

Indian Code on Social Security 2020

After receiving the approval of the President on September 28, 2020, the Indian Parliament has recently issued the Social Security Code 2020 (SS Code), the third of the four labour codes that the Government announced last year, following the Wages Code (which was approved in 2019), and the Industrial Relations Code (approved in 2020). The actual date of application and issuance of the relevant schemes is yet to be decided, and it is expected to be implemented by April 2021.

The Social Security Code concerns many issues of social security for organized and unorganized workers, like retirement, insurance and welfare funds, maternity rights, and payment of allowances.

The Code has made modifications and extensions to the definitions previously used, so as to broaden its applicability in various areas and to standardize labor laws:

- a) "Aggregator" is defined as the digital intermediary (or the "marketplace") that connects the buyer/user of a service with the seller/provider of the service.
- b) "Social security" under the Code are all the protective measures offered to employees, unorganized workers, *Gig Workers* and *Platform Workers* to ensure access to health care and income security, in the event of unemployment, illness, disability, accidents at work, maternity or loss of a breadwinner.
- c) "Unorganized sector" is a company owned by individuals or self-employed persons, engaged in the production/sale of goods or the provision of services of any kind, with fewer than ten employees.

The Code also provides definitions for two categories of workers outside the traditional employment relationships: "*gig worker*" is a person who works or participates in a work organization against payment of a wage; "*platform worker*" is a worker who, individually or as part of an

organization, solves specific problems or provides specific services through an online platform for other organizations or individuals, in return for payment.

For these types of workers, the Code gives the Central and State Governments the right to create benefits' schemes (life and disability cover, health and maternity, provident fund, on-job injury benefit, housing, etc.), financed with mixed contributions from the Central Government, State Governments and Aggregators.

Other measures provided for in the Social Security Code are:

- Employees' Provident Fund (EPF): the Code extended its applicability to any premises with more than twenty employees. The central government can set up a provident fund where the employer's contribution will be 10% of the salary for the time being payable to each of the employees. The employee's contribution is equal to the employer's contribution.
- Gratuity: under the Code, employees are entitled to bonuses, when more than ten employees are employed or have been employed, on any day in the preceding 12 months. The employer pays bonuses proportionally and not on the basis of the pre-existing requirement of five years' continuous service in the case of fixed-term employees.
- State Insurance for Employees: the Code provides provisions for the State Insurance for Employees and allows voluntary registration with approval of the employer and of the majority of the employees. In addition, the Government can widen this insurance scheme to include employees with dangerous jobs, regardless of the number of employees. The same State Insurance Scheme for Employees can be applied to cover for *Gig Workers* and Unorganized Sectors.
- Maternity benefit: maternity leave of six weeks from the day of childbirth (or miscarriage or medical termination of pregnancy) is compulsory under the new Code. The maximum duration of such

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leave is 26 weeks, of which no more than 8 weeks may be taken before the expected birth date. The Code also guarantees for a medical bonus of Rs. 3500 or as otherwise prescribed by the Central Government. In addition, the woman can take two breaks of the prescribed duration until the child is 15 months old.

- The Code, apart from improving the earlier provisions, has included all workers under its coverage, both in the organized and unorganized sectors, and it is seeking uniformity of approach among the four labor codes. Although the Social Security Code does not provide specific benefits for *Gig Workers* and *Platform Workers*, it does provide the right for central and state governments to create special plans for them.

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