

Code on Social Security, 2020

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Background

The Code on Social Security, 2020 ("SS Code") has been enacted to amend and consolidate the laws relating to social security with the objective of extending social security benefits to all employees and workers, whether in the organised, unorganised, or any other sector, and for matters connected therewith or incidental thereto. The SS Code was passed by the Lok Sabha on September 22, 2020, and subsequently by the Rajya Sabha on September 23, 2020, with a view to amalgamate, simplify and rationalise the provisions of nine central labour enactments relating to social security. The Code on Social Security, 2020 has come into force with effect from 21 November 2025.

Laws Subsumed under the SS Code

1. Employees' Compensation Act, 1923
2. Employees' State Insurance Act, 1948
3. Employees' Provident Funds and Miscellaneous Provisions Act, 1952
4. Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
5. Maternity Benefit Act, 1961
6. Payment of Gratuity Act, 1972
7. Cine-Workers Welfare Fund Act, 1981
8. Building and Other Construction Workers Welfare Cess Act, 1996

9. Unorganised Workers' Social Security Act, 2008

Objectives of the SS Code

1. **Consolidation of Existing Laws:** To streamline multiple central labour laws relating to social security into a single comprehensive framework.
2. **Universalisation of Social Security:** To extend social security coverage to all employees and workers, irrespective of whether they belong to the organised or unorganised sector.
3. **Inclusion of Diverse Categories of Workers:** To bring within its ambit self-employed workers, home workers, wage workers, migrant workers, unorganised sector workers, gig workers and platform workers.
4. **Provision of Comprehensive Benefits:** To provide access to schemes relating to life and disability insurance, health and maternity benefits, provident fund, gratuity and other welfare measures.
5. **Recognition of New Forms of Employment:** To acknowledge evolving work arrangements and ensure protection even in non-traditional employment relationships.
6. **Simplification and Rationalisation of Compliance:** To create a uniform and technology-driven framework for registration, contribution and administration of social security schemes.

Comparison of Key Legal Provisions between Old Regimes and Code on Social Security 2020

Feature	Old Labour Laws	Code on Social Security, 2020	Impact
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<p>Social Security Benefits Accessibility</p>	<p>Earlier, social security benefits were governed by multiple sector-specific statutes such as the EPF Act, 1952, ESI Act, 1948, Payment of Gratuity Act, 1972 and Unorganised Workers' Social Security Act, 2008, with applicability dependent on workforce thresholds, wage ceilings and existence of a traditional employer-employee relationship.</p>	<p>The Code on Social Security, 2020 adopts an expanded and inclusive approach by extending coverage to employees, unorganised workers, gig workers, platform workers and fixed-term employees</p>	<p>Universalisation of social security coverage across workforce</p>
<p>Unified Definitions</p>	<p>Under the earlier labour law regime, key terms such as wages, employee, employer and establishment were defined differently across statutes like the EPF Act, ESI Act and Payment of Wages Act, resulting in interpretational inconsistencies</p>	<p>The Code on Social Security, 2020 introduces standardised definitions under Section 2, particularly Section 2(88) for wages, thereby reducing ambiguity and facilitating uniform enforcement.</p>	<p>Reduces litigation and interpretational confusion</p>
<p>Definition of Wages</p>	<p>Different definitions across statutes (EPF Act, ESI Act, Payment of Wages Act etc.). Generally included basic wages and certain allowances while excluding HRA, bonus, overtime, commission and several other allowances -- but scope varied under each law leading to litigation.</p>	<p>Uniform definition under Section 2(88). Wages include all remuneration expressed in monetary terms payable to an employee if terms of employment are fulfilled, including basic pay, dearness allowance and retaining allowance. Excludes bonus, HRA, overtime, commission, conveyance allowance and other prescribed exclusions subject to the 50% cap rule (if exclusions exceed 50% of total remuneration, the excess is added back to wages)</p>	<p>Higher contribution base & clarity</p>

Unified Social Security Organisations	EPFO, ESIC, Welfare Boards operated independently	Integrated framework with expanded role of National & State Social Security Boards	Better coordination and accountability
Digitalisation of Infrastructure	Paper-based compliance; separate forms, registers and inspections	Aadhaar-linked digital records and portability across states and employers	Transparency and portability, especially for migrant workers
Worker Facilitation & Grievance Support	No formal system	Toll-free helplines and facilitation centres mandated	Improved accessibility and grievance redressal
Compounding of Offences	The compounding of offences was not uniform -- it existed in some Acts but not all, and there was no concept of enhanced punishment for repeat offences.	The SS Code permits the compounding of certain offences (in case of first convictions) in following manner: for an offence punishable with fine only: with payment of 50% of the maximum fine provided for that offence; for an offence punishable with imprisonment for a term which is not more than 1 year and also with fine: with payment of 75% of the maximum fine provided for that offence. Once an offence is compounded, no prosecution will be instituted against the offender for that offence	Encourages compliance

Career Centres	Under Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 (EE Act) private employers employing at least 25 employees were to notify certain vacancies to employment exchanges. Noncompliance with EE Act may lead to a monetary penalty of up to INR 1000.	SS Code introduces concept of career centres replacing employment exchanges. They are offices (including employment exchanges, places, or portals) established and maintained by the Central Government for providing career services by maintaining information on recruiting employers, candidates seeking recruitment, occurrence of vacancies and individuals seeking vocational guidance or counselling to start self-employment etc. Failure to report vacancies (as may be notified by the labour authorities) to career centres may lead to a monetary penalty of up to INR 50,000.	Modern employment services
Contribution Flexibility	No provision	Govt may reduce/defer contributions during disasters	Economic relief during crises
Employee State Insurance Coverage	Mainly factories and notified establishments	Extendable to wider sectors	Expanded healthcare coverage
ESI Registration	Office-centric	Mandatory online registration via portal	Ease of compliance
ESI Contributions	Employer 3.25%, Employee 0.75%	Same but digitally tracked, facilitated through Shram Suvidha Portal	Transparency
ESI Contribution Revision	Difficult revision	Easier revision via rules	Administrative flexibility
Provident Fund Applicability	Applicable to notified establishments with ≥ 20 employees	Applicable establishments with ≥ 20 employees across all types including Gig Workers, Self Employed Workers, FTE etc.	Broader coverage
PF Membership Flexibility	No option for small establishments	Establishments with < 20 employees may voluntarily join	Increased participation

PF Penalties	Up to Rs.5,000 fine and 1-6 months imprisonment	Rs.1,00,000 fine and 1-3 years' imprisonment; repeat offence Rs.3,00,000 or 2-5 years' imprisonment	Stronger enforcement
Voluntary PF & ESI Coverage	No provision on the same	PF/ESI chapters may apply on employer application with majority employee consent; exit allowed with conditions	Flexibility for establishments to opt-in/out
Gratuity Eligibility	After 5 years continuous service	Includes fixed-term employees and notified events	Expanded employee protection
Gratuity Calculation	Standard formula	Pro-rata formula to calculate Gratuity for FTE: (Wages x 15/26 x Pro-rated fraction & completed years of service)	Fair compensation
Gratuity Insurance	Not mandatory	Mandatory insurance (except Govt establishments)	Ensures payment security
Platform Workers	Not recognised	Introduces the concept of platform workers who undertake 'platform work'. Platform work means any work arrangement outside of a traditional employer employee relationship in which organisations or individuals can use an online platform to access or provide specific services against payment.	Legal recognition of new labour category
Aggregators	Not recognised	Defines aggregators in context of gig and platform workers. It states that an aggregator means a digital intermediary or a market-place for a buyer or user of a service to connect with the seller or the service provider	Brings platform economy under regulation
Legal Recognition of Gig Work	Not recognised	Separate recognised labour category (gig and platform workers). Gig-worker means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship.	

Welfare Schemes for Unorganised/Gig Workers	No structured scheme framework	Central & State Governments empowered to frame schemes	Extends protection to informal economy
Social Security Fund	No dedicated fund	Separate fund for unorganised, gig and platform workers	Financial security framework
Responsibility for Benefits (Unorganised Sector)	Mainly Government	Shared among Govt, aggregators and workers	Shared accountability model

Implication of The Code on Social Security, 2020 for Not-for-Profit Organisations

A. Employees' Provident Fund

Applicability: The provisions relating to EPF apply to every establishment in which 20 or more employees are employed. The Central Government may also extend coverage to other establishments or classes of establishments through notification. More workplaces and workers will be covered under the Provident Fund system, allowing a larger number of employees to receive social security benefits like retirement savings. Since applicability issue is resolved, it shall reduce litigation.

Voluntary Coverage: Even establishments employing less than 20 employees may opt for PF coverage if there is an agreement between the employer and majority of employees. This promotes wider social security coverage.

Employer Contribution: The employer is liable to contribute 10% of the wages payable to each employee to the Provident Fund. The Central Government may, by notification, enhance this rate to 12% of wages for any establishment or class of establishments. Until the new scheme is introduced, 12% can be followed.

Employee Contribution: The employee is required to contribute an amount equal to the employer's contribution, i.e., 10% of wages. The employee may voluntarily contribute more than 10% of wages. However, the employer is not obligated to match any contribution exceeding the statutory rate.

Key points:

- The Central Government may notify different rates for specific classes of employees.
- Employees may contribute more than the statutory rate (voluntary higher contribution).
- Employers are not required to match contributions beyond the statutory rate.

Pension and Insurance Components: In addition to the Provident Fund Scheme, the Central Government may frame Employees' Pension Scheme (EPS). Provides for:

- Superannuation pension
- Retiring pension
- Permanent total disablement pension
- Widow/widower pension
- Children pension
- Orphan pension
- Nominee pension

Out of the employer's contribution, up to **8.33% of wages** (or such percentage as notified) is allocated towards the Pension Fund.

“ **Will your take-home salary reduce under the new labour codes?** No not necessarily, if your Provident Fund (PF) contribution is calculated only up to the statutory wage ceiling of Rs.15,000, your take-home salary will remain unchanged. Only when both employer and employee voluntarily agree to contribute PF on wages above Rs.15,000 can the take-home pay change. PF

beyond the statutory limit is voluntary. Salary restructuring alone does not automatically reduce take-home pay.

Employees' Deposit Linked Insurance Scheme (EDLI): The Central Government may establish an EDLI Fund. It provides life insurance benefits to employees. The employer contributes up to 1% of wages (or such percentage as notified) towards the Insurance Fund, along with prescribed administrative charges.

Contributions for Contract Workers: Employer can recover PF paid for contract labour from contractor. Contractor can deduct employee contribution from wages. Employer contribution cannot be recovered from employee.

Authorising Employers to Maintain Provident Fund Account: The Central Government may authorise an employer to maintain its own Provident Fund account, upon application by the employer and the majority of employees, in relation to an establishment employing 100 or more persons. Such authorisation:

- Is subject to prescribed conditions under the Provident Fund Scheme.
- Cannot be granted if the employer has committed default in payment of contributions or any offence under the Code in the preceding three years.
- May be cancelled if conditions are violated, after giving the employer a reasonable opportunity of being heard.

Transfer of Accounts: Where an employee resigns employment and obtains employment in another establishment, the accumulated amount in the Provident Fund or Pension Fund account shall be transferred or otherwise dealt with in the manner specified in the respective schemes. This ensures continuity of social security benefits.

Exemptions: Establishments registered under the Co-operative Societies law employing less than fifty persons and working without the aid of power; establishments of the Central or State Government whose employees already receive contributory provident fund or old-age pension benefits under government rules; establishments created under any other law where employees are covered by their own provident fund or pension scheme; and employees who were already receiving provident fund benefits under a Central or State enactment before the commencement of the Code. Additionally, the Central Government may exempt any class of establishments for a

specified period, subject to conditions, considering their financial position or other relevant circumstances.

Self-Employed Workers: The Central Government may frame schemes for providing social security benefits to self-employed workers or any other class of persons, thereby expanding coverage beyond traditional employer-employee relationships.

Contractor Engagements: The law fixes **primary responsibility on the principal employer** (the establishment where the work is performed). Accordingly, the principal employer must deposit the **entire PF contribution** comprising both the employer's share and the employee's share, along with administrative charges with the authorities in the first instance, even though the workers are engaged through a contractor. After making the payment, the principal employer is legally entitled to recover the total amount from the contractor, either by deducting it from the contractor's bills or treating it as a recoverable debt. The contractor may then deduct **only the employee's PF contribution** from the wages of the concerned worker. The employer's contribution and related charges can never be recovered from the employee, irrespective of any contractual arrangement to the contrary.

Illustration 1

A company engages housekeeping staff through a contractor, each earning Rs.18,000 per month. The total PF payable per worker at 12% employer + 12% employee equals Rs.4,320. The company must first deposit Rs.4,320 with the PF authorities. It may then recover Rs.4,320 from the contractor. The contractor can deduct only Rs.2,160 (employee share) from the worker's salary.

Priority of EPF Dues: Any amount due under the EPF provisions constitutes a first charge on the assets of the establishment and is payable in priority in accordance with the Insolvency and Bankruptcy Code, 2016. This safeguards employees' statutory contributions in cases of insolvency.

Continuity of Existing Schemes and Rules: The following schemes, rules, regulations and procedures framed under the earlier social security legislations shall continue to remain in force for a period of one year from the commencement of the Code to the extent they are not inconsistent with the provisions of the Code on Social Security, 2020:

Schemes under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952:

- Employees' Provident Funds Scheme, 1952
- Employees' Deposit Linked Insurance Scheme, 1976
- Employees' Pension Scheme, 1995
- Tribunal (Procedure) Rules, 1997

Schemes under the Employees' State Insurance Act, 1948:

- All rules, regulations and schemes framed thereunder

These provisions operate as transitional arrangements to ensure administrative continuity and uninterrupted delivery of social security benefits until new schemes are framed under the Code.

Recognition under Income Tax Act: The Provident Fund is deemed to be a Recognised Provident Fund under the Income Tax Act, 1961, thereby ensuring tax benefits subject to statutory limits.

Appeal Mechanism: An employer aggrieved by determination of dues or levy of damages may file an appeal before the prescribed Tribunal, subject to depositing 25% of the amount due as determined.

Penalty: Penalty has been increased from Rs. 10,000 to 1,00,000 and 1 to 3 years imprisonment. Similarly subsequent failure attracts fine of 3,00,000 rupees or 2 to 5 years imprisonment.

B. Gratuity

Applicability: The gratuity provisions apply to: i. Every factory, mine, oilfield, plantation, port and railway company; and ii. Every shop or establishment in which 10 or more employees are employed or were employed on any day in the preceding 12 months; and iii. Any other establishment notified by the appropriate Government.

A key feature of applicability is its continuing nature. Once an establishment becomes covered by virtue of meeting the threshold of ten employees, it remains governed by the gratuity provisions even if the number of employees subsequently falls below ten. Coverage, therefore, is permanent once triggered.

Eligibility: Gratuity becomes payable on termination of employment after continuous service of not less than 5 years in the following cases:

- Superannuation
- Retirement or resignation
- Death or disablement due to accident or disease
- Expiry of fixed-term employment contract
- Any other notified event by Central Government

The five-year qualifying condition does not apply in cases of death, disablement, or expiry of fixed-term employment. In these circumstances, gratuity becomes payable irrespective of length of service.

Continuous Service and Deemed Service Rule: An employee is regarded as being in continuous service if the service is uninterrupted. However, interruptions caused by sickness, accident, leave, lay-off, strike, lock-out, or cessation of work not attributable to the employee do not break continuity. Maternity leave (up to twenty-six weeks) is also included within continuous service.

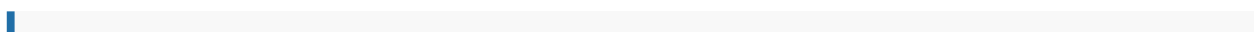
Even where uninterrupted service cannot be strictly established, the law provides a deeming fiction. Service is treated as continuous if the employee has actually worked for the minimum number of days during the relevant period:

Period	Minimum Days Worked
12 months	240 days
6 months	120 days

In calculating the number of days actually worked, the following are included:

- Paid leave
- Maternity leave (up to 26 weeks)
- Lay-off days
- Absence due to temporary disablement arising out of employment injury

This deeming rule ensures that employees are not deprived of gratuity due to technical breaks in service.



Will your gratuity increase because of bonuses and perks?

Included in Wages: Basic pay, Dearness allowance, Retaining allowance

NOT Included in Wages (excluded while computing gratuity): performance bonus, stock options, reimbursements, meal vouchers, telephone reimbursement, creche allowance

Calculation of Gratuity: Gratuity is calculated at the rate of fifteen days' wages for every completed year of service or part thereof exceeding six months. For monthly-rated employees, the formula is:

$$\text{Gratuity} = (\text{Last Drawn Monthly Wages} / 26) \times 15 \times \text{Years of Service}$$

The calculation is based on last drawn wages. The total amount payable is subject to the maximum ceiling notified by the Central Government.

Special Cases:

- Piece-rated employees: Daily wages are computed based on the average wages of the preceding three months (excluding overtime).
- Seasonal establishments: Gratuity is payable at the rate of seven days' wages per season.
- Pre-disablement wages: The wages the employee received before becoming disabled are considered at their actual full amount. This ensures that the employee's service prior to disablement is fully recognised in the gratuity calculation.
- Post-disablement wages: Any wages received after the disablement, which may be reduced due to inability to perform full duties, are taken as actually paid, i.e., the reduced rate. This reflects the real earnings of the employee after the accident or disablement, avoiding overpayment relative to current work capability.

Fixed-Term Employees (FTE): Gratuity is payable to fixed-term employees upon expiry of their contract. Unlike permanent employees, fixed-term employees are eligible after completion of at least one year of service, and the five-year requirement does not apply. The method of computation also differs. For permanent employees, service beyond six months is rounded up and treated as one full year. For fixed-term employees, gratuity is calculated strictly on a proportional basis without rounding off. For example, a service period of 2 years and 7 months is treated as

2.58 years, not 3 years.

Gratuity = (Last Drawn Monthly Wages / 26) x 15 x Years of Service

“ **Does gratuity eligibility start after one year of service for all employees?** The reduced eligibility period of one year is a special statutory benefit introduced only for Fixed-Term Employees engaged for a defined contractual period. Permanent employees continue to be governed by the traditional five-year continuous service requirement for gratuity eligibility.

Payment on Death: When an employee dies, gratuity is paid to the nominee. If no nomination has been made, it is paid to the legal heirs. If the nominee or heir is a minor, the minor's share must be deposited with the competent authority and invested until the minor attains majority.

Nomination: Nomination is mandatory after completion of one year of service. If the employee has a family, nomination must be made in favour of one or more family members. The nomination may be modified at any time. Employers are required to maintain nominations safely and securely.

Application for Gratuity: Any eligible employee, or a person authorised in writing on their behalf, can submit a written application to the employer for gratuity payment. The form and timeline for submission are as prescribed by the appropriate Government. Key point: While employees can apply, this is not mandatory for the employer to act.

Employer's Duty to Determine Gratuity: As soon as gratuity becomes payable, the employer must:

- Determine the amount of gratuity due.
- Give written notice to the employee (or person entitled) and to the competent authority.

Payment must be made within 30 days from the date gratuity is due. Employers cannot delay payment just because the employee has not applied. Gratuity is automatically due once eligibility criteria are met. If there is a delay, interest becomes automatically payable for the period of delay. Financial constraints, internal administrative approvals, or pending misconduct inquiries are not valid grounds for withholding payment once gratuity has become due.

Interest on Delay: If the employer delays beyond 30 days, they must pay simple interest on the unpaid gratuity. No interest if delay is caused by employee's fault, and employer has obtained written permission from the competent authority.

Forfeiture of Gratuity: Gratuity may be forfeited to the extent of damage or loss caused to the employer's property due to the employee's wilful act or negligence. It may also be wholly or partially forfeited if termination is on account of:

- Riotous or violent conduct; or
- An offence involving moral turpitude committed in the course of employment.

Forfeiture is therefore limited to serious misconduct and is not applicable to ordinary termination.

Compulsory Insurance or Gratuity Fund: It is mandatory for employers (except government establishments) to secure their gratuity liability either through insurance from an IRDAI-regulated company or by establishing an approved gratuity fund. Employers who fail to pay premiums or contributions remain liable to pay gratuity immediately, including interest for delays. Registration with the Authority is also necessary. This ensures that employees receive their gratuity even if the employer defaults, and the government notifications are required to define the specific procedures, forms, and management rules for effective implementation.

Employers cannot casually reject gratuity. Payment becomes automatically due once eligible, regardless of whether the employee applies. If an employer unjustifiably denies or delays payment, the employee can approach the Competent Authority, which can order full payment with mandatory interest. Non-compliance can attract a fine of up to Rs.50,000, and wilful defiance of the authority's order may lead to imprisonment up to one year or additional fines.

Priority of Payment: Gratuity enjoys statutory protection and must be paid in priority over certain other liabilities. It cannot be lightly withheld or subordinated to ordinary financial obligations.

Penalty for Non-Compliance: Failure to comply with gratuity provisions may attract monetary fines, imprisonment, and liability to pay interest. The enforcement framework underscores that gratuity is a statutory right and not a discretionary benefit.

Illustration 2

Gratuity calculation for Permanent Employee

Organisation: Helping Hands Foundation (NPO) Role: Program Officer Monthly CTC: Rs.40,000

Service: 8 years Exit: Resignation

Salary Structure:

Component	Amount (Rs.)
Basic Pay	14,000
HRA	16,000
Other Allowances	10,000
Total Salary	40,000

Step 1 -- Determine "Wages" for Gratuity

Under the Code, allowances cannot exceed 50% of total salary. $50\% \text{ of } 40,000 = 20,000$ Actual allowances = $40,000 - 14,000 = 26,000$ Excess allowances = $26,000 - 20,000 = 6,000$ This excess must be added back to wages.

Gratuity Wage = Basic + Excess = 14,000 + 6,000 = Rs.20,000

Step 2 -- Calculate Gratuity

Gratuity = Wage x $(15/26)$ x Years of service = $20,000 \times 0.5769 \times 8 = \text{Rs.}92,304$ (approx.)

Gratuity payable: Rs.92,304

Even if an NGO structures salary with higher allowances, the law recalculates wages. Therefore gratuity liability increases compared to older salary structuring practices.

Illustration 3

Fixed-Term Employee (NGO Project)

Organisation: Helping Hands Foundation (NGO) Role: Project Coordinator (donor-funded project)

Contract Period: 2 years | Monthly Wage: Rs.30,000 | Exit: Contract expiry Eligibility: Gratuity

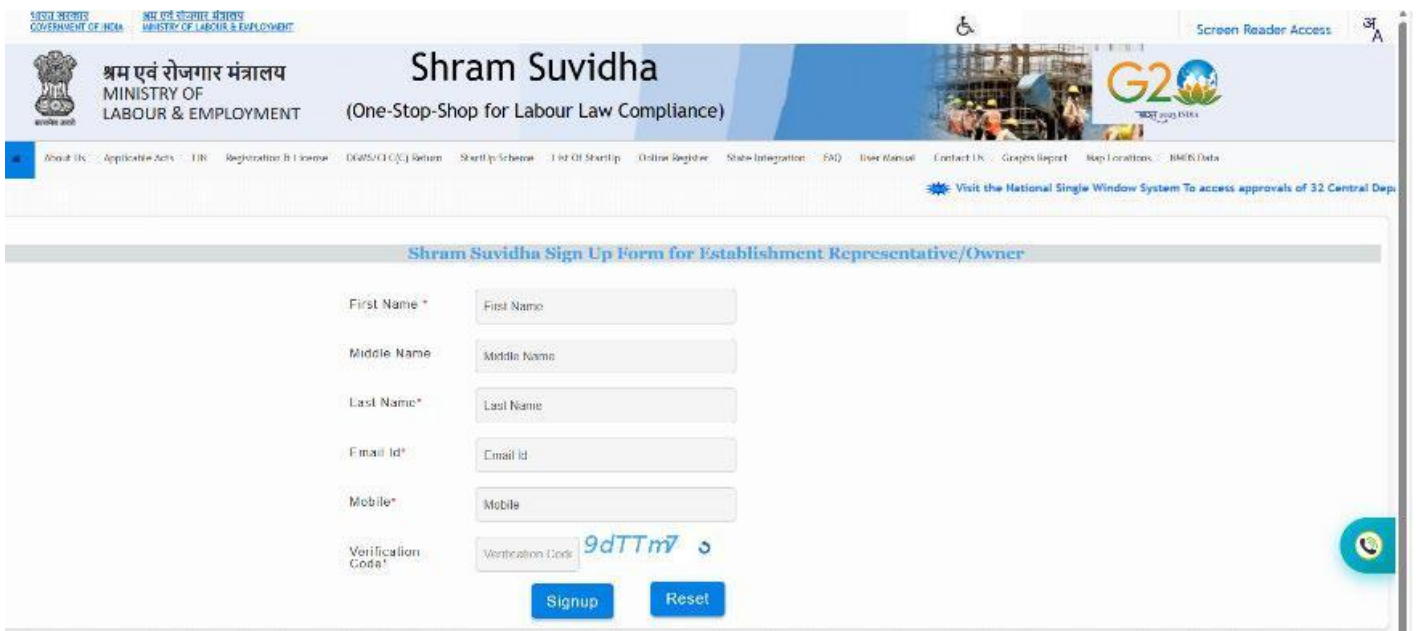
payable on expiry of fixed-term contract after completion of at least 1 year.

Calculation: Gratuity = Wage x (15/26) x Completed Years = 30,000 x 0.5769 x 2 = Rs.34,614

Fixed-term employees are eligible for gratuity after 1 year, and computation is strictly proportional to completed service.

C. Employee State Insurance Corporation

Applicability: All employees earning up to Rs.21,000 per month (Rs.25,000 for persons with disability) are eligible. Every establishment in which ten or more persons are employed is covered. Coverage type: Mandatory from date of employment.



The screenshot shows the Shram Suvidha Sign Up Form for Establishment Representative/Owner. The form is titled "Shram Suvidha Sign Up Form for Establishment Representative/Owner" and is part of the Shram Suvidha (One-Stop-Shop for Labour Law Compliance) portal. The form includes the following fields:

- First Name *
- Middle Name
- Last Name *
- Email Id *
- Mobile *
- Verification Code (9dTTn7)

Buttons for "Signup" and "Reset" are located at the bottom of the form.

Wider scope: Includes factories, service sectors, startups, MSMEs.

Voluntary Coverage and Exemptions: Two other features are worth noting:

- Establishments not automatically covered may voluntarily opt in.
- Employers who already provide benefits that are at least equal to ESIC can apply for exemption.

Unlike under the Employees' State Insurance Act, 1948, exemptions are not indefinite. They require periodic review and renewal, which reduces misuse.

Are Consultants eligible for ESI? Consultants are generally not covered under ESI because ESI applies only to "employees" engaged under a contract of employment. A consultant typically works under a contract for services (independent professional relationship), not a contract of service (employer-employee relationship).

Benefits under the ESI Scheme: The Scheme is contributory in nature and provides a defined set of Employees' State Insurance benefits in India. These include:

- Medical benefits for insured employees and their families through ESI Scheme hospitals and dispensaries.
- Sickness benefit is a cash payment during certified illness.
- Maternity benefit for insured women, aligned with broader maternity legislation.
- Disablement benefit in case of temporary or permanent injury.
- Dependants' benefit payable to family members on the death of an insured person.
- Funeral expenses and certain additional welfare measures in specific cases.

Employee Registration: Every employee in a covered establishment must be insured. This can be done electronically or otherwise, as the Central Government prescribes.

- Register employees on the ESIC portal before or on the day of employment.
- Mandatory details: Aadhaar number, personal details, wage info.
- Insurance number: Automatically generated, valid for 30 days. Becomes invalid if Declaration Form not updated within 30 days. Used for: Filing ESIC contributions and Availing benefits for employee & family.

The Code on Social Security, 2020, effective from 21 November 2025 (Gazette Notification No. R-11011/04/2021-SS. II), mandates ESIC registration and compliance for all eligible establishments, including NGOs, educational, and medical institutions. An NGO must comply if it qualifies as an "establishment" and employs eligible persons, covering regular, contractual, and previously uncovered employees. Establishments must register online, enrol employees, ensure timely employer and employee contributions, and facilitate access to medical and financial benefits.

Wages (Section 2(88)) include basic pay, dearness allowance, and retaining allowance, but exclude bonus, PF/pension, HRA, conveyance, overtime, gratuity, retirement benefits, ex-gratia, and certain court-awarded remuneration. Excluded components exceeding 50% of total pay are treated as wages, and remuneration in kind up to 15% is included. Registration must be completed online via Shram Suvidha or ESIC Employer Portal without delay.

Contribution

Party	Rate	Notes
Employer	3.25% of wages	Rounded to next rupee
Employee	0.75% of wages	Rounded to next rupee
Persons with disability	Employer contribution reimbursed by Central Govt	For up to 3 years or as notified

- Contributions must be deposited into the Employees' State Insurance Fund within ESIC timelines.
- Failure to deposit attracts fines up to Rs.50,000; repeat defaults can lead to imprisonment (up to 2 years) + fine Rs.3 lakh.

ESIC Benefits

Benefit Type	Eligibility / Conditions	Rate / Duration / Notes	Remarks / Facilities
Sickness Benefit	Contributions paid ≥ 78 days in a contribution period	70% of Standard Benefit Rate; Max 91 days in any two consecutive periods	Extended for long-term diseases (up to 2 years) and sterilisation procedures (full wage)
Maternity Benefit	Contributions paid ≥ 70 days in previous two periods	26 weeks (12 weeks in some cases); Medical bonus Rs.7,500 per confinement if ESIC facility unavailable	Available to insured women only
Disability Benefit	Temporary: ≥ 3 days; Permanent: total/partial disablement	90% of standard benefit rate	Paid as per schedule of injuries

Benefit Type	Eligibility / Conditions	Rate / Duration / Notes	Remarks / Facilities
Dependant's Benefit	Widow, children, widowed mother, or other dependents	90% of standard benefit rate	On death of insured person
Medical Benefit	Contributions active or during sickness/maternity /disablement benefits	Continuous access	Facilities: Local dispensary -> Secondary panel hospital -> Tertiary ESIC hospital; spouse eligible in case of permanent disablement or death
Funeral & Welfare Benefits	--	Lump sum Rs.15,000; confinement expenses if ESIC facility unavailable	Vocational rehabilitation & re-employment for permanent disability

Record-Keeping: Organisations are required to maintain comprehensive records, including employee registration and insurance numbers, details of contribution payments, claims and benefits disbursed, and medical benefits provided. All these records must be readily available for inspection by the ESIC authorities.

Reporting & Audit: Establishments must submit returns of contributions and any other required information within the prescribed deadlines. ESIC may audit the accounts of the establishment to ensure compliance. A digital system is in place to track filings, submissions, and inspections, facilitating transparency and timely reporting.

“ **Do You Know?** Following the enforcement of the Code on Social Security, 2020 on 21 November 2025, the Employees' State Insurance Corporation, vide Circular No. N-11011/2/2025-BFT-II dated 28.11.2025, clarified that:

- Under Section 2(24)(c), a widower and a grandparent are now included within the definition of "dependant" and are entitled to Dependent Benefit.
- Under Section 2(33)(e), the father-in-law and mother-in-law of a woman employee are now included within the definition of "family" and are

entitled to Medical Benefit.

This change applies with effect from 21.11.2025 and must be considered while extending ESI benefits.

D. Employee's Compensation

Applicability: The provisions relating to employee's compensation apply to:

- persons employed in scheduled hazardous occupations (railways, mines, construction, factories, transport etc.)
- additional categories notified by the Central Government

Exclusion: Employees covered under the Employees' State Insurance (ESI) scheme are excluded because they receive parallel benefits under ESI.

Notice of Accident: The employer must notify the Competent Authority within 7 days of any accident, occurring on employer premises or serious bodily injury includes permanent loss of a limb, sight, hearing, fracture, or absence from work exceeding 20 days. Failure to report may attract penalties and adverse inference during proceedings.

Employer's Liability to Pay Compensation: An employer is liable where injury is caused:

- by accident
- arising out of employment
- in the course of employment
- due to occupational disease

The SS Code also expands protection by recognising:

Commuting Accidents: An accident occurring while commuting between residence and workplace is deemed employment-related if a nexus with employment is established.

Occupational Diseases: Diseases listed in the Third Schedule are presumed to be employment related. The Government may **add but not remove** diseases from this Schedule.

Situations Where Compensation is Not Payable: Employer is not liable if:

- injury causes disablement of less than 3 days
- employee was under influence of drugs/alcohol (except death/permanent disability cases)
- wilful disobedience of safety instructions
- deliberate removal of safety guards

Quantum of Compensation: The SS Code removes old statutory ceilings and links compensation directly to wages and age.

Nature of Injury	Compensation
Death	50% of monthly wages x relevant factor
Permanent total disablement	60% of monthly wages x relevant factor
Permanent partial disablement	Proportionate loss of earning capacity
Temporary disablement	Half-monthly payment = 25% of wages
Funeral Expenses	Minimum Rs.15,000

Payment Timelines and Default: Compensation to an employee must be paid promptly when it becomes due. In cases where the employer disputes liability, a provisional payment should be made to ensure the employee is not left without support. If there is an unjustified delay in payment, the employer is liable to pay interest on the due amount and may also be required to pay additional damages of up to 50% of the compensation.

Monthly Wages Calculation for Compensation

Length of Service	Wage Calculation for Compensation
Continuous service \geq 12 months	Monthly wage = $1/12$ of total wages earned over the preceding 12 months
Service $<$ 1 month	Average wages of employees performing similar work
Other cases	Total wages earned over the last period / number of days in that period

Medical Examination: Employees are required to submit to a medical examination provided free of charge by the employer. If an employee refuses or obstructs the examination, the payment of compensation may be suspended until compliance. Furthermore, if the injury or condition worsens

due to the employee's refusal to follow medical advice or attend examinations, the compensation is adjusted as if proper care had been taken, ensuring fairness to both the employer and the employee.

Contracting and Indemnity: Employers are responsible for compensating employees who are engaged through contractors. However, the employer has the right to seek indemnity from the contractor for compensation paid. Employees also have the option to claim compensation directly from the contractor. Additionally, if a third party is responsible for the injury, the employer may recover the compensation already paid from that third party, ensuring that liability is ultimately borne by the party at fault.

Insurance and Insolvency: When an employer has an insurance contract covering employee compensation, the rights of the employee transfer to them in the event of the employer's insolvency. The insurer's liability, however, cannot exceed the original liability of the employer. In cases of insolvency or liquidation, compensation is treated as a priority debt under the Insolvency and Bankruptcy Code and the Companies Act. Half-monthly payments already made are considered redeemable as a lump sum for insolvency purposes, protecting the employee's entitlement.

Special Cases: Accidents Outside India: Certain employees working abroad fall under specific provisions of the Code. These include ship masters, seamen, aircraft crew, persons recruited by Indian companies to work abroad, and drivers, helpers, or mechanics sent overseas. Notices of accidents must be served on the ship or aircraft master, captain, or the local agent. Time limits for filing claims are prescribed: in the case of death, claims must be filed within one year of receiving news, and if the ship or aircraft is lost, the limit extends to 18 months.

Employer Statements and Registration of Agreements: The competent authority may require employers to submit statements concerning fatal accidents. Any agreements for lump-sum compensation must be formally registered to be enforceable under the Code. Registered agreements have overriding effect over other laws, ensuring legal certainty. Failure to register such agreements renders the employer liable to pay the full compensation amount, emphasising the importance of compliance.

Claims, Notice, and Limitation: Claims for compensation must generally be filed within two years of the accident or death. Exceptions exist for occupational diseases and injuries that manifest after employment has ended. Notice of the claim may be served through personal delivery,

registered post, electronic means, or entry in a notice book. Even if the notice is defective, the claim is not barred provided sufficient cause or knowledge exists to justify the delay or informality.

Review and Commutation: Half-monthly compensation payments can be reviewed if the employee's medical condition changes, allowing adjustments to the amount based on ongoing needs. Payments may also be commuted into a lump sum either by agreement between the parties or by direction of the competent authority. Such lump-sum payments can be invested or applied for the benefit of women or persons under legal disability, ensuring their welfare and financial security.

E. Maternity Benefit

Applicability & Eligibility: Maternity benefit provisions apply to all establishments employing women. A woman becomes eligible upon completing at least 80 days of work in the preceding 12 months (including paid holidays and lay-off days). Adoptive and commissioning mothers receiving a child below three months are also covered.

Work Restrictions & Health Protection: A woman cannot be employed, nor can she work, during the six weeks immediately following delivery, miscarriage, or medical termination of pregnancy. Likewise, no woman shall work in any establishment during this six-week period. Upon request, the employer must not assign arduous, long-standing, or harmful work during the one month prior to expected delivery and during any part of the six-week post-delivery period when leave is not availed. Arduous work means tasks requiring strenuous effort or causing fatigue. This protection applies to one month immediately before the six-week post-delivery period, and any period within the six weeks after delivery.

Work-from-Home Option: If possible, women may continue work from home after availing maternity leave, on mutually agreed terms with the employer.

Maternity Leave & Payment: Eligible women are entitled to maternity benefit at the average daily wage calculated on the preceding three months' wages (subject to minimum wage).

New Wage definition to be considered while calculating Maternity Benefits

Leave duration:

- Up to 26 weeks (maximum 8 weeks before expected delivery)
- If woman has two or more surviving children: 12 weeks (maximum 6 weeks before delivery)
- Adoptive/commissioning mother: 12 weeks from handover of child

Benefit is payable for the entire eligible absence period. Pre-delivery amount must be paid in advance upon proof of pregnancy and post-delivery payment must be made within 48 hours of proof of childbirth. If the woman dies, payment is made up to date of death; if she dies after childbirth leaving the child alive, benefit continues for the full period (or until child's death). Payment goes to nominee or legal representative.

Leave for Miscarriage, Medical Termination of Pregnancy, Tubectomy, and Pregnancy-Related Illness: A woman is entitled to six weeks of leave with wages at the maternity benefit rate in case of miscarriage or medical termination of pregnancy (MTP). If she undergoes a tubectomy operation, she is entitled to two weeks of leave with wages. Further, where a woman suffers from any illness arising out of pregnancy, delivery, premature birth of a child, miscarriage, or MTP, she is entitled to additional leave with wages for a maximum period of one month.

Notice & Claim Procedure: The employee should give written notice specifying absence date (not earlier than 8 weeks before expected delivery) and nominee details. Failure to give notice does not invalidate entitlement; the Inspector-cum-Facilitator may order payment upon application.

Medical Bonus & Special Leave: Where free prenatal and postnatal care is not provided, the employer must pay a medical bonus of Rs.3,500 or notified amount. Additional paid leave: Miscarriage or medical termination: 6 weeks; Tubectomy operation: 2 weeks; Illness arising out of pregnancy/delivery: up to 1 month extra.

Nursing Breaks & Creche Facility: After returning to work, the woman is entitled to two nursing breaks daily until the child is 15 months old. Establishments employing 50 or more employees must provide a creche within prescribed distance (including shared facilities). The employee is allowed four visits per day, including rest intervals. **Common creches** may be shared among multiple establishments or provided by government/NGOs. Employers must **inform women at appointment** about all maternity benefits. This is a notable addition to the Code.

What are the main requirements for a creche?

Location: Within 1 km of establishment (flexibility for industrial parks permitted).

Infrastructure Requirements: Safe, weather-proof building; Minimum 10 sq. ft per child; Fenced play area; Adequate lighting, ventilation, sanitation

Staffing: Supervision by a woman with midwifery qualifications; 1 ayah per 10 children (where >10 children enrolled)

Mandatory Facilities: Beds, sheets, toys; Feeding arrangements for children below 15 months; Toilets, soap, clean towels; First aid; Kitchen for milk/refreshments; Safe drinking water and wholesome food

Creche Allowance (If Facility Not Provided): Minimum Rs.500 per month per child; Up to 2 children (exception: multiple births)

Forfeiture of benefits: If a woman works for remuneration during maternity leave, she cannot claim maternity benefit for that period.

Protection from Dismissal & Wage Protection: Employers cannot dismiss, discharge, or alter service conditions to a woman's disadvantage due to maternity absence. Exception: dismissal for prescribed gross misconduct (by written order). No deduction in wages is allowed due to lighter work or nursing breaks.

Employer Duties: Employers must:

- Permit maternity absence upon notice
- Ensure timely payment
- Display provisions in local language at workplace
- Inform employees of benefits at joining

Dismissal during maternity protection period is permissible only for prescribed gross misconduct, including:

- Wilful destruction of employer property
- Assault on superiors/co-workers

- Criminal offence involving moral turpitude
- Theft, fraud, dishonesty
- Interference with safety/fire-fighting equipment

Complaints & Enforcement: A woman may complain to the Inspector-cum-Facilitator for non-payment or dismissal. The authority may order payment or corrective action. Appeals may be filed within 30 days, and the decision is final.

F. Social Security for Unorganised workers, Gig workers and Platform workers

Applicability: The social security and welfare provisions apply to all workers in the unorganised sector, including those in small shops, roadside vending, domestic work, construction, and agricultural labour, as well as unorganised workers employed without formal contracts or social security benefits. They also cover gig workers engaged on a task-by-task basis through digital or online platforms, and platform workers whose services are coordinated by these platforms and aggregators.

"**Gig worker**" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship.

"**Platform work**" means a work arrangement outside of a traditional employer employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment.

"**Platform worker**" means a person engaged in or undertaking platform work.

"**Unorganised worker**" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the social security schemes.

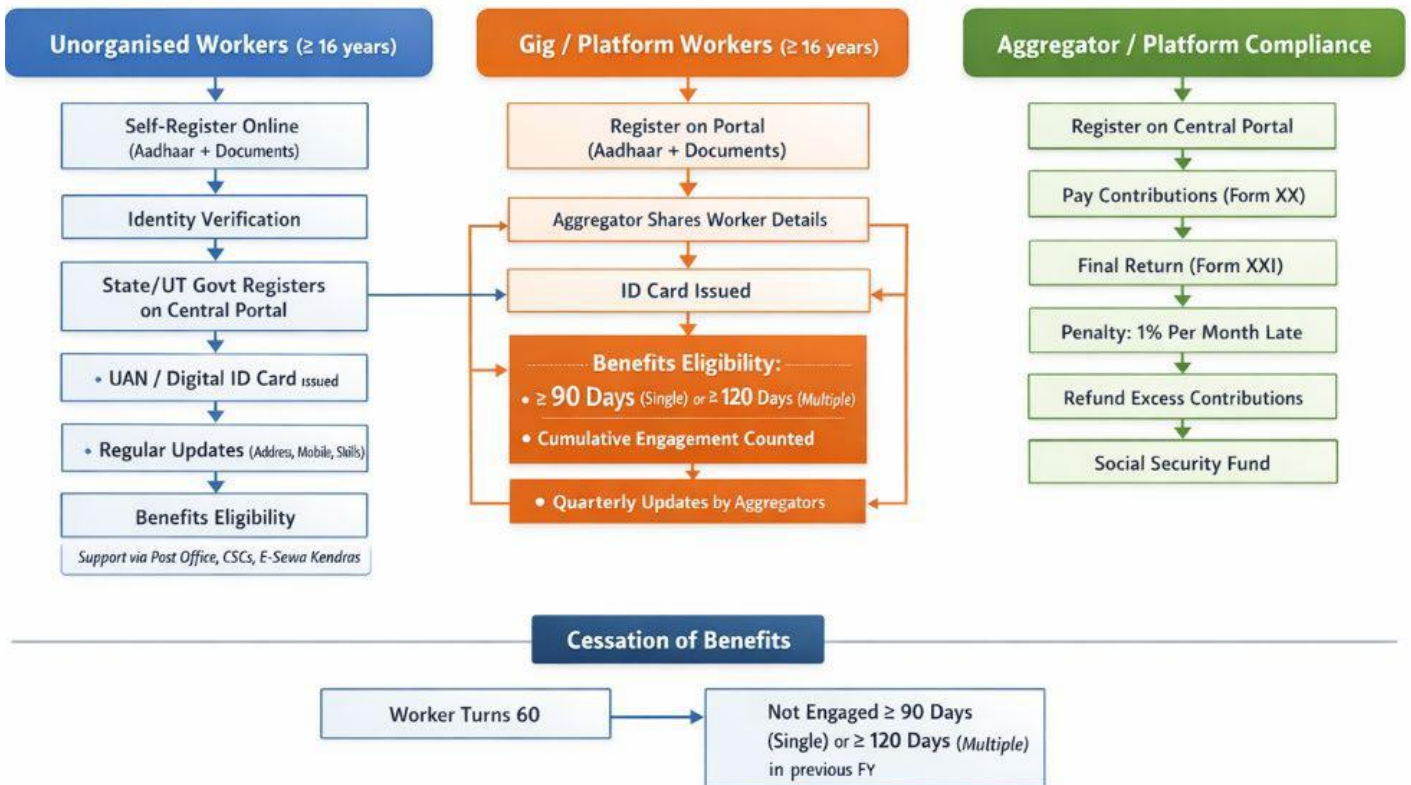
Registration of Workers: All unorganised, gig, and platform workers must register to access social security benefits.

- **Eligibility:** Workers aged 16 years or older (or as prescribed).
- **Application:** Self-declaration along with prescribed documents including Aadhaar. Receive a unique registration number. Electronic registration for self-registration allowed.
- **Benefits of registration:** Only registered workers can access the social security schemes.
- **Government contribution:** Central or State government contributes to the schemes for registered workers. Registration serves as the gateway to social security benefits.

“ **Aggregator Classification**

1. Ride sharing services
2. Food and grocery delivery services
3. Logistic services
4. E-marketplace (both marketplace and inventory model) for wholesale/retail sale of goods and/or services (B2B/B2C)
5. Professional services provider
6. Healthcare
7. Travel and hospitality
8. Content and media services
9. Any other goods and services provider platform

Aggregators Contribution: Aggregators are required to contribute between 1% and 2% of their annual turnover (not exceeding 5% of payments to workers). Turnover calculations exclude taxes and levies. Aggregators have a legal obligation to contribute to the social security of workers on their platforms.



Welfare Schemes for Unorganised Workers: The Central Government is responsible for designing welfare schemes for unorganised workers, including street vendors, domestic workers, small shop employees, and casual labourers. Key areas of coverage include:

- **Life and disability cover:** Insurance benefits in case of death or permanent disability.
- **Health and maternity benefits:** Medical insurance and maternity leave support.
- **Old age protection:** Pensions or other retirement benefits.
- **Education:** Scholarships or programs for children of workers.
- **Other social welfare measures:** Additional benefits may be introduced as deemed necessary by the government.

The Central Government determines the specific benefits and structure of these schemes.

Schemes for Gig and Platform Workers Benefits: Central Government schemes for gig and platform workers may include:

- Life and disability cover.
- Accident insurance.
- Health and maternity benefits.
- Old age protection.

- Creche facilities for children.
- Other benefits as deemed necessary.

Schemes specify procedures, implementing agencies, and roles of aggregators (platform companies). Funding sources may include: fully by the government; contributions from aggregators or beneficiaries; a combination of government and private contributions including CSR funds.

State Government Schemes: State Governments can implement complementary welfare schemes for the same group of workers. Benefits may include:

- Provident fund and retirement savings.
- Employment injury benefits for workplace accidents.
- Affordable housing programs.
- Educational initiatives for children.
- Skill upgradation and vocational training.
- Funeral assistance for families of deceased workers.
- Old age homes and shelters for elderly workers.

Central and State schemes are designed to complement each other, ensuring comprehensive welfare coverage.

Funding and Administration of Schemes: Funding for these schemes can be flexible:

- Fully by the government (central or state).
- Jointly by the government and beneficiaries or employers.
- Through other sources such as Corporate Social Responsibility (CSR) funds.

Central schemes require clear administrative guidelines, including scope, eligibility, implementing agencies, resource allocation, and grievance redressal mechanisms. Special Purpose Vehicles (SPVs) may also be established for efficient management.

Funding and Record-Keeping for State Schemes: State welfare schemes may be funded entirely by the State Government, jointly with beneficiaries or employers, or through other sources, including CSR. States can request financial assistance from the Central Government, which decides the terms and duration of such support. Record-keeping is mandatory to maintain transparency and accountability. Authorities must maintain records electronically or physically, with continuous numbering to avoid duplication.

Helpline and Facilitation Centres: To ensure easy access to schemes, governments may establish toll-free call centres and facilitation centres. Functions include:

- Disseminating information on available schemes.
- Assisting with application filing, processing, and forwarding.
- Helping workers with registration and enrolment.

These centres are especially useful for workers unfamiliar with digital or bureaucratic procedures.

G. Employment Information and Monitoring

The provisions on Employment Information and Monitoring require the appropriate Government to mandate certain employers to report vacancies to notified career centres before filling them. This requirement applies only to specified establishments, and the vacancies must be reported in the prescribed form, manner and returns, either electronically or otherwise. However, reporting a vacancy does not create any obligation on the employer to recruit a candidate through the career centre; the objective is only to collect labour market data and facilitate employment services. Authorised officers are empowered to enter premises, inspect records and obtain employment-related information. The requirement does not apply to employment in agriculture (other than plantations), domestic service, or legislative staff. Vacancies lasting less than ninety days and establishments employing fewer than twenty workers are also exempt. Further, vacancies filled through promotion, internal transfer, absorption of surplus staff, recruitment through public recruitment agencies, or posts carrying wages below the notified threshold may also be excluded from reporting.

H. Penalties under the Social Security Code

Sr. No	Offence	Penalty
1	Failure by employer to pay employees' contribution deducted from wages	Rs.1,00,000 fine + imprisonment (1-3 years)
2	Failure by employer to pay any contribution under the Code	Rs.50,000 fine + imprisonment (2-6 months)

Sr. No	Offence	Penalty
3	Failure to pay gratuity due to employee	Up to Rs.50,000 fine or imprisonment up to 1 year, or both
4	Contravention of ESI or maternity benefit provisions, obstructing Inspector-cum-Facilitator, not producing documents, non-payment of building workers cess, dishonest returns, hazardous process violations	Up to Rs.50,000 fine or imprisonment up to 6 months, or both
5	Deducting employer's contribution from employee wages, reducing benefits, failing to submit returns/reports, non-payment of compensation, violation of exemption conditions	Up to Rs.50,000 fine
6	Second or subsequent offence -- failure to pay contribution, cess, gratuity, maternity benefit or compensation	Rs.3,00,000 fine + imprisonment (2-3 years)
7	Any other second or subsequent offence	Rs.2,00,000 fine + imprisonment up to 2 years

Key Highlights

a. Facilitative compliance approach: Introduction of the Inspector-cum-Facilitator whose role includes guidance, awareness and assistance to employers and workers, not merely enforcement.

b. Technology-driven inspection system: Web-based inspections, electronic information requests and randomised inspection allocation using unique establishment identification numbers to reduce harassment and discretion.

c. Opportunity to rectify non-compliance: Employers are generally given prior notice and time to correct violations before prosecution (not available for repeated violations within 3 years).

d. Unified electronic registration & records: Single registration number across social security schemes, electronic registers, online returns and digital wage slips permitted to simplify compliance.

e. Time-bound inquiries & limitation period: PF/ESI applicability and dues inquiries barred after 5 years and must generally be completed within 2 years (extendable by 1 year).

f. Institutional & coverage expansion: Creation of national/state social security boards and social security fund covering unorganised, gig and platform workers, along with continuation of EPF, ESI and other organisations.

g. Priority and legal overriding effect: Employee dues (PF, gratuity, maternity, etc.) receive priority in insolvency and the Code overrides inconsistent laws while preserving more beneficial employee entitlements.

What Lies Ahead?

The Code has been brought into force; however, the Rules notified by both the Central Government and the State of Karnataka are presently in the draft stage. Full clarity and operational visibility will emerge only once the final Rules are formally notified and implemented. Several substantive provisions remain non-operational until Notification is issued which includes:

- Notification of the new EPF Scheme, Employees' Pension Scheme and Employees' Deposit Linked Insurance Scheme
- Final notification of contribution rates (10%, 12% or class-specific variations) and pension fund allocation
- Notification of the maximum gratuity ceiling
- Notification of additional events for gratuity payment
- Notification establishing and operationalising the Social Security Fund
- Notification constituting/reconstituting the National Social Security Board
- Schemes for Gig and Platform Workers Benefits

Pacta will continue to track and update developments as notifications are issued.

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