



Social Security Code 2020



Towards Welfare of the Workers



About

Corpbiz

We are an Award Winning Legal and CPA Information Technology Enabled Services (ITES) concern.

We at Corpbiz are committed to provide assistance to the entrepreneurs in legal registration procedures and in managing their business globally.

Be it a startup business or a well established concern, our dedicated professionals are resolved to provide bespoke solutions as regards business registration and legal compliance.

Our bevy of competent business advisers help to trace, decode and execute key business growth strategies.

Our wide range of legal & business registration services includes GST Registration, Company Registration, ITR Filing, ESI & PF Registration, NBFC & Microfinance Company Registration, FEMA Advisory and much more.

Our Core Operations:

- *Business solutions*
- *Fin-tech Solutions*
- *ITES Systems*
- *LegalTech Solutions*
- *Management Advisory*
- *HR Services*
- *FEMA Advisory*

From a strategy review of the Business development to the complete hands-on implementation, Corpbiz Advisors can be truly your legal companion to grow your venture to a level further.



Overview of 4 New Labor Laws

In 2019, the Ministry of Labor and Employment had introduced 4 Bills (Codes) to consolidate 29 laws of the Central Government as regards employee remuneration.

These Codes were proposed to regulate the following 4 key aspects:

- *Wages,*
- *Industrial Relations,*
- *Social Security, and*
- *Occupational Safety, Health & Working Conditions*

The Code on Wages was passed by the Parliament in 2019, whereas the other 3 bills were referred to the Standing Committee on Labor. Thereafter the Government replaced these Bills with new Codes on 19th Sep 2020. In this report, we shall analyze the relevance of the **Code on Social Security 2020**.

Before that, we must understand the significance of Social security in India.

Significance of

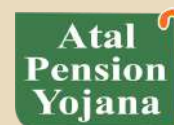
SOCIAL SECURITY IN INDIA

Social Security is seen both as a concept as well as an institution. Social security basically refers to a scheme meant for the monetary assistance of the citizens against certain unforeseeable circumstances. Such assistance comes in handy during the time of a contingency e.g., retirement, loss of a job, retrenchment (cost-cutting), demise, disability, or injury while at the workplace. Often these circumstances are beyond the control of the individual. The government as an agent of the society plays a very important role in mitigating the financial risks of the individuals by providing them a cover of various Social Security benefit schemes.

Social security benefits are basically provided by the government to the citizens through a series of regular deductions from their wages. Over the period of time, these deductions are used to cover various economic and social crisis that is otherwise caused due to sudden stoppage or reduction of income owing to sickness, maternity, employment injury, occupational disease, unemployment, inability to work, retirement or death.

The Government of India has devised a number of social security benefit schemes with an aim to boost the financial strength of the citizens and thereby reinforce the economic development of the nation. To name some we have —

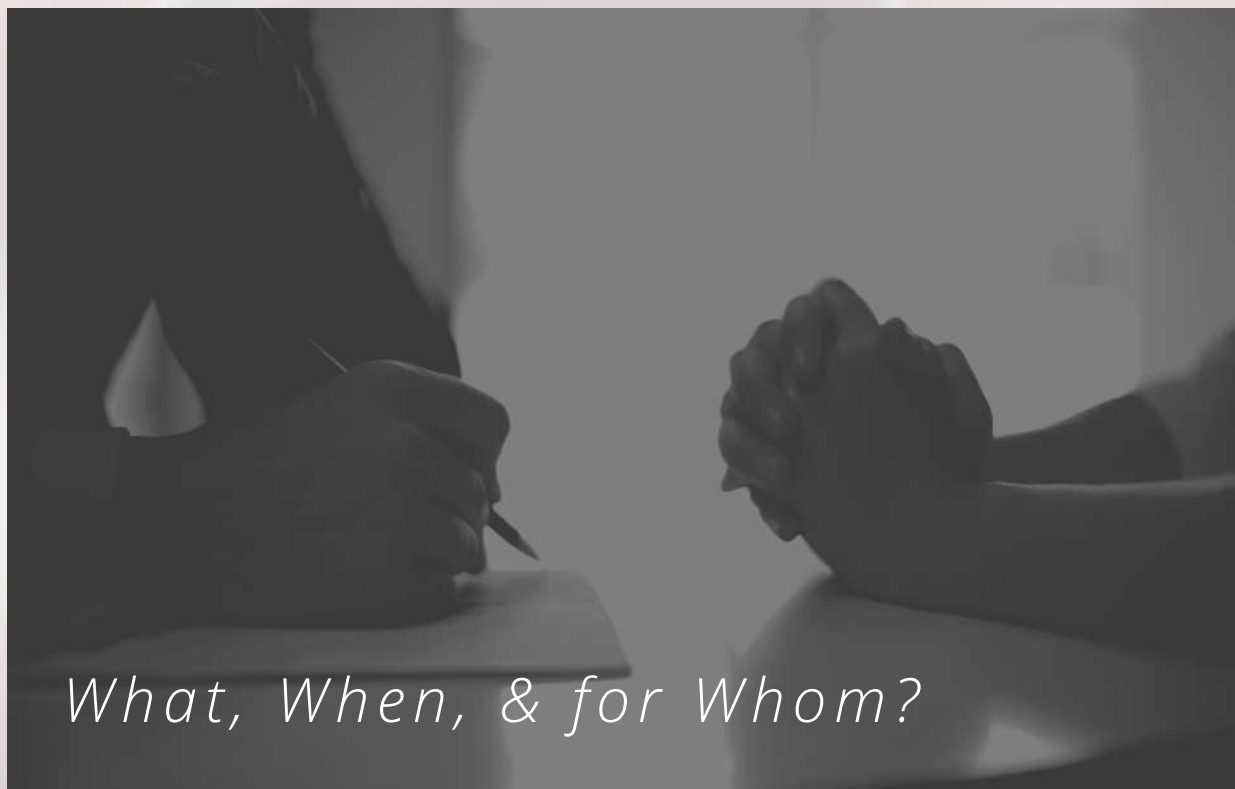
- Employee State Insurance (ESI)
- Employee Provident Fund (EPF)
- Public Provident Fund (PPF)
- National Savings Certificate (NSC)
- Atal Pension Yojana
- Pradhan Mantri Jeevan Jyoti Bima Yojana
- Sukanya Samriddhi Yojana
- National Pension Scheme
- Pradhan Mantri Jan Dhan Yojana.



These are statutory social security schemes that create a huge impact on the lives of the individuals over a period of time. They not only ensure a comfortable future but also instill a sense of social security among the citizens.

We shall now understand in detail the concept of the Code on Social Security 2020.

CODE ON SOCIAL SECURITY 2020



What, When, & for Whom?

In 2019 a Bill was tabled at the Parliament that made social security mandatory for certain establishments, based on various factors such as —

- *Their threshold limits;*
- *The span of operations of the organization;*
- *Size of the establishment; and*
- *Income ceilings.*

The Bill was passed by both the Houses of Parliament as the states that the **Code on Social Security 2020**. Central Government may vide notification, implement the Code on all establishments, based on their threshold. Furthermore, the government may notify various schemes for the **unorganized sector workers*** e.g., self-employed workers, gig workers, and platform workers.

***Unorganized sector workers:** Given below are 2 main types of unorganized sector workers—

- **Gig workers:** These refer to those workers who work outside the conventional employer-employee relationship. Examples include contractors, contract workers, freelancers, and independent WFH employees.
- **Platform workers:** These refer to mainly those workers who access their employers and/or customers via an online platform. They provide their services or solve specific queries online only. Examples include e-commerce sales executives, online cab-service providers, online tutors on platforms like BYJU's etc.

Social security funds for

UNORGANIZED WORKERS



Self-employed, Gig-workers, & Platform workers...

The Code states that the Union government shall set up separate social security funds for the workers of the unorganized sector— gig workers and platform workers. Besides, the state governments shall also establish and regulate separate social security funds for such workers.

Apart from that, the Code on Social Security 2020 specifies various provisions for the registration of the 3 key categories of workers—

- *Self-employed workers,*
- *Gig workers and*
- *Platform workers*



NATIONAL SOCIAL SECURITY BOARD

for Gig & Platform workers

As per the Code, separate national, as well as state-level boards, must be set up for operating the schemes for the social security of the unorganized sector workers. Apart from that, the National Social Security Board (NSSB) shall also act as the regulatory board for the welfare of the gig workers and the platform workers.

Accordingly, the NSSB shall recommend and monitor various schemes for both the type of workers. For such purposes, the Board shall comprise of various members listed below.



5 representatives of aggregators, nominated by the Union govt.



5 representatives of gig & platform workers, nominated by Union govt.



Director Gen. of ESIC



5 representatives of the State governments

Importance of AGGREGATORS IN THE NSSB

The Code further states that various assistance schemes for the gig and platform workers shall be funded through a blend of different subsidies provided by the Union government, state governments, and aggregators. The Code on Social Security 2020 has specified a list of aggregators for this purpose under **Schedule 7**. There are 9 categories of aggregators that are listed below:

List of the Aggregators	
S.No.	Categories
i.	Ride sharing services (Bike & Cab)
ii.	Food and grocery delivery services
iii.	Logistic services
iv.	E-commerce (both marketplace and inventory model) for wholesale/ retail sale of goods and/or services (B2B/B2C)
v.	Professional services provider
vi.	Healthcare
vii.	Travel & hospitality
viii.	Content & Media services
ix.	Any other goods and services provider platform

Any kind of contribution from any of the aggregators listed above must be at a rate notified by the Union government. The rate of contribution taken must be in a range of 1 to 2% of the annual aggregate turnover of the aggregator.

Very importantly, such a contribution must not go beyond 5% of the total amount paid/payable by the aggregator to the gig and/or platform workers.

Rules for

GRATUITY

Gratuity shall be payable to the employees on the termination of their employment after rendering continuous service for at least 5 years.

Provided that in case of a **working journalist***, the Gratuity shall be payable to him on the termination of his employment after rendering of continuous service for at least 3 years.

***Working journalist**, as per the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955 refers to— An individual whose principal occupation is that of a journalist and who is employed either full-time or part-time, for one or more newspaper establishments. The working journalists include:

- *Editor,*
- *Lead Content writer,*
- *News editor,*
- *Sub-editor,*
- *Feature writer,*
- *Copy tester,*
- *News Reporter,*
- *Correspondent,*
- *Cartoonist,*
- *News photographer,*
- *Proof-reader*



Changes in

VARIOUS DEFINITIONS

The Code has modified the definitions of various stakeholders and -

- Definition of **‘employees’** has been expanded to include the workers hired through contractors,
- The definition of **“inter-state migrant workers”** has been expanded to include self-employed workers from outside the state,
- The Definition of **“platform worker”** has been expanded to additional categories of services or activities as notified by the Union government,
- Definition of **“audio-visual productions”** has been expanded to include the films, web-based series, talk shows, reality shows, and sports-related shows.
- Exemption of the construction works from the category of **“building or other construction works”** in case the total cost involved in the construction work is more than **₹50 lakhs**.

Direct Appeal in case of

DISPUTES

The Code on Social Security 2020 seeks for direct appeal in case of any dispute. As per the 2019 Bill, authorized officials have delegated the task to conduct inquiry and decide in case of:

- Disputes regarding the applicability of the provisions of provident fund (PF) and employee state insurance (ESI) to certain establishments, and
- Determine amounts due from employers under these heads. Any aggrieved party could file for a review of the order. The 2020 Bill removes the provisions for such review.



OFFENSES & PENALTIES

The 2020 Bill change the penalties for certain offenses.

For example, the maximum imprisonment for obstructing an inspector from performing his duty has been reduced from one year to six months.

Similarly, the penalty for unlawfully deducting the employer's contribution from the employee's wages has been changed from the imprisonment of one year or a fine of ₹50,000 to only a fine of ₹50,000.



Thank you!

For more info, please contact:-

Mr. Narendra Kumar

Managing Partner



Report Prepared by:

Mudit Handa

Legal Researcher, Corpbiz Advisors Pvt. Ltd.