participating in any scheme;</p> <p>(ii). restrain any office bearer of an intermediate agency from acting as such;</p> <p>(iii). impound and retain the proceeds under the scheme in respect of any activity which is under investigation;</p> <p>(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:</p> <p>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;</p> <p>(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:</p> <p>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</p>	PFRDA 14(4)
93.6.	<p>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—</p> <p>(i). in the interests of subscribers or orderly development of Social Security scheme; or</p> <p>(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</p> <p>(iii). to secure the proper management of any such intermediate agency or person or agency,</p> <p>it may issue such directions to such intermediate agencies or person associated with a scheme, as it may deem fit:</p> <p>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.</p>	PFRDA 15

PART L

Alternate Coverage Mechanism

94.	Alternate Coverage Mechanism							
94.1.	<p>The State government on receipt of an application or otherwise may, by notification in official gazette, and subject to such conditions as may be specified in the notification, permit any establishment or class of establishments to operate the alternate coverage mechanism for its employees in respect of all or any of the provisions of any Scheme mentioned in column 2 of the table below, if the conditions specified in column 1 of the table are satisfied in respect of establishment or the class of establishments to whom permission to operate Alternate Coverage Mechanism is granted</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> Conditions to be met (column 1) </td> <td style="width: 50%; padding: 5px;"> Schemes in respect of which alternate coverage mechanism may be permitted (column 2) </td> </tr> <tr> <td style="padding: 5px;"> (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 style="padding: 5px;"> all or any of the provisions of Provident Fund Scheme </td> </tr> <tr> <td style="padding: 5px;"> (b) employees are in receipt of gratuity not less favourable than the benefits conferred under the Gratuity Scheme under this Code </td> <td style="padding: 5px;"> all or any of the provisions of the gratuity scheme </td> </tr> </table> <p>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.</p> <p>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</p> <p>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.</p> <p>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.</p>	Conditions to be met (column 1)	Schemes in respect of which alternate coverage mechanism may be permitted (column 2)	(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;	all or any of the provisions of Provident Fund Scheme	(b) employees are in receipt of gratuity not less favourable than the benefits conferred under the Gratuity Scheme under this Code	all or any of the provisions of the gratuity scheme	<p>ESIC 87 ESIC 88</p> <p>EPF 17(1) (a)</p> <p>17(1)(b)</p> <p>17(2)</p> <p>17(1)p</p> <p>17(2)p</p>
Conditions to be met (column 1)	Schemes in respect of which alternate coverage mechanism may be permitted (column 2)							
(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;	all or any of the provisions of Provident Fund Scheme							
(b) employees are in receipt of gratuity not less favourable than the benefits conferred under the Gratuity Scheme under this Code	all or any of the provisions of the gratuity scheme							
94.2.	<p>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 —</p> <ul style="list-style-type: none"> (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: <p>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.</p>							
94.3.	<p>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.</p>							
94.4.	<p>When an employer is permitted to operate the alternate coverage mechanism in respect of the</p>							

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	Gratuity Scheme, he shall not be liable to pay contribution towards State Gratuity Fund under sub-section (2) of Section 20.	
94.5.	When an employer is permitted to operate the alternate coverage mechanism in respect of 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.	
95.	Obligations of an establishment permitted to operate the alternate coverage mechanism	
95.1.	Where permission to operate the alternate coverage mechanism has been granted to an establishment under section 94, (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.	EPF 17(1A) (b) (c) (d)
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.	EPF 17(3)
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.	EPF 17(6)
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.	EPF 17(1B)
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;	EPF 17(1A) (a)
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;	EPF 17(4)
96.4.	Where any permission to operate the alternate coverage mechanism granted under section 94 is	EPF 17(5)

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	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 reemployment 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

99.	Accounts	ESIC 33
99.1.	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.	EPF 5A (5)
99.2.	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.	
100.	Audit	ESIC 34
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)
101.	Budget Estimates	ESIC 32
101.1.	Each of the Social Security Organisations shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the appropriate Government before such date as may be fixed by it in that behalf.	
101.2.	The budget shall contain provisions adequate in the opinion of the appropriate Government for the discharge of the liabilities incurred by the Social Security Organisations and for the maintenance of a working balance.	
101.3.	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.	
102.	Social Audit	
102.1.	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.	
102.2.	The procedure of conducting Social Audits, its formats and measurement indicators and methodologies shall be such as may be stipulated.	
103.	Annual Report	ESIC 35
103.1.	Each of the Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities along with the budget finally adopted by the concerned Social Security Organisation. Explanation - The annual report shall also contain report of the activities financed from the Contribution Augmentation Funds.	EPF 5A(9)
103.2.	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	ESIC 36

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	India and the comments of the respective Board thereon to be laid before each House of Parliament or the State legislature as the case may be.	
104.	Valuation of assets and liabilities. —	ESIC 37
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.	ESIC 29
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.	ESIC 91C
108.	Unclaimed amounts	
108.1.	The Commissioner, and the Board of Trustees of Alternately Covered Establishment shall, by 30 st 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 gazettee, 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

109.	Appointment of Officers of National Council	
109.1.	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 .	EPF 5D(1) ESIC 16
109.2.	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	5D(2)
109.3.	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.	5D(3)
109.4.	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	5D(4)
109.5.	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.	5D(6)
109.6.	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.	5D(7)*
109.7.	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.	5D(7)*
109.8.	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.	
109.9.	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.	
110.	Appointment of Officers of Central Board	EPF 5D
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 .	
110.2.	The Central Government may also appoint an Investment Advisor, a Financial Advisor-cum-Chief	

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	Accounts Officer, and a Chief Vigilance Officer to assist the Director General in the discharge of his duties	
110.3.	The Central Board may appoint, subject to section 112.8, as many Additional Director Generals, Joint Director Generals, Directors, Joint 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.	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.	ESIC 17(3)
110.5.	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.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Director Generals, Joint Director Generals, Directors, Joint 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.	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.	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.	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 State Board	
111.1.	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.	ESIC 16(1)
111.2.	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.	ESIC 16(1)
111.3.	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 specified in the by-laws : Provided that the maximum scale of pay of officers appointed under this sub-section shall be such,	EPF 5D(5) ESIC 17(1)

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	as may be specified in by-laws.:	
111.4.	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.	ESIC 17(3)
111.5.	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.	ESIC 16(5)
111.6.	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 specified 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.	EPF 5D(8) ESIC 17 (2)
111.7.	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.	ESIC 16(3)
111.8.	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..	ESIC 16(4)
111.9.	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.	
112.	Constitution of Indian Social Security Service	
112.1.	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.	
112.2.	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.	
112.3.	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.	
112.4.	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.	
112.5.	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	
112.6.	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	

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	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.	EPF 13 ESIC 45
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.	EPF 13(1)
113.2.	Any Inspector appointed under sub-section (1) may, for the purpose of – <ul style="list-style-type: none"> (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. <p>carry out any or all of the following -</p> <ul style="list-style-type: none"> (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. <p>Explanation – The powers under this section inter-alia includes powers to conduct inspection of establishments which have been permitted to operate Alternate Coverage Mechanism.</p>	EPF 13(2) MBA 15
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.	EPF 13(2B)
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 rules and orders applicable to the officers and employees of the State Government	

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	drawing corresponding scales of pay.	
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.	<p>Any Samajik Suraksha Mitra may-</p> <ul style="list-style-type: none"> (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, - <ul style="list-style-type: none"> (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); 	MMWCA
115.	Protection	
115.1.	<p>Any officer and employee appointed under this Code including-</p> <ul style="list-style-type: none"> (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 <p>shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.</p>	MBA 16
115.2.	<p>No suit, prosecution or other legal proceedings shall lie against –</p> <ul style="list-style-type: none"> (a) the Central Government or State Government; or 	MBA 24

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	<p>(b) the National Council, Central Board, State Board; or (c) any local body; or (d) any officer of Central Government, State Government, local body; or (e) any officer or employee referred to in sub-section (1); for anything which is in good faith done or intended to be done under this Code or the rules or regulations made thereunder.</p>	
116.	Delegation	
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.	EPF 5E
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.	EPF 5E UWSSA 8
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 and17, 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, , 69, 70, 71, and section 82 to any officer of the State Board (referred to as Compensation Officer), and define jurisdictions of such officers.	ECA 20(1)
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 define jurisdictions of such officers.	

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116.14.	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	
116A.1	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.	

PART O

Assessment of Dues and Resolution of Disputes

117.	Assessment of moneys due from assessee-	EPF 7A ESIC 45A
117.1.	<p>Where in respect of any assessee,</p> <ul style="list-style-type: none"> (i) No returns are furnished under sub-section (1), (2) or (3) of section 37; or, (ii) A defective return is not rectified as per sub-section (6) of section 37; or (iii) No registers or records are maintained in accordance with sub-section (7), (8) or (9) of section 37; or (iv) Fails to furnish any information sought by Commissioner or any other Authority under the provisions of this Code (v) Fails to furnish any particulars or information as may be sought by an inspector under sub-section (2) of section 113; or (vi) Any inspector or any other officer is prevented in any manner by any person in exercising his functions or discharging his duties; or (vii) Commissioner has reasons to believe that the assessee has defaulted in payment of contribution required of him under this Code <p>The Commissioner may, after making such inquiry as he thinks fit, and on the basis of information available with him, by order -</p> <ul style="list-style-type: none"> (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: <p>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:</p> <p>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.</p>	ESIC 45A EPF 7A(1) BOCWCA 5
117.2.	<p>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:-</p> <ul style="list-style-type: none"> (a) enforcing the attendance of any person or examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavit; (d) issuing commissions for the examination of witnesses, <p>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.</p>	7A(2)
117.3.	<p>No order shall be made under sub-section (1), unless the assessee concerned is given a opportunity of representing his case.</p>	7A(3)
117.4.	<p>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.</p>	7A(3A)
117.5.	<p>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:</p> <p>Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the officer is satisfied that the assessee had notice of the date of hearing and had sufficient time to appear before the officer.</p> <p>Explanation.- Where an appeal has been preferred under this Code against an order passed ex-parte and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the ex-parte order.</p>	7A(4)*
117.6.	<p>No order passed under this section shall be set aside on any application under sub-section (5) unless</p>	7A(5)

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	notice thereof has been served on the opposite party.	
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.	<p>If the Commissioner, having regard to,-</p> <ul style="list-style-type: none"> (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. <p>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.</p>	
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.	<p>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:</p> <p>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:</p> <p>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.</p>	
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.	<p>Where an order assessing the amount due from an assessee under section 117 has been passed and if the Commissioner –</p> <ul style="list-style-type: none"> (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, <p>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.</p>	
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.	<p>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:</p> <p>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.</p>	
120.2.	Every application for review under sub-section (1) shall be filed in such form and manner and within	

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	such time as may be prescribed.	
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 -	EPF 14B
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.	BOCWCA 9
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	EPF 7CA (NEW) ESIC 45AA
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.	BOCWCA 11
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	

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	<p>(d) an order of sanction (or decline to sanction) withdrawal from gratuity fund under section 49; or</p> <p>(e) an order determining gratuity payable to an employee under section 51(8); or</p> <p>(f) an order directing payment (or otherwise) under clause (a) of section 61(2), or</p> <p>(g) an order on validity of dismissal or discharge of a women during pregnancy under section 60(2)</p> <p>(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</p> <p>(i) an order of review of half monthly payments under section 63(4); or</p> <p>(j) an order reducing the compensation payable under section 63(8); or</p> <p>(k) an order directing payment of interest and/ or damage under section 63(10); or</p> <p>(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</p> <p>(m) credit of compensation to the prescribed fund under section 64(9); or</p> <p>(n) an order of variation of compensation under section 64(10); or</p> <p>(o) a decision on claim of compensation made under section 66 or</p> <p>(p) an order directing payment of compensation to dependents of diseased employee under section 67(4); or</p> <p>(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</p> <p>(r) an award made under section 71(4) or 71(6); or</p> <p>(s) order of the Commissioner confiscating any unclaimed amount under section 108; or</p> <p>(t) a report of Samajik Suraksha Mitra under section 135(6); or</p> <p>(u) with the measures undertaken or compensation awarded by the Commissioner or appropriate authority under section 136(2)</p> <p>(v) an order of Assessment of dues about moneys invested under section 142(1)</p> <p>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:</p> <p>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.</p>	<p>ECA 30 MBA 17(3) PGA 7(7)</p>
<p>122.4.</p>	<p>If any question or dispute arises as to —</p> <p>(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</p> <p>(ii). the rate of wages or average daily wages of an employee for the purposes of this Code, or</p> <p>(iii). the rate of contribution payable by a principal employer in respect of any employee, or</p> <p>(iv). the person who is or was the principal employer in respect of any employee, or</p> <p>(v). the right of any person to any benefit and as to the amount and duration thereof, or</p> <p>(vi). claim of recovery of contributions from the Principal Employer, or</p> <p>(vii). claim by a principal employer to recover contributions from any contractor, or</p> <p>(viii). claim against principal employer under section 28(1)</p> <p>(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,</p> <p>such question or dispute shall be decided by the Appellate Officer after conducting such inquiry as deemed fit:</p> <p>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:</p> <p>Provided further that no claim shall be made by the Board after five years of the period to which the claim relates,</p> <p>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;</p> <p>Explanation 2.- the cause of action in respect of a claim by the Board for recovering contributions</p>	<p>ESIC 75</p> <p>ESIC 77(1A)</p>

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	(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.	ESIC 75(2A)
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).	ESIC 78
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.	ESIC 30(2) & (3)
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 upto twenty-five percent of the amount claimed by the Board.	ESIC 75(2B) ECA 30p
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	ESIC 75 (3)

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	decided by a medical board, or by a Tribunal or by the Appellate Officer.	
124.	Certain Appeals not maintainable	
124.1.	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.	
124.2.	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.	
125.	Appeals to the Tribunal. –	EPF 71
125.1.	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.	
125.2.	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.	
125.3.	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.	
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 upto 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.	
126.	Appeal and reference to High Court	EPF 7R (NEW)
126.1.	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.	ESIC 82
126.2.	No appeal shall lie against any decision or order made by the Tribunal with the consent of the parties.	
126.3.	The provisions of sections 5 and 12 of the Limitation Act, 1963 (36 of 1963) shall apply to appeals	

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	under this section.	
126.4.	A Tribunal may submit any question of law for the decision of the High Court and if does so shall decide the question pending before it in accordance with such decision.	ESIC 81
126.5.	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.	ESIC 83
127.	Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers. –	EPF 7K ESIC 79
127.1.	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.	
127.2.	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.	
128.	Institution of proceedings, etc. —	ESIC 76
128.1.	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.	
128.2.	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 the Appellate Officer or Tribunal for disposal and shall forthwith transmit to such other the Appellate Officer or Tribunal the records connected with that matter.	
128.3.	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.	
128.4.	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.	

PART P

Appellate Tribunal

129.	Social Security Appellate Tribunal	
129.1.	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.	
129.2.	The Appellate Tribunal at National Capital Region of Delhi shall be the Principal Appellate Tribunal.	
129.3.	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.	
129.4.	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	
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.	
130.	Resignation and Removal	
130.1	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.	
130.2	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.	
130.3	The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of a member of the Tribunal.	
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	

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	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 shall, 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

134.	Inspection system	13(3) NEW
134.1.	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.	
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: <ul style="list-style-type: none"> (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.	Right to Coverage under the Code	
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, - <ul style="list-style-type: none"> (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.	
136.	Actions on Report of Samajik Suraksha Mitra	
136.1.	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	

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	undertake appropriate measures to settle the bona-fide grievance of the complainant, rectify the deficiencies, if any, and send a report to the Samajik Suraksha Mitra, of measures undertaken.	
136.2.	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.	
136.3.	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.	

PART R

Recovery of Dues

137.	Mode of Recovery	EPF 8
137.1.	<p>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.</p> <p>Explanation: The amount due under this sub section inter alia includes</p> <ol style="list-style-type: none"> 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.	<p>The Assessing Officer may forward the certificate referred to in sub-section (2) to the Recovery Officer within whose jurisdiction the employer or person—</p> <ol style="list-style-type: none"> (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.	<p>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:-</p> <ol style="list-style-type: none"> (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: <p>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.</p> <p>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.</p>	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

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	<p>(a) is not able to recover the entire amount by the sale of the property movable or immovable, within his jurisdiction; or</p> <p>(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,</p> <p>he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified 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.</p>	
139.	Validity of Recovery certificate, and amendment thereof.	EPF 8D
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.	ESIC 45E
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.	EPF 8E ESIC 45F
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	EPF 8F
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.	ESIC 45G
140.2.	<p>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:</p> <p>Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908).</p>	
140.3.	<p>The Commissioner may, at any time or from time to time, by notice in writing, require any person A –</p> <p>(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</p> <p>(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,</p> <p>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.</p>	

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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 the 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.	EPF 8G
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.	ESIC 45H
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	

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	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

143.	Calling for and obtaining Information	
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.	DMC 485
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.	DMC 486
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.	
144.	Powers of National Council	
144.1.	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.	
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.	
145.	Power to give directions	DMC 487
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	EPF 20

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	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.	UWSSA 11
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.	DMC 489
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	DMC 488
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

Transitory Provisions

147.	Transfer of Assets and Liabilities under various Funds and Schemes	
147.1.	On the establishment of the Scheme Funds mentioned in Column A of table below in any particular State, the Schemes and Funds mentioned in Column B in the table shall cease to operate in that State.	
	Sl.	Scheme that shall cease (Column B)
	1	Employee Pension Scheme 1995 under the Employee Provident Fund and Miscellaneous Provisions Act 1952
	2	Employee Provident Fund Scheme 1952 under the Employee Provident Fund and Miscellaneous Provisions Act 1952
	3	Employee Deposit Linked Insurance Scheme 1976 under the Employee Provident Fund and Miscellaneous Provisions Act 1952
	4	Sickness Benefit Scheme under ESIC Act 1948
	5	Maternity benefit Act, 1961
	6	Disablement benefit scheme under Employees State Insurance Act, 1948
	7	Invalidity benefit Scheme under Employees State Insurance Act, 1948
	8	Unemployment Benefit Scheme under Employees State Insurance Act, 1948
	9	Medical Benefit Scheme under Employees State Insurance Act, 1948
	10	Bidi workers Welfare Fund created under section 3 of Bidi Workers' Welfare Fund Act 1977
	11	Cine Workers Welfare Fund, Fund created under section 3 of the Cine Workers Welfare Fund Act 1981
	12	Limestone and Dolomite Welfare Workers' Fund created under section 5 of Limestone and Dolomite Mines Labour Welfare Fund Act 1972
	13	Mica Miners Welfare Fund created under section 3 of Mica Mines Labour Welfare Fund Act 1946
	14	Iron Ore mine, Manganese ore mine and chrome ore mines labour welfare fund created under section 3 of Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
	15	Building and Other Construction Workers' welfare fund created under section 24 of the Building and Other Construction workers' (Regulation of Employment and Conditions of Service) Act, 1996
	16	Welfare funds established by any state government for providing social security and other benefits to such class of workers, such as under The Bombay Labour Welfare Fund Act 1953

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147.2.	<p>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.</p> <p>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,</p> <p>Explanation : The funds so transferred to state Boards shall be managed in the manner specified in Section 25.</p>	
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	EPF 15
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.	<p>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.</p> <p>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.</p>	
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.	<p>The apportionment of –</p> <ol style="list-style-type: none"> (a) assets and liabilities, (b) land and all stores (c) articles and other goods <p>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.</p> <p>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.</p>	
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.	<p>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:</p> <p>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</p>	

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	<p>balances of the two State Boards in the books of the Central Board on the appointed day:</p> <p>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.</p>	
149.5.	<p>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):</p> <p>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.</p>	
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.	<p>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:</p> <p>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.</p>	
151.	Managing of Contracts	
151.1.	<p>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—</p> <p>(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</p> <p>(b) in any other case, of the Central Board,</p> <p>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:</p> <p>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.</p>	
151.2.	<p>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—</p> <p>(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and</p> <p>(b) any liability in respect of expenses incurred in or in connection with any such proceedings.</p>	
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	

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	<p>(a) property or those benefits should be transferred to, or shared with, the other successor State Board, or</p> <p>(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.</p>	
153.	Transfer of applications to Tribunals	
153.1.	<p>All applications which are pending before the –</p> <p>(a) Employee’ Provident Fund Appellate Tribunal constituted under the Employee Provident Fund and Miscellaneous Provisions Act 1952</p> <p>(b) Employees’ insurance Court constituted under the Employees’ State Insurance Act 1948</p> <p>(c) High Court, against orders of Commissioner under section 30 of the Employee Compensation Act 1923</p> <p>(d) Appropriate government or the appellate authority under section 7(7) of the Payment of Gratuity Act 1972</p> <p>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.</p>	
154.	Reorganisation of Employees of Employee Provident Fund Organisation, Employees’ State Insurance Corporation and Director General Labour Welfare	
154.1.	<p>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.</p> <p>Explanation - The Reorganisation Scheme framed under this sub-section shall inter-alia have following components-</p> <p>(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</p> <p>(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</p> <p>(c) Methodology of allocation of existing employees of predecessor organization to the successor Boards, or National Council</p>	
154.2.	<p>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):</p> <p>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:</p> <p>Provided further that all the employees of Employees State Insurance Scheme under the ESIC Act 1948 shall be assigned to the concerned State Board.</p> <p>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.</p>	
154.3.	<p>Upon creation of a Board, the Central Government, in consultation with the National Council shall by notification, prepare an allocation scheme for –</p> <p>(a) further allocation of employees allocated to a successor Board (by Reorganisation Scheme) to the new cadres, in the successor Board</p> <p>(b) Fixing inter-se seniorities of existing officials of predecessor organization upon such allocation</p>	
154.4.	<p>The initial strength of the cadres created in a Board shall be determined be the Allocation Scheme framed in sub-section (3)</p>	
154.5.	<p>If a State Board is created in any State before –</p> <p>(a) Reorganisation Scheme under sub-section (1) is notified, or</p> <p>(b) successor social security organisation of existing employees of predecessor organizations is determined under sub-section (2),</p> <p>all employees posted in any establishment of any of the predecessor organizations situated within the territory of the said State-</p> <p>(i) in respect of whom the successor organization has not been determined in accordance</p>	

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	with the Reorganisation Scheme, and (ii) who are posted in the said state as on the date of creation of state Board, shall be deemed to be on deputation to the said State Board.	
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.	
155.2.	All services prior to the appointed day rendered by a person— (a) if he is deemed to have been allocated to any Board under section 154, shall be deemed to have been rendered in connection with the affairs of that Board; (b) if he is deemed to have been allocated to the National Council shall be deemed to have been rendered in connection with the affairs of the National Council, for the purposes of the rules regulating his conditions of service.	
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 members of 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.	<p>Whoever-</p> <p>(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</p> <p>(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,</p> <p>shall for such offence, be punishable-</p> <p>(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</p> <p>(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:</p> <p>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.</p> <p>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.</p>	
156.2.	<p>Whoever –</p> <p>(a) contravenes any provisions of any Scheme framed under section 24; or</p> <p>(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</p> <p>(c) contravenes any provisions of the Rules or Regulations or by-laws framed under this code</p> <p>shall for such offence, be punishable –</p> <p>(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</p> <p>(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.</p>	EPF 14(2)
156.3.	<p>Whoever, for the purpose of –</p> <p>(a) causing any increase in payment or benefit under this Code or Schemes framed under section 24 ; or</p> <p>(b) causing any payment or benefit to be made where no payment or benefit is authorised by or under this Code or Schemes; or</p> <p>(c) avoiding any payment to be made by himself under this Code or enabling any other person to avoid any such payment,</p> <p>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:</p> <p>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:</p> <p>Provided further that where a scheme member or beneficiary of a Scheme is convicted under this</p>	PGA 9(1)

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	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.	MBA 22
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.	MBA 21(2)
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 in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 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, 2008 and 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.	

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	<p>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.</p> <p>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.</p>	
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.	<p>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:</p> <p>Provided that the sums prescribed shall not, in any case-</p> <p style="padding-left: 40px;">(d) exceed the maximum amount of the fine, and</p> <p style="padding-left: 40px;">(e) Be less than the minimum amount of fine (if applicable)</p> <p>which may be imposed for the offences so compounded:</p> <p>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.</p> <p>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.</p>	
159.2.	<p>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.</p> <p>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;</p>	
159.3.	<p>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.</p> <p>Provided that no extension shall be made by the court beyond a period of 3 years.</p>	
159.4.	<p>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.</p>	
159.5.	<p>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.</p>	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.	Pfrda 29
161.	Powers of Central Government to index fines	
161.1.	<p>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,</p> <p>by linking the fine increase or reduction to the change in Consumer Price Index:</p>	

	Provided that the increase or reduction of fines shall not be more than 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 may 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	

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	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

165.	Powers of Central Government to make Rules	
165.1.	The Central Government may, after consultation with the National Council and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.	
165.2.	<p>In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <ul style="list-style-type: none"> (i) Maximum amount of benefit wage under sub-section (9) of Section 2 (ii) Maximum amount of wage for a worker to qualify as building and construction worker under sub-section (12) of section 2, when employed in supervisory capacity (iii) Maximum amount of deemed wage under sub-section (33) of sub-section 2 (iv) Maximum income of parents, for the parents to qualify as a member of immediate family under sub-section (35) of Section 2. (v) The administrative and financial powers of the National Council. (vi) The officers of central government who may be appointed as members of National Council under section 3(3)(f), or Central Board under section 3(6)(d), or state Board under section 3(9)(e) (vii) Additional powers that may be exercised, and additional functions that may be performed by the Central Board under clause (w) of sub-section (5) of section 3 (viii) Manner, in which the states' and union territories' shall be selected by rotation for nominating representative in the Central Board under clause (e) and (f) of sub-section (6) of section 3 (ix) The term of social security organizations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (x) The method of nomination, terms and conditions of Chairman, vice-chairman and other members of Social Security Organisations (xi) The tenure, term, fee and allowances and other condition of service of the members of social security organisations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (xii) The manner of filling vacancies of social security organisations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (xiii) Qualifications and experience required for a person to become member of Central Board or State Board as expert or as representing pensioners (xiv) the procedures and the quorum at meetings of the social security organisations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees; and the minimum number of meetings of those bodies to be held in a year; (xv) the records to be kept of the transaction of business by the social security organisations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (xvi) the manner in which appointments and elections of members of the social security organisations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees shall be made (xvii) Matters that need to be submitted by the executive committee for the decision of the National Council under section 5(7) (xviii) the powers and duties of the Medical Benefit Council under section 5(8) (xix) Matters that need to be submitted by the standing committee for the decision of the State Board under section 5(9) (xx) The number of persons to be appointed as members from the categories specified in sub-section (2) of section 6 to the Central Advisory Committee (xxi) The powers and duties, method of recruitment, salary and allowances and condition of service of the Regulator-General, Director General and Commissioner. (xxii) Matters for which the Central Board or the State Board may exercise powers of civil court under the Code of Civil Procedure 1908 (xxiii) Categories under which the workers may be classified under sub-section (1) of section 	

<p>11A.</p> <p>(xxiv) The form, manner, time, fee, documents required, particulars to be reported, security, for making application for registration of establishment and household</p> <p>(xxv) Form and particulars that may be furnished along with return cum challan for registration of household</p> <p>(xxvi) Manner in which any amendment to registration particulars are to be informed to commissioner.</p> <p>(xxvii) Time and manner in which application for cancellation of registration is to be made.</p> <p>(xxviii) Information to be contained in certificate of registration of establishment</p> <p>(xxix) Form and manner in which register of registered establishment shall be maintained.</p> <p>(xxx) Classes of own account workers that may file consolidated contributions under section 21(2)</p> <p>(xxxi) Date on which, payment of contribution shall fall due under section 21(5)</p> <p>(xxxii) Manner of previous publication of schemes, social assistance schemes and supplementary schemes</p> <p>(xxxiii) The manner, eligibility conditions, and terms and conditions on which the loans or grants from the National Stabilisation Fund shall be provided under section 25A(6)</p> <p>(xxxiv) Rate of discount for the purpose of calculating Net Present Value under section 28(1)</p> <p>(xxxv) Manner and time at which cess on building and other construction workers' cess shall be collected (section 32(6)), and manner of refund of over-payment of building and other construction workers' cess (section 32(9))</p> <p>(xxxvi) Collection charges that may be deducted by agency collecting cess under section 32(7).</p> <p>(xxxvii) the percentage of contribution that shall be payable as administrative charges under section 38(2)</p> <p>(xxxviii) items on which the administrative funds may be defrayed</p> <p>(xxxix) the rate of interest levied under sub-section (1) of section 39</p> <p>(xl) refund under sub-section (1) of section 41</p> <p>(xli) minimum number of employees an establishment has to employ for gratuity scheme to be applicable for such establishment (section 46(1)).</p> <p>(xlii) the maximum amount payable as gratuity under section 47(3)</p> <p>(xliv) the manner, form and time in which notice under section 51(1) shall be given to the Commissioner.</p> <p>(xlv) Situations when half monthly payments may be reviewed without medical certificate under sub-section (4) of section 63.</p> <p>(xlv) Funeral expenses that will be paid by the employer under section 63(7)</p> <p>(xlvii) minimum amount that may be deposited by the employer under section 64(2)</p> <p>(xlviii) the manner, form and time in which notice under section 65(7) and 66(1) shall be given to the Commissioner.</p> <p>(xlviii) Frequency and intervals a worker is required to submit himself for medical examination under sub-section (1) of section 67</p> <p>(xlix) manner, form, and time in which annual return of accidents shall be furnished by an establishment under section 71</p> <p>(l) Relating to transfer of proceedings under sub-section (4) of section 72</p> <p>(li) relating to cost incidental to proceedings under sub-section (5) of section 73</p> <p>(lii) manner in which moneys shall be transferred under section 72(3)</p> <p>(liii) the manner, form and authority for making application for permission to operate Alternate Coverage Mechanism.</p> <p>(liv) Time within which the State Board, or the Central Board (as the case may be) shall furnish their views on an application for alternate coverage mechanism under section 94(1) and 94(2)</p> <p>(lv) Manner in which social audit shall be conducted under section 102(1)</p> <p>(lvi) conditions under which the social security organisations may hold property</p> <p>(lvii) conditions for investments of monies with the social security organisations</p> <p>(lviii) Conditions under which losses may be written off.</p> <p>(lix) Form in which the Notification under section 108(3) shall be issued, and time within which the notification shall be issued</p> <p>(lx) The method of recruitment, salary and allowances, discipline and other conditions of service of Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer and Chief Vigilance Officer of National Council and the Investment Advisor, Financial Advisor-cum-Chief Accounts</p>	
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	<p>Officer, Chief Vigilance Officer of the Central Board.</p> <p>(lxi) The maximum scale of pay for the purpose of sub-section (3) of section 109 and sub-section (3) of section 110</p> <p>(lxii) method of encadrement of officers of the Social Security Organizations or predecessor organizations to the ISSS under sub-section (4) of section 112.</p> <p>(lxiii) provisions governing Indian Social Security Service The method of recruitment, salary and allowances, discipline and other conditions of service of members of the Service (ISSS) under sub-section (3) of section 112</p> <p>(lxiv) Proportion of posts reserved for ISSS on the State Boards, and method of maintaining the ratio under sections 112(8) and 112(9)</p> <p>(lxv) Conditions and restrictions in delegation of powers to Assessing Officers and Appellate Officers</p> <p>(lxvi) Manner, time and fee for filing review under section 120 and appeal under section 122</p> <p>(lxvii) Time period for disposal of appeal</p> <p>(lxviii) Manner and procedure for deposit of amount assessed by Assessing Officer</p> <p>(lxix) Manner, time and fee for filing appeal to tribunal under sub-section (5) of section 125</p> <p>(lxx) Matters relating to institution, proceedings, and transfers of appeals before Tribunals under section 128.</p> <p>(lxxi) Procedure for disposal of appeal by tribunal under sub-section (8) of section 125</p> <p>(lxxii) Manner and procedure for deposit of amount required for entertainment of appeal before tribunal</p> <p>(lxxiii) Manner of constitution of selection committee for appointment of member of tribunal</p> <p>(lxxiv) The qualifications and experience of Administrative member</p> <p>(lxxv) Method and manner of appointment of Administrative member</p> <p>(lxxvi) Salary, allowances, and terms of condition of service of members of tribunals</p> <p>(lxxvii) Conditions and restrictions of meeting the expenses of tribunals</p> <p>(lxxviii) procedure for investigating misbehaviour or incapacity of member of tribunal under section 130(3)</p> <p>(lxxix) The manner of certifying the certificate to recover any amount by the Recovery officer</p> <p>(lxxx) Minimum rank of the officer of the social security organisation, who shall be competent to make complaint that may lead to arrest of a person committing cognisable offence under the code (Section 156(8))</p> <p>(lxxxii) Terms and conditions under which an offence can be compounded under section 159, and amounts payable for compounding</p> <p>(lxxxiii) Regulating the conditions, manner of operation and revocation of Community Service Orders specified in sections 162,163and 164.</p> <p>(lxxxiii) regulating the performance of work under community service orders,</p> <p>(lxxxiv) specifying the minimum and maximum hours of work to be done under community service order on any one day</p> <p>(lxxxv) make provision regarding the reckoning of time worked under community service orders</p> <p>(lxxxvi) provide for records to be kept of the work done under community service orders</p>	
<p>166.</p>	<p>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-</p> <p>(i) Horticultural products, that shall fall within the definition of plantation under sub-section (90) of section 2</p> <p>(ii) The officers of state government who may be appointed as members of State Board under section 3(9)(d)</p> <p>(iii) Matters that shall be submitted for consideration of State Board, by the Standing Committee.</p> <p>(iv) Eligibility conditions for a person to be specially registered under sub-section (1) of section 13A.</p> <p>(v) Powers and duties of the Commissioner</p>	

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	<ul style="list-style-type: none"> (vi) the establishment of hospitals, dispensaries and other institutions, the allotment of covered persons or their families to any such hospital, dispensary or other institution ; (vii) 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 (viii) the nature and extent of the staff, equipment and medicines that shall be provided at such hospitals, dispensaries and institutions ; (ix) the assessing of the money value of any benefit which is not a cash benefit ; (x) the conditions of service of the staff employed at such hospitals, dispensaries and institutions ; and (xi) 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.	<p>Without prejudice to the generality of the powers of National Council under sub-section (3), such regulations may provide for –</p> <ul style="list-style-type: none"> (i) Manner in which benefit disbursement agencies may disburse benefits (section 2(10)). (ii) Rates at which deemed wage shall be calculated under clause (d) of sub-section (36) of section 2 (iii) The manner of administration of social security funds other than scheme funds, state gratuity fund and administrative fund including State Social Security Fund under sub-section (3) of section 19; Social Security Reparation Fund under sub-section (2) of section 23; National Stabilisation Fund under sub-section (1) of section 25A; Social Assistance Fund under sub-section (3) of section 25C and Administrative Fund under sub-section (1) of section 38. (iv) The duties of medical benefit council in connection with medical treatment and attendance under clause (c) of subsection (8) of section 5. (v) Minimum amount of annual collection in a Contribution Augmentation Fund, when a separate fund can be created under sub-section (3) of section 6. (vi) Time within which application for registration of worker shall be made under sub-section (5) (6) or (7) of section 11. (vii) The period within which the employer shall update registration particulars of any registered worker newly employed by him under sub-section (12), (15) or (16) of section 11. (viii) Maximum period upto which an un-registered workers can be employed by any entity under sub-section (14) of section 11. (ix) 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 under sub-section (3) of section 11A. (x) Time within which application for cancellation of registration of worker shall be made under sub-section (2) of section 12. (xi) The Minimum period in a year for which, the worker needs to engage in work for preventing the registration to be deactivated under clause (c) of sub-section (3) of section 12. (xii) Time within which application for re-activation of registration of worker shall be made under sub-section (3) of section 12 (xiii) Form of record or register of workers and manner in which record or register of registered worker shall be maintained under sub-section (1) of section 13. (xiv) Time intervals and manner in which surveys under sub-section (2) of section 13 are to be done. (xv) Time within which application for registration of establishment shall be made under sub-section (1) of section 14. (xvi) Time within which application for registration of establishment shall be decided under sub-section (6) of section 14. (xvii) Time within which application for amendment of registration of establishment shall be made under sub-section (1) of section 15. (xviii) Maximum period upto which any un-registered entity can employ workers under sub-section (3) of section 17. (xix) Banks in which moneys accruing to State Social Security Funds or State Gratuity Fund can be paid under sub-section (4) of section 19 (xx) Manner in which information for payment of consolidated contribution shall be furnished to 	

	<p>the commissioner under sub-section (1) or (2) of section 21.</p> <p>(xxi) Manner and priority in which the amount credited to worker's social security account shall be apportioned in schemes under sub-section (2) of section 25.</p> <p>(xxii) Percentage of excess (in a scheme fund) that may be transferred from the Scheme Fund to the National Stabilisation Fund under sub-section (3) of section 25A.</p> <p>(xxiii) Intervals at which, the surplus from a scheme fund shall be transferred from State Board to the Central Board for professional investment under sub-section (1) of section 25B.</p> <p>(xxiv) Reserves that need to be maintained by the State Board in each of the scheme funds (or other funds) under sub-section (1) of section 25B</p> <p>(xxv) 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.</p> <p>(xxvi) 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</p> <p>(xxvii) Minimum amount of cost of construction, below which no building and other construction cess shall be levyable under subsection (1) of section 32.</p> <p>(xxviii) Minimum amount of works contract, below which no contribution deduction at source shall be applicable under subsection (1) of section 42.</p> <p>(xxix) Form of certificate to be issued under sub-section (3) of section 42 and sub-section (5) of section 43 and period within which it shall be issued</p> <p>(xxx) the manner and time of payment of contributions deducted at source under sub-section (8) of section 42;</p> <p>(xxxi) period within which person deducting contribution at source shall register (Section 42(10))</p> <p>(xxxii) the manner and time of payment of contributions by principal employer under sub-section (5) of section 43;</p> <p>(xxxiii) conditions under which amount can be withdrawn from state gratuity fund under sub-section (1) of section 49</p> <p>(xxxiv) duration of nursing break under sub-section (4) of section 53</p> <p>(xxxv) form of application for claiming employee compensation under sub-section (6) of section 66.</p> <p>(xxxvi) Minimum interval between two medical examinations under sub-section (1) of section 67</p> <p>(xxxvii) structure and discharge functions, powers and activities of organisations under sub-section (3) of section 85</p> <p>(xxxviii) duties and functions of intermediate agencies under sub-section (1) of section 88.</p> <p>(xxxix) eligibility norms for grant of license to an intermediate agency under sub-section (2) of section 88.</p> <p>(xl) form and manner of making application for license of intermediate agency under sub-section (6) of section 88.</p> <p>(xli) manner of cancellation of license of intermediate agency under sub-section (1) of section 89.</p> <p>(xlii) Quantum of reduction of employers' contribution or employees' contribution payable to the State Social Security Fund, when permitted to operate alternate coverage mechanism under sub-section (5) of section 95.</p> <p>(xliii) Manner in which and 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</p> <p>(xliv) Proportion, manner and time in which administrative funds shall be shared under section 105</p> <p>(xlv) The procedure of conducting Social Audits, its formats and measurement indicators and methodologies under sub-section (2) of section 102.</p> <p>(xlvi) Details to be contained in notification of unclaimed amounts shall be issued under sub-section (1) of section 108, and manner in which it shall be notified.</p> <p>(xlvii) damages that may be levied under section 121 and sub-section (5) of section 123</p> <p>(xlviii) terms and conditions, subject to which damages can be reduced or waived under sub-section (2) of section 121</p> <p>(xlix) if a tribunal is constituted having jurisdiction in more than one state, the proportion in which the administrative expenses of tribunal shall be shared under sub-section (4) of section 132</p> <p>(l) Period in which the Samajik Suraksha Mitra shall conduct inquiry under sub-section (4) of section 134</p> <p>(li) Period in which Samajik Suraksha Mitra shall inform the complainant under sub-section (3) of section 136</p>	
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	<ul style="list-style-type: none"> (lii) manner in which administrative funds of predecessor organisations shall be shared under sub-section (2) of section 147 (liii) manner in which assets and liabilities of predecessor organisations shall be shared under sub-section (4) of section 149 or under sub-section (4) of section 150 (liv) period in which a person convicted of an offence under this act shall not avail cash benefits under sub-section (3) of section 156. (lv) Number of hours of unpaid work required to be done for community service under sub-section (3) of section 162 (lvi) Subject to sub-section (2) of section 156, penalties for breach or violation of regulations stipulated (lvii) Manner in which an intermediate agency will perform their functions (lviii) guidelines for social security schemes of Central government, State governments and local bodies that are outside the ambit of this Code (lix) 	
<p>167.3.</p>	<p>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.</p>	
<p>167.4.</p>	<p>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—</p> <ul style="list-style-type: none"> (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 (section 37(7), 37(8) and 37(9). (ii) Manner in which, workers shall be registered under the code (Section 11(4)) (iii) form and manner in which application for registration (for workers or establishments) shall be made; fee, security , particulars and documents required to be submitted for registration (Section 11(5), 11(6), 11(7), 11(8) and 14(1)) (iv) form and manner in which application for cancellation, deactivation or reactivation (for workers or establishments, as applicable) shall be made (Section 12(2), 12(3)) (v) Form of VIKS Certificate (section 13(1)) (in case of workers) and registration certificate (in case of establishments) and particulars it shall contain (vi) Manner in which applications can be made for registration of workers or special registration under section 13A. (vii) Maximum transaction fee that may be charged at facilitation centres (section 18(2)) (viii) Administrative, and financial and other support that shall be provided by the State-board to registration authorities (section 11(2)) (ix) form and manner in which application for transfer of social security account of a worker from one state to another shall be made under section 31(2) (x) 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 under section 31(5) (xi) procedure and schedule to assess cost of construction of buildings (xii) 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) (xiii) particulars that should be furnished in the returns, and documents to be submitted along with returns(or return-cum-challan); (xiv) authorities to whom return (or return-cum-challan) is to be furnished. (xv) the manner and time of payment of contributions (or contributions deducted at source) and any other matter related thereto; (xvi) time period within which any defect in the return should be rectified under section 37(5) (xvii) time period within which, security should be furnished for refunds, and time within which refund shall be granted under section 41(3) (xviii) collection of contributions (or contributions deducted at source) and its method of accounting (xix) situations where commissioner may reduce or waive contribution deduction at source (section 42(5)) (xx) form of certificate of payment of contribution under section 43(5) (xxi) form in which, a contractor shall furnish information to principal employer under section 43(6) (xxii) the date by which evidence of contributions having been paid is to be received by the State Board; (xxiii) authorization to local bodies or intermediate agencies to receive contributions and returns on 	

	<p>behalf of State Board</p> <p>(xxiv) 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.</p> <p>(xxv) consequential actions in case of failure in performing duties by intermediate agency or local body.</p> <p>(xxvi) Facilities, and standards of services that shall be provided in a crèche</p> <p>(xxvii) Proofs required to be produced for claiming maternity benefit under section 57(5) or 58(1); or leave under section 58(2) or 58(3)</p> <p>(xxviii) Manner of publishing notice under section 64(5)</p> <p>(xxix) form, manner, and time of filing notice of accident, and authorities to whom it is to be filed under section 65(1)</p> <p>(xxx) particulars to be contained in the report accompanying notice of accident</p> <p>(xxxi) form, manner, and time of filing return of accidents etc. and authorities to whom it is to be filed under section 71(1)</p> <p>(xxxii) particulars to be contained in the return of accidents under section 71(2)</p> <p>(xxxiii) form of statement referred to in sub-section (3) of section 71</p> <p>(xxxiv) the constitution of medical board under sub-section (1) of section 74</p> <p>(xxxv) charges payable by retired persons or spouses of diseased member to avail medical benefits under section 84(4)</p> <p>(xxxvi) form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediate agencies</p> <p>(xxxvii) amounts to be released by the State Board Administrative funds to local bodies under section 105(3)</p> <p>(xxxviii) Norms of manpower in State Boards; maximum scale of pay of officers that may be appointed by a State Board (Section 111(3)).</p> <p>(xxxix) Method of recruitment, Condition of service, discipline of officers of state board (section 111(6)).</p> <p>(xl) form and manner of making complaint under sub-section (2) of section 135</p> <p>(xli) mode and means of acknowledging of complaint made under sub-section (3) of section 135</p> <p>(xlii) amounts of reparation that may be awarded for various failures of service under section 136(3)</p> <p>(xlili) authorities that may provide report of suitability of an offender to perform community service under section 162(2)</p> <p>(xliv) relevant officers who may supervise execution of community service order under section 163(1)</p> <p>(xlv) 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.</p> <p>(xlvi) Maximum scale of pay of which posts can be created under sub-section (3) of section 111</p>	
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.	<p>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.</p> <p>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.</p>	
168.3.	The Central Government, may, by notification, add, delete or otherwise amend any entry to Second Schedule to this Code.	
168.4.	<p>The State Government, may, by notification, add, delete or otherwise amend any entry to Second Schedule to this Code:</p> <p>Provided that the State Government shall not delete, or otherwise restrict the scope of any entry which has been notified by the Central Government.</p>	
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	

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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.	<p>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)-</p> <ul style="list-style-type: none"> (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); (d) The Personal Injuries (Emergency Provisions) Act, 1962 (Act No. 59 of 1962); (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); (j) The Limestones and Dolomite Mines Labour Welfare Fund Act, 1972 (Act No. 62 of 1972); (k) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976 (Act No. 61 of 1976); (l) The Beedi Workers Welfare Fund Act, 1976 (Act No. 62 of 1976); (m) The Cine Workers Welfare Fund Act, 1981(Act No 33 of 1981); (n) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976 (Act No 55 of 1976); (o) The Cine Workers Welfare (Cess) Act, 1981 (Act No. 30 of 1981); (p) The Beedi Workers Welfare Cess) Act, 1976 (Act No. 56 of 76); and (q) The Building and Other Workers' Welfare Cess Act, 1996 (Act No.28 of 1996). <p>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.</p>	
171.2.	<p>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 –</p> <ul style="list-style-type: none"> (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.	<p>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.</p>	
171.4.	<p>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.</p>	
171.5.	<p>The repeal of the said Acts mentioned in sub-section (1) to the extent mentioned in this section, shall not—</p> <ul style="list-style-type: none"> (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, 	

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	<p>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;</p> <p>(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.</p>	
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.	<p>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:</p> <p>Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Code.</p>	
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 Entites and Workers to whom code shall not apply

{see section 1(4) and 1(5)}

PART – I

Entites to whom the Code or certain provisions of the Code shall not apply

Description of Entites	Which provisions of Code shall not apply	Conditions to be fulfilled for the provisions not to apply	Restrictions
Any establishment of the Central Government or State Government including departments of Central Government or State Government as the case may be	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.	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.	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
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.	Such provisions of the Code as are specified in the certificate of exclusion	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.	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

PART – II

Workers upon whom the Code or certain provisions of the Code shall not apply

Description of Workers	Which provisions of Code shall not apply	Conditions to be fulfilled for the provisions not to apply	Restrictions
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	The entire Code, and Schemes made thereunder	the international worker should be enjoying the status of detached worker	The exclusion of such international shall be for such period and subject to such terms as specified in the social security agreement.
An Indian employee, working in a foreign country with which India has entered into a social Security Agreement on reciprocity basis	The entire Code and Schemes made thereunder	(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	(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.

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<p>Foreign nationals pursuing internship in Indian Indian company or an educational institution or a Non Governmental Organisation (NGO)</p>	<p>The entire Code and Schemes made thereunder</p>	<p>The person should hold an Intern visa issued by Government of India</p>	<p>(a) The exclusion for a worker under this provision shall be for a maximum period of one year.</p> <p>(b) Exclusion shall not be valid for internship in certain strategic sectors, as notified by Ministry of External Affairs</p>
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THE SECOND SCHEDULE

Items on which Cess may be levied

{see sub-section (1) of section 32}

Item	Maximum rate at which Cess may be levied	Cess will be levied on
NIL	NIL	NIL

THE 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

Paragraph No	Paragraph Heading	Description and details
1.	Scheme Fund	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 <Name of the Scheme> Fund.
2.	Scheme Fund Account	The account called the“<Name of the Scheme> 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.
3.	Disposal of Fund	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.
4.	Guarantee of Scheme benefits.	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.
5.	Employer's liability for want of coverage under the scheme	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 .
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

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	g of the receipts, disbursements, and balances.	such formats and in accordance with such accounting policies as may be authorised by the Central Government in consultation with the Comptroller and Auditor General of India.
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	<p>(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.</p> <p>(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.</p> <p>(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.</p>
13.	Persons competent to issue medical certificate .	<p>(1) No medical certificate, if required under a scheme, shall be issued except by –</p> <p>(a) the Insurance Medical Officer to whom scheme member has been allotted or</p> <p>(b) an Insurance Medical Officer attached to a dispensary, hospital, clinic or other institution to which an Scheme member is allotted, or</p> <p>(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</p> <p>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.</p> <p>(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:</p> <p>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.</p>
14.	Employer to arrange for first-aid	<p>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 :</p> <p>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.</p>
15.	Constitution of Medical Boards/ Special Medical Boards.	<p>(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.</p> <p>(2) Special Medical Boards can be established by the state boards that may have specific jurisdictions as the State Board may, by order decide.</p>
16.	Occupational Disease.	<p>(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 : –</p>

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		<p>(a) whether the disabled person is suffering from one or more of the diseases specified in the said Schedule ;</p> <p>(b) whether the relevant disease has resulted in permanent disablement ;</p> <p>(c) whether the extent of loss of earning capacity can be assessed provisionally or finally ;</p> <p>(d) the assessment of the proportion of loss of earning capacity and in case of provisional assessment, the period for which such assessment shall hold good.</p> <p>(2) All assessments which are provisional may be referred to the Medical Board for review by the Commissioner not later than the end of the period taken into account by the provisional assessment.</p> <p>(3) Any decision of the Medical Board may be reviewed by it at any time.</p> <p>(4) The disabled person shall be informed in writing of the decision of the Medical Board and the benefit, if any, to which the Scheme member shall be entitled.</p>
17.	Procedure for payment of Benefits	<p>(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.</p> <p>(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.</p> <p>(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.</p>
18.	Budget	<p>(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.</p> <p>(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.</p> <p>(3) The State Government may make such modifications in the budget as it considers desirable before sanctioning it.</p> <p>(4) The Commissioner may, at any time during the year, make budgetary re-appropriation of funds sanctioned in the budget by the State Government: provided that—</p> <p>(i) the total amount sanctioned in the budget by the State Government is not exceeded;</p> <p>(ii) every re-appropriation so made shall be reported by him to the State Board at the next meeting of such Board.</p> <p>(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) .</p> <p>(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.</p> <p>(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.</p>

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

SI Number	Matters on which the Scheme may make provisions
1.	Purpose of the Scheme
2.	Date of Commencement of the Scheme
3.	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
4.	Eligibility conditions for becoming a member of the Scheme
5.	Exclusions from coverage under the Scheme
6.	Whether the Scheme is mandatory? Compulsory nature for certain class of persons to join.

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7.	Continuation of membership from any old Scheme
8.	Retention of membership of the Scheme
9.	Registration of the establishments or employers and person to whom the scheme applies
10.	Fixation of the rates of contribution or premium for the scheme;
11.	Manner of Collection of contributions/ premium for the Scheme, Contribution to be apportioned from Social Security Fund to the Scheme
12.	Disposal of Fund
13.	Benefits under the Scheme that will accrue to an eligible scheme member
14.	Conditions for entitlement of benefits under the Scheme
15.	The time period for which the benefits shall accrue
16.	Minimum and Maximum amount of benefits payable under the Scheme
17.	Procedure of submission of claims, and admitting claims of benefits
18.	Certifications and documentation required for claiming benefits
19.	Evidence required for establishing the claim.
20.	When claim of benefits becomes due, and when it is payable
21.	Manner of Dispensation of the benefits, Procedure for payment of Benefits
22.	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.
23.	Commutation of benefits, if applicable
24.	Reference to a Medical Board, if applicable
25.	Review of benefits, if applicable
26.	Suspension of benefit, if applicable
27.	Availability (or otherwise) of benefits under strike
28.	
29.	
30.	
31.	
32.	
33.	Annual reports
34.	other incidental and supplementary matters
35.	any other matter necessary for administration of the Scheme

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

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

PART II: LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

S. No.	Description of injury	%age of loss of earning capacity
<i>Amputation-Upper limbs (either arm)</i>		
1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than 20.32 cm from tip of acromion	80
3.	Amputation from 20.32 cm from tip of acromion to less than 11.43 cm below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 11.43 cm. below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20
11.	Guillotine amputation of the tip of the thumb without loss of bone	10
<i>Amputation-Lower limbs</i>		
12.	Amputation of both feet resulting in end-bearing stumps	90
13.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
14.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
15.	Loss of all toes of both feet proximal to the proximal inter phalangeal joint	30
16.	Loss of all toes of both feet distal to the proximal inter phalangeal joint	20
17.	Amputation at hip	90
18.	Amputation below hip with stump not exceeding 12.70 cm. in length measured from tip of great trochanter	80
19.	Amputation below hip with stump exceeding 12.70 cm. in length measured from tip of great trochanter but not beyond middle thigh	70
20.	Amputation below middle thigh to 8.89 cm. below knee	60
21.	Amputation below knee with stump exceeding 8.89 cm. but not exceeding 12.70 cm.	50
22.	Amputation below knee with stump exceeding 12.70 cm.	5
23.	Amputation of one foot resulting in end-bearing	50
24.	Amputation through one foot proximal to the metatarso-phalangeal joint	50

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25.	Loss of all toes of one foot through metatarso-phalangeal joint	20
	Other injuries	
26.	Loss of one eye, without complications, the other being normal	40
27.	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal	30
28.	Partial loss of vision of one eye	10
	LOSS OF	
	A- Fingers of right or left hand <i>Index finger</i>	
29.	Whole	14
30.	Two phalanges	11
31.	One phalanx	9
32.	Guillotine amputation of tip without loss of bone	5
	<i>Middle finger</i>	
33.	Whole	12
34.	Two phalanges	9
35.	One phalanx	7
36.	Guillotine amputation of tip without loss of bone	4
	<i>Ring or little finger</i>	
37.	Whole	7
38.	Two phalanges	6
39.	One phalanx	5
40.	Guillotine amputation of tip without loss of bone	2
	B- Toes of right or left foot <i>Great toe</i>	
41.	Through metatarso-phalangeal joint	14
42.	Part, with some loss of bone	3
	<i>Any other toe</i>	
43.	Through metatarso-phalangeal joint	3
44.	Part, with some loss of bone	1
	<i>Two toes of toes of one foot, excluding great toe</i>	
45.	Through metatarso-phalangeal joint	5
46.	Part, with some loss of bone	2
	<i>Three toes of one foot, excluding great toe</i>	
47.	Through metatarso-phalangeal joint	6
48.	Part, with some loss of bone	3
	<i>Four toes of one foot, excluding great toe</i>	
49.	Through metatarso-phalangeal joint	9
50.	Part, with some loss of bone	3

Explanation: 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}

Sl. No.	Occupational disease	Employment
1.	2	3
PART A		
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) All work involving exposure to health or laboratory work; (b) All work involving exposure to veterinary work; (c) Work relating to handling animals, carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; (d) Other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air.	All work involving exposure to the risk concerned
3.	Diseases caused by lead or its toxic compounds.	All work involving exposure to the risk concerned
4.	Poisoning by nitrous fumes.	All work involving exposure to the risk concerned
5.	Poisoning by organophosphorus compounds.	All work involving exposure to the risk concerned
PART B		
1.	Diseases caused by phosphorus or its toxic compounds.	All work involving exposure to the risk concerned
2.	Diseases caused by mercury or its toxic compounds.	All work involving exposure to the risk concerned
3.	Diseases caused by benzene or its toxic homologues.	All work involving exposure to the risk concerned
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds.	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds.	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations.	All work involving exposure to the 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 he 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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20.	Diseases caused by nitroglycerine or other itroacid esters.	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide.	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos.	All work involving exposure to the risk concerned.
24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.	All work involving exposure to the risk concerned.

PART C

1.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraoosilicosis asbestosis) and silico-tuberculosis provided that silicosis is an essential factory in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2.	Bagassosis,	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax, hemp and sisal dust (Byssinosos)	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alvoelitis caused by the inhalation of organic dusts.	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals.	All work involving exposure to the risk concerned.

THE SIXTH SCHEDULE

Relevant Factor

(See section 63.1)

Age (Column 1)	Factors (Column 2)
Not more than 16	228.54
17	227.49
18	226.38
19	225.22
20	224.00
21	222.71
22	221.37
23	219.95
24	218.47
25	216.91
26	215.28
27	213.57
28	211.79
29	209.92
30	207.98
31	205.95
32	203.85
33	201.66
34	199.40
35	197.06
36	194.64
37	192.14
38	189.56
39	186.90
40	184.17
41	181.37
42	178.49
43	175.54
44	172.52
45	169.44
46	166.29
47	163.07
48	159.80
49	156.47
50	153.09
51	149.67
52	146.20
53	142.68
54	139.13
55	135.56
56	131.95
57	128.33
58	124.70
59	121.05

Age (Column 1)	Factors (Column 2)
60	117.41
61	113.77
62	110.14
63	106.52
64	102.93
65 or more	99.37

THE SEVENTH SCHEDULE
Penalties

[See Sub-section (1) of section 156]

Entry no	Violation of Section, Subsection, Clause or Proviso			Subject	Fine and/or imprisonment which may be imposed	Daily fine which may be imposed	Whether offence Cognizable?
Column 1	Column 2			Column 3	Column 4	Column 5	Column 6
	Section	Sub-section	proviso				
1.	11	(4)	First	A registered worker, applying for, or obtaining registration more than once	Fine which may extend upto ten thousand rupees	Nil	Non-cognizable
2.	11	(4), (5), (7), (10) or (15)		Failure to apply for registration of worker	Fine which may extend upto Twenty thousand rupees but which shall not be less than ten thousand only (per worker)	1000 rupees per worker per day	Non-cognizable
3.	11	(6)		Failure on the part of non employee to apply for registration within the stipulated period	Fine which may extend upto Ten thousand rupees	100 rupees per day	Non-cognizable
4.	11	(9)		Failure to conduct due-diligence of information submitted for registration	Fine which may extend upto Ten thousand rupees	Nil	Non-cognizable
5.	11	(11)		Failure to inform correct Registration Number (VIKAS) to employer/	Fine which may extend upto Ten thousand rupees	Nil	Non-cognizable
6.	11	(15)		Failure by employer to update registration particulars within the time prescribed	Fine which may extend upto Twenty thousand rupees but which shall not be less than ten thousand only (per worker)	1000 rupees per worker per day	
7.	11	(12)		Failure to verify registration of contractor, middleman, agency or placement agency	Fine which may extend upto One lakh rupees but which shall not be less than twenty thousand only	1000 rupees per day	Non-cognizable
8.	11	(13) (a)		Employing worker who is not registered beyond the stipulated period	Fine which may extend upto Twenty thousand rupees but which shall not be less than ten thousand only (per worker)	100 rupees per day	Non-cognizable
9.	11	(13) (b)		An unregistered Contractor taking up work	Fine which may extend upto One lakh rupees but which shall not be less than twenty thousand only	1000 rupees per day	Non-cognizable
10.	11	(14) (a) and (b)		Failure to update Registration particulars	Fine which may extend upto ten thousand rupees	10 rupees per day	Non-cognizable
11.	11	(14)	First	Failure to provide assistance to worker to update registration particulars	Fine which may extend upto Twenty thousand rupees	100 rupees per day	Non-cognizable
12.	(12)	(2)		Failure to apply for cancellation/ re-activation of Registration (worker) within the stipulated period	Fine which may extend upto ten thousand rupees	50 rupees per day	Non-cognizable
13.	(14)	(1)		Failure to apply for registration of establishment within the stipulated period	Fine which may extend upto Twenty thousand rupees	2000 rupees per day	Non-cognizable
14.	15	(1)		Failure to inform about change of particulars warranting amendment of Registration within the stipulated period	Fine which may extend upto Twenty thousand rupees	1000 rupees per day	Non-cognizable
15.	16	(2)		Failure to apply for cancellation of registration	Fine which may extend upto Twenty thousand rupees	100 rupees per day	Non-cognizable
16.	17	(3)		Employing workers without Registration of Establishment beyond the	imprisonment for a term which may extend to three years but which shall	2000 rupees per day	Cognizable

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				stipulated period	not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees		
17.	20	(1)		Failure to pay contribution to Social Security Fund which an employer is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the contribution payable per day	Cognizable
18.	20	(2)		Failure to pay contribution to Gratuity Fund which an employer is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the contribution payable per day	Cognizable
19.	20	(3)		Failure to pay Contribution to Social Security Fund which a worker is liable to pay	Fine which may extend upto Twenty thousand rupees	0.2 percent of the contribution payable per day	Non cognizable
20.	21	(1)		Failure by an employer to deduct and pay the worker's contribution.	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the contribution payable per day	Non-Cognizable
21.	21	(1)		Failure by an employer to pay worker's contribution which has been deducted by the employer from the employees' or workers' wages;	imprisonment for a term which may extend to five years which shall not be less than two years and a fine which may extend to twenty lakh rupees but shall not be less than five lakh rupees	0.2 percent of the contribution payable per day	Cognizable
22.	21	(6)		deduction or attempt to deduct from the wages of an employee the whole or any part of the employer's contribution	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	2000 rupees per worker per day	Cognizable
23.	27	(3)		Receiving dual benefits that are prohibited under sub-section (3) of Section 27	imprisonment for a term which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	Nil	Non Cognizable
24.	32	(2) or (6)		Failure to pay Cess on Buildings and other constructions which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable
25.	33	(2) or (3)		Failure to pay Cess on Ore and Minerals which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable
26.	34	(2)		Failure to pay Cess on Bidis which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable
27.	35	(3)		Failure to pay Cess on Audio Visual production which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable
28.	37	(1), (2), (3) or (4)		Failure to furnish Returns or Return-cum-Challan	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
29.	37	(5) or (6)		Furnishing incorrect returns or furnishing false particulars in Returns	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh	4000 rupees per day	Non-cognizable

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					rupees but shall not be less than fifty thousand rupees		
30.	37	(7), (8) or (9)		Failure to maintain registers and records required under by-laws	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	4000 rupees per day	Non-cognizable
31.	37	(10)		Failure to furnish information	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
32.	38	(1) or (2)		Failure to pay Administrative Charges which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the amount payable per day	Cognizable
33.	(39)	(1), (2) or (3)		Failure to pay Interest which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the interest amount payable per day	Cognizable
34.	(40)	(1)		Failure to repay benefits or payments improperly received	imprisonment for a term which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	100 rupees per day	Non-cognizable
35.	42	(1)		Failure to make Contribution Deduction at Source	imprisonment for a term which may extend to one years but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the amount deductible per day	Non-cognizable
36.	42	(5)		Misuse of Certificate Issued by Commissioner	imprisonment for a term which may extend to one years but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non- cognizable
37.	42	(9)		Failure to pay Contribution deducted at Source	imprisonment for a term which may extend to one years but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the amount payable per day	Cognizable
38.	43	(1)		Failure to ensure payment of contribution in respect of employees	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day per worker	Non-Cognizable
39.	43	(5)		Failure to pay contribution deducted from contractor	imprisonment for a term which may extend to three years which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	0.2 percent of the amount payable per day	Cognizable
40.	43	(6)		Failure to furnish relevant details of employees	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	4000 rupees per day	Non-cognizable
41.	43	(7)		Reduction of the wages or any privileges or benefits admissible to an employee	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	2000 rupees per worker per day	Non-cognizable
42.	44	(1)		Failure to discharge dues on transfer of establishment	imprisonment for a term which may extend to three years which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	0.2 percent of the amount payable per day	Cognizable

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43.	45	(1)		Disclosure of particulars referred to in sub-section (1) of section 45 by an official of National Council, Central/State Board of Intermediary Agency except under the provisions of sub-section (2) of section 45	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	nil	Non-cognizable
44.	45A	(1)		Unauthorized disclosure, transmission, copying or otherwise dissemination of any information	imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.	NIL	Cognizable
45.	45A	(2)		Committing any act prohibited under section 45A.2	imprisonment for a term which may extend to three years and shall also be liable to a fine which shall not be less than ten lakh rupees	NIL	Cognizable
46.	46	(1) or (2)		Failure to pay full amount of Gratuity entitled to an employee	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the Gratuity amount payable per day	cognizable
47.	49	(1)		Fraudulent withdrawal of any amount from State Gratuity Fund, or not utilizing the withdrawn amount for settling the liability towards Gratuity	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than One lakh rupees	0.2 percent of the amount withdrawn per day	Cognizable
48.	53	(1)		Employment of a woman during the prohibited period	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	cognizable
49.	53	(2)		A woman taking up employment during prohibited period	Fine which may extend upto Ten thousand rupees	nil	Non-cognizable
50.	53	(3)		Requiring woman to undertake arduous work during prohibited period	imprisonment which may extend to six months, but which shall not be less than one month and fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per entitled woman per day	Non-cognizable
51.	53	(4)		Failure to allow nursing breaks	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	2000 rupees per entitled woman per day	Non-cognizable
52.	53	(6)		Making prohibited deductions from wage	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	2000 rupees per entitled woman per day	Non-cognizable
53.	53	(7)		Failure to provide crèche facility	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per per day	Non-cognizable
54.	53	(8)		Absence of any of the prescribed facility in the crèche	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
55.	53	(9)		Failure to inform any woman worker	Fine which may extend upto One lakh but which shall not be less than Twenty thousand rupees	Nil	Non-cognizable
56.	56	(4)		Denial of leave to a woman worker when entitled	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per entitled woman per day	Non-cognizable
57.	59	(1)		Discharging, dismissing or otherwise punish a woman worker during or on	imprisonment for a term which may extend to one year but which shall	2000 rupees per entitled	Non-cognizable

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				account of such absence due to maternity	not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	woman per day	
58.	59	(1)		Giving notice for discharge or dismissal that would expire during such absence	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per entitled woman per day	Non-cognizable
59.	61	(1)		Failure to pay compensation to employee	imprisonment for a term which may extend to three years but which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	0.2 percent of the compensation payable per day	cognizable
60.	61	(6)		Claiming or obtaining compensation more than once for same accident	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	nil	Non-cognizable
61.	63	(6)		Failure to provide medical aid or reimburse medical expenditure	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	nil	Non-cognizable
62.	63	(7)		Failure to pay funeral expenses	imprisonment which may extend to six months, but which shall not be less than one month and fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	nil	Non-cognizable
63.	65	(3)		Failure to maintain notice book	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
64.	71	(1)		Failure to give notice and/ or report of accident	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	2000 rupees per day	Non-cognizable
65.	71	(2)		Failure to furnish return of accidents	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
66.	71	(3)		Failure to furnish statement when required by Commissioner	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
67.	78	(1)		Denial of medical leave	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	nil	Non-cognizable
68.	78	(1)		Claiming or attempting to claim medical leave on false certification	Fine which may extend upto Twenty thousand rupees	nil	Non-cognizable
69.	78	(2)		Discharging, dismissing or otherwise punishing a person during the period of absence due to sickness	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per entitled person per day	Non-cognizable
70.	81	(1)		Failure to observe conditions during availing sickness benefit	Fine which may extend upto Ten thousand rupees	nil	Non-cognizable
71.	88	(3)		Failure to observe terms and condition of license	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	10000 rupees per day	Non-cognizable
72.	88	(4)		Commencing or conducting activities of intermediate agency without license	imprisonment for a term which may extend to three years but which shall not be less than one year and a fine which may extend to ten lakh rupees	10000 rupees per day	-cognizable

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					but shall not be less than two lakh rupees		
73.	(91)	(1)		Obstructing or preventing authorized officer to enter or search premises, or to seize records	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
74.	93	(3)		Removal, altering, destroying, or other rendering unusable any records in violation of order	imprisonment for a term which may extend to three years but which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	nil	cognizable
75.	93	(4)		Failure to appear before authorized officer when required to do so or to answer any question put to him, or, Failure to sign any notes of examination	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
76.	92	(1)		Failure to preserve and/or produce records	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
77.	92	(2)		Failure to furnish information	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
78.	94	(1)		Default in condition of operating Alternate Coverage Mechanism	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
79.	95	(1)(a)		Failure to establish Board of Trustees in accordance with the provisions in section 95	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
80.	95	(1)(c)(i)		Failure to maintain details accounts records of funds fo which permission to operate Alternate Coverage Mechanism has been granted	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	10000 rupees per day	Non-cognizable
81.	95	(1)(c)(ii)		Failure to submit returns in respect of funds / schemes fo which permission to operate Alternate Coverage Mechanism has been granted	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
82.	95	(1)(c)(iii)		Failure to invest scheme funds in accordance with the directions of central government	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
83.	95	(1)(c)(iv)		Failure to transfer scheme fund account of any employee	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
84.	95	(1)(c)(v)		Failure to perform any other duty specified in the Scheme for which permission to operate Alternate Coverage Mechanism is granted	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
85.	95	(2)(a)		Failure to maintain details accounts records of Alternately Covered Employees	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh	10000 rupees per day	Non-cognizable

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					rupees but shall not be less than fifty thousand rupees		
86.	95	(2)(a)		Failure to submit returns in respect of Alternately Covered Employees	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
87.	95	(2)(a)		Failure to invest scheme funds in accordance with the directions of central government	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
88.	95	(2)(a)		Obstructing or preventing inspections, or failure to provide reasonable facilities for inspection	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
89.	95	(2)(b)		Reduce the quantum of benefits	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
90.	95	(2)(c)		Failure to transfer funds of an employee	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
91.	95	(3)		Failure to pay contribution	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the contribution payable per day	Non-cognizable
92.	96	(4)		Failure to transfer and/or credit fund on cancellation of permission to operate Alternate Coverage Mechanism.	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
93.	98	(1) , (2)		Failure to transfer accounts	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable

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)**

International
Labour
Organization

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**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of benefit in respect of a condition requiring medical care of a preventive or curative nature in accordance with the following Articles of this Part.

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 institutions 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 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 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;

- (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 co-operate, wherever appropriate, with the general vocational rehabilitation services, with a view to the re-establishment of handicapped persons in suitable work.
2. National laws or regulations may authorise such institutions or departments to ensure provision for the vocational rehabilitation of handicapped persons.

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 benefit specified in Article 42 shall be secured at least to a person protected who, within a prescribed period, has completed a qualifying period which may be three months of contribution or employment, or one year of residence, as may be prescribed.

Article 44

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

- (c) 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. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with 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 indicated 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 person protected 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--

- (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	Contingency	Standard Beneficiary	Percentage
III	Sickness	Man with wife and two children	45
IV	Unemployment	Man with wife and two children	45
V	Old age	Man with wife of pensionable age	40
VI	Employment injury: Incapacity of work Invalidity Survivors	Man with wife and two children	50
		Man with wife and two children	50
		Widow with two children	40
VIII	Maternity	Woman	45
IX	Invalidity	Man with wife and two children	40
X	Survivors	Widow with two children	40

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

1. 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), (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 constituted by the insurance contributions of employees 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 penumbral 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.

LABOUR CODE ON SOCIAL SECURITY 2018

i) Women need maternity protection: They also need protection against widowhood, desertion and divorce. Special measures would have to be taken to increase their participation in gainful employment and raise their economic status. Children need care and nutrition. Old people also need care especially when they are ill, and in need of emotional support. The social security policy/ plan for India may be based on principles of (i) classification, (ii) participation, (iii) equity and efficiency and (iv) occupation – specific, area specific or need specific nature, (v) gender, (vi) adequacy and (vii) unified administration

j) On the question of evolving an integrated and comprehensive system of social security in India, one needs to have a broad vision and develop a structure which will encompass the whole population with diverse needs. It can not be a single scheme but a combination of schemes catering to the needs of different target groups with different needs and different capacity.

k) The system envisaged by us comprises of four tiers, namely : (i) social assistance programmes financed wholly by taxes and from the exchequer. These will mostly have to be area based schemes. (ii) Schemes that are partly contributory and partly subsidised by the state (iii) wholly contributory social insurance schemes, and (iv) Voluntary Schemes. Destitutes and people below poverty line who can-not make any contribution for their security may be covered under tax based schemes in the first tier. Workers in the unorganised sector who have some contributory power but can-not be self sufficient may be covered under the subsidised schemes in the second tier. Those who either by themselves, or jointly with their employers, can make adequate contribution to the schemes so as to be self sufficient, may be covered under social schemes in the third tier. Others who are comparatively affluent and can make their own provision for meeting the contingencies or risks as they arise, may be covered under voluntary schemes which the new insurance companies can provide.

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.
- cc) 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.
- dd) 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.
- ee) 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.

gg) The total estimated cost for the proposals made in the chapter would be around 18,412 crores. This includes the cost of ongoing schemes.

hh) 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-engineer their services. Similar exercises are necessary in India too where complaints on the working of the ESI and EPF schemes abound.

ii) 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.

jj) 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.

8.446 The Unorganised Sector

a) Workers in the unorganised sector comprise of:

i) Those employed in small establishments outside the purview of the current social security legislation,

ii) Those who are employed on a casual or intermittent basis without any security of employment or income and The self-employed.

iii) 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.

b) 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.

c) 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.

d) 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).

e) Welfare funds can be an important model for providing social security o the workers in the unorganised sector. Welfare funds may be set up for each of the major employments 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;

f) 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.

g) 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.

h) 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.

i) 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.

j) 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.

- k) 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.
- l) 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.
- m) 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.
- n) 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 focussing 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.
- o) 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.
- p) In the cases of self-employed persons, the primary need is protection of their productive functions against natural calamities. 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 give protection to self employed workers like milk producers, boatmen and fishermen.
- q) 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.
- r) 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.
- s) 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.
- t) While promoting wage employment, the States should adopt and effectively implement a rational minimum wage policy.
- u) 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.
- v) 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.
- w) 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 Antyodaya 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,
- x) 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.
- y) 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.
- z) 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

subsistence 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.

cc) 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.

dd) 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.

ee) 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.

ii) 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 gainfully 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

of the disabled. The Peoples 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.