



LABOUR LAWS INSTITUTE

Seminar on New 4 Labour Codes
New Delhi, 28th November 2025

Presentation & Discussion on the
Code on Social Security, 2020
[Act No. 36 of 2020]

OBJECTS OF THE SEMINAR

(New Labour Codes and Professional Opportunities)

The following clarifications are to be considered for discussions and deliberation during present seminar , are as under:

- * What are highlights of the Code on Social Security ,2020 , and its challenges
- * How HR Professional / CA / Employer will implement provisions of this Code in their establishments / Companies ?
- * Whether this Code was simplified for “ ease-doing of business” or created confusion among the HR Professional or Labour Laws Experts, CAs or among employers.

Contents

- Legislative intent
- The four new codes
- **The Code on Social Security**
 - An overview
 - Key definitions
 - Salient features of various legislations

Presenters

Subject matter experts



S K Gupta, Advocate, Supreme Court

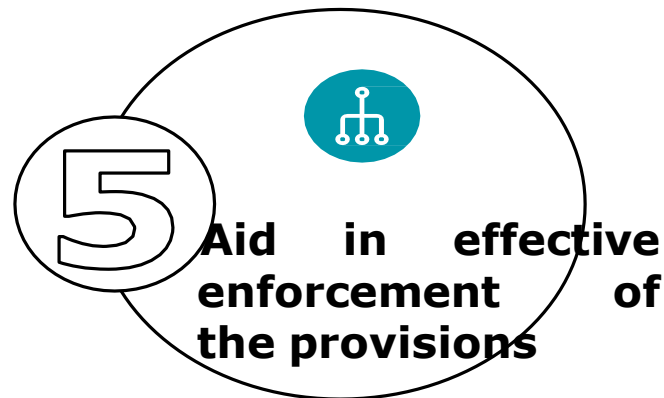
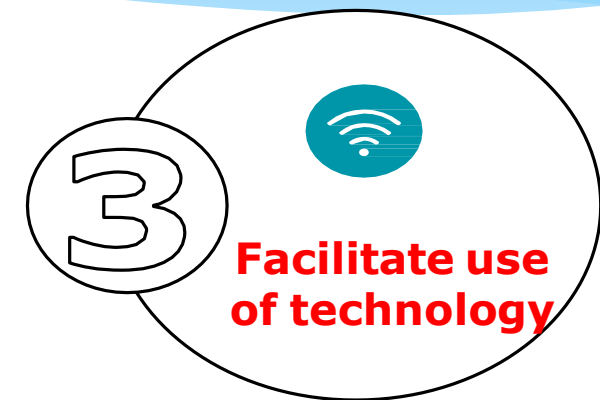
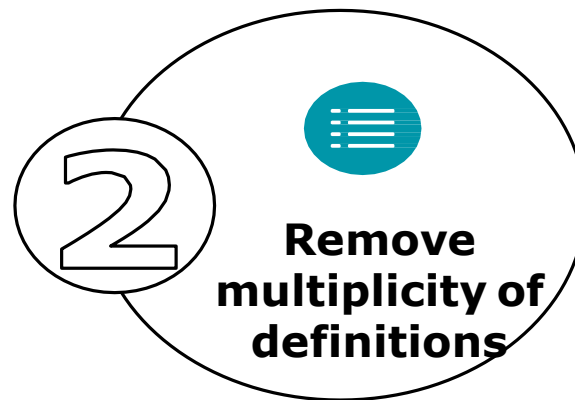
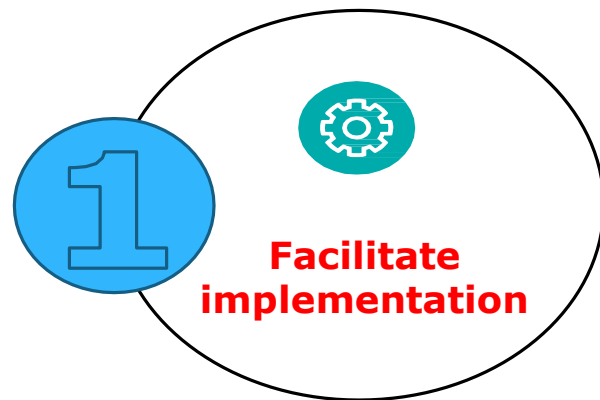
Gaurav Kumar, Advocate , Supreme Court

Yajat Kumar

Introduction of new labour codes

Background and legislative intent

New codes intend to amalgamate, simplify, and rationalize the relevant provisions of the S S Code, 2020



As many as 9 labour laws got merged with the Social Security Code, 2020

The following Acts are going to be merged in the Code on Social Security, 2020 and after notification under Section 1(3) of the said Code, these old 9 Acts will be repealed. However, the EPF & MP Act, 1952 and its various Schemes framed there under will remain applicable for one year subject to the conditions enumerated under Section 164 (b) of the said Code, 2020

- The Employees' Compensation Act, 1923;
- The Employees' State Insurance Act, 1948;
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952;
- The Maternity Benefit Act, 1961;
- The Payment of Gratuity Act, 1972;
- The Unorganised Workers' Social Security Act, 2008;
- The Cine Workers Welfare Fund Act, 1981;
- The Building and Other Construction Workers Cess Act, 1996;
- The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.

Code on Social Security

Scheme of arrangement

1

Subsumes nine central labour enactments relating to provident fund, employees' state insurance, compensation, gratuity, maternity benefit etc.

2

**Comprises of 164 sections covered in 14 chapters besides 7 schedules.
Effective date to be notified – multiple dates for different provisions.**

3

**Definitions provided in Chapter I – applicable across all chapters and provisions.
Chapter II details the constitution of various governing organizations and their functions.**

4

Chapters III to IX deal with provisions relating to Provident Fund, ESI, Gratuity, Maternity Benefit, Compensation, Social Security for Building and Construction Workers and Unorganized workers.

5

Specific provisions for finance and accounts, Payment of Dues, Claim and Audit, Inspector cum Facilitator, Offences and Penalties, Miscellaneous provisions etc.

6

Applies to all establishments, employees and employers as defined and to the extent specifically called out in the Code.

Social Security Code in Brief

Chapter No.	Chapter Heading	Sections
Chapter I	Preliminary	1-3
Chapter II	Social Security Organisations	4-13
Chapter III	Employees' Provident Fund	14-23
Chapter IV	Employees' State Insurance Corporation	24-52
Chapter V	Gratuity	53-58
Chapter VI	Maternity Benefit	59-72
Chapter VII	Employees' Compensation	73-99
Chapter VIII	Social Security And Cess in Respect of Building , and Other Construction Workers	100-108
Chapter IX	Social Security for Unorganised Workers, Gig Workers , and Platform Workers	109-114
Chapter X	Finance , and Accounts	115-121
Chapter XI	Authorities, Assessment, Compliance And Recovery	122-132
Chapter XII	Offences And Penalties)	133-138
Chapter XIII	Employment Information And Monitoring	139-140
Chapter XIV	Miscellaneous	141-164

THERE ARE AS 7 SCHEDULE IN THIS CODE

- Ist Sch. :** **Applicability of the provisions* of law (Very Important Sch.)**
- IIInd. Sch. :** **List of persons who are employees within meaning of the Section 2(26)**
- IIIrd Sch. :** **List of occupational Diseases**
- IV. Sch. :** **List of injuries deemed to result in permanent total disablement**
- V Sch.** **Matter that may be provided for the Scheme**
- VI Sch.** **Compensation Factors**
- VII Sch.** **Classification of Aggregators**

Brief indication of applicability and scope of coverage

Chapter	Scope	Brief descriptions of Coverage/ Applicability (Kindly see, First Schedule)
III	Employees' Provident Fund	Every establishment in which 20 or more employees are employed. (Sch.- Head removed). (persons)
IV	Employees' State Insurance Coverage	Every establishment in which 10 or more employees are employed. (Hazardous Factories to be covered even single employee subject to the Notification & Section 29 . Plantations may opt for coverage with the consent of the employees/employer. Important : All head Count { eligible or non-eligible , (wages celing) } will be counted for applicability (PF & ESI) Ref. Section 2(6)
V	Gratuity	(a) Every factory, mine, oilfield, plantation, port and railway company; and (b) Every shop or establishment in which 10 or more employees are employed
VI	Maternity Benefit	(a) Every factory, mine, oilfield, plantation, port and railway company; and (b) Every shop or establishment in which 10 or more employees are employed
VII	Employees' Compensation	Employers and employees who are not covered under ESI scheme, the provision with respect to the Employees' Compensation will be applicable.
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Every establishment which falls under the building and other construction work.
IX	Social Security for Unorganised Workers, Gig Workers And Platform	unorganised workers , gig worker, platform workers.

Special terms & definitions associated with the chapters

Chapter	Scope	Important Associated terminologies/phrases (Indicative but not exhaustive)
III	Employees' Provident Fund	EPF scheme, Employees' Pension Scheme, EDLI Scheme, Employer's Contribution, Employee's Contribution, Voluntary Contribution (Need not be matched by Employer), Employee (drawing wages/salary below the prescribed Ceiling of Wages/Salary), Exempted Employee, Exempted Establishment, EPFO, Employer, Contractor, Contract workers, Inter-state Migrant Labour
IV	Employees' State Insurance Coverage	ESIC, Employee (drawing wages/salary below the prescribed Ceiling of Wages), Establishment, Employment Injury, Family, Medical Practitioner, Occupational Disease (Schedule-III), disablement (temporary, partial or permanent), Medical Treatment, Medical benefit, ESI dispensary/hospital, GIG workers, Platform Workers
V	Gratuity	Gratuity, Eligibility period (5 years for employees, at least 1 year for FTE, 3 years for Working Journalists)- Exemptions for death, disablement, or disease
VI	Maternity Benefit	Maternity benefit, Women Employee, Prenatal confinement, post-natal care, Legal adoption, commissioning mother, delivery, miscarriage, medical-termination of pregnancy, Creche-in establishments where 50 or more are employed, Inspector-cum-facilitator
VII	Employees' Compensation	Employee's Compensation, Death, Serious bodily injury, Occupational Disease, "under the influence of drinks or drugs", "arising out of and in the course of employment", "relevant factor", "negligence", "monthly wages", "a period of service",
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Building and other construction Workers' Welfare Board, Cess, "beneficiary", "Building worker",
IX	Social Security for Unorganised Workers, GIG workers and Platform Workers	"Unorganised workers", Platform Workers, GIG workers, Welfare Schemes, Benefits that include (i) life and disability cover; (ii) health and maternity benefits; (iii) old-age protection; (iv) education; (v) housing;

The Important Definitions

Total definitions : 91

<p>Section 2(1)</p> <p>2(2)</p> <p>2(29)</p> <p>2(82)</p>	<p>agent" when used in relation to an establishment, means every person , whether appointed as such or not, who acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such establishment or part thereof;</p> <p>"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; Important : while reading this definition, kindly read VII Schedule also .</p> <p>"establishment" means—(a) a place where any industry, trade, business, manufacture or occupation is carried on; (b) a factory ,motor transport undertaking , news papers establishment, audio-visual production, building and other construction work or plantation or (c) a mine ,port or vicinity of port where dock work is carried out . { For Ch.III (PF) : consists of different branch & department (clubbing 2A) }</p> <p>"superannuation", the age of superannuation shall be 58 years for chapter otherwise it depends upon the condition of services .</p>
<p>2 (26)</p>	<p>"employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment, either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:</p> <p>For ESIC, Employee mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government;</p> <p>Provided further that for the purposes of counting of employees for the coverage of an establishment under EPFO & ESIC, the employees, whose wages are more than the wage ceiling so notified by the Central Government, shall also be taken into account:</p> <p>For Employee Compensation, "employee" shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government & State Govt.</p> <p>Very important : For taking decision whether any person is employee or not ? Please read the Sch. II . In my opinion , definition of employee is very wide and covering all type of employees. Therefore , I say that except Apprentice engages under Apprentices Act,1961 , all persons who are working , are employees with definition of section 2(26).</p>

Key New definitions and implication

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.

Fixed term employment

Means the engagement of an employee on the basis of a written contract of employment for a fixed period

Rider : Benefits should not less than permanent employee

Platform work & Platform Worker

Means a work arrangement outside of a traditional employer-employee relationship in which organizations or individuals use an online platform to access other organizations or individuals to solve specific problems or to provide specific services or any other activities or other activities notify by CG. (PW means a person engaged in or undertaking platform work)

Unorganized worker

Means a home based worker, self-employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by the Industrial Disputes Act, 1947 or Chapters r –III (PF) , IV (ESI) Gratuity, Maternity Benefit and Compensation under this Code.

GIG Workers



GIG Workers

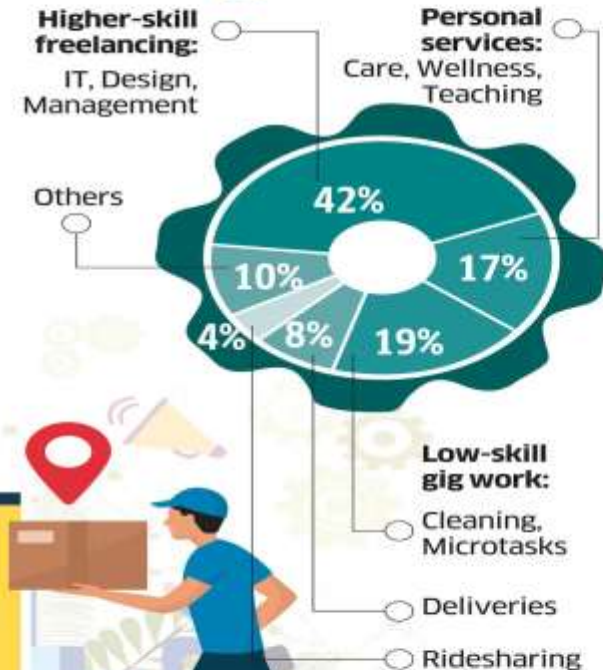
Who is a gig worker?

An individual, employed transactionally on a time or task-based manner, having the flexibility to choose their hours of work

15 million
freelance workers
across various sectors

90 million
jobs could potentially
be added by the
gig economy in the
near future

Breakdown of India's gig workforce



Key players in India's gig economy

Uber and Ola
(Personal transport)

Swiggy, Zomato, Delhivery, Dunzo
(Delivery)

Urban Company, Housejoy
(At-home personal services)

FlexingIt and Upwork
(High-skilled and professional tasks)

% of companies looking to hire gig workers – by sector



■ 2020 ■ FUTURE (2-5 YEARS)

GIG-WORKERS



The RIGHTS SURVEY

(Respect and Integrity of Gig Workers: Humanity and Trust in Service)

Report on a nationwide survey of platform workers in India.

MARCH 2024

Release of the Research Report

On
Respect and Integrity of Gig Workers; Humanity and Trust in Service (R.I.G.H.T.S) Survey

Venue: Deputy Speaker Hall, Constitution Club, Delhi
Date: Thursday, 7th March, 2024 | Time: 10.30 AM to 1.00 PM

Key Speakers:

- Mr. Amit Nirmal, DDG, Ministry of Labour and Employment, GOI
- Mr. Vaibhav Raaj, Program Officer, ILO, New Delhi
- Dr. Sakshi Khurana, Senior Specialist, NITI Ayog, New Delhi
- Dr. Dhanva M.B., Fellow (Faculty), V. V. Giri National Labour
- Mr. Sangam Tripathy, IFAT
- Dr. Vandana Vasudevan, Lead Author
- Mr. Dharmendra Kumar, Secretary, Janpahal
- Ms. Shalini Sinha, Asia Strategist, WIEGO

GIG WORKERS



Data does not include workers in Delhi's suburbs—Noida, Gurgaon, Faridabad



Marketer Monk

**GIG ECONOMY
SHAPING THE
FUTURE OF
WORK IN
INDIA**

GIG WORKERS

BusinessToday.In

GIG WORKFORCE IN INDIA

NITI Aayog, in its report, India's Booming Gig and Platform Economy, said that gig workforce in India is expanding. As of 2019-20, here's what the following sectors employed:



NITI Aayog report stated:

47%
are in medium skilled jobs



31%
are in low-skilled jobs

22%
are in high-skilled jobs

Source: NITI Aayog

GIG WORKERS



GIG WORKERS



GIG WORKERS



GIG WORKERS



GIG WORKERS



GIG WORKERS



What is interpretation of GIG Worker / Platform Workers (Speaker's View)

Alternative workforce: Includes contractors, freelance/independent workers, gig, and crowd workers.

Gig Employees/Workers : (paid for tasks) Workers paid by the task (or micro task) to complete a specified piece of work.

Gig workers are independent contractors, contract firm workers, on-call workers and temporary workers.

Gig workers enter into formal agreements with on-demand companies to provide services to the company's clients

A Gig worker is an independent contractor or a person who is hired for contractual work, instead of a fixed time period in months or in years, so its generally for projects or short time periods.

There is no major difference between Gig Worker and Platform worker. Informal engagement i.e. Contract for service (Regular engagement of the employees : Formal engagement , Contract of Service , means appointment letter).

Definition of Wages under Section 2(88)

All remuneration whether by way of salaries, 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-

- a) Basic pay;
- b) Dearness allowance; and
- c) Retaining allowance, if any

Exclusion Clause (does not include)

- a. Statutory bonus
- b. Value of house accommodation/supply of water, light, medical attendance or other amenity
- c. Provident fund, pension and interest accrued thereon
- d. Conveyance allowance/ value of travelling concession
- e. Sum paid to defray special expenses
- f. House Rent Allowance
- g. Remuneration payable under award or settlement
- h. OT
- i. Commission
- j. Gratuity
- k. Retrenchment compensation or other Retrial Benefits/Ex-gratia

(a) to (i) should be less than 50%

Which riders have to adhere while restructuring wages of the employees?

50 % Rider

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under clauses (a) to (i) exceeds one-half or such other percentage. as may be notified by the Central Government, of all remuneration calculated under this clause, the amount which exceeds such one-half, or the percentage. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Gender Rider

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in clauses (d), (f), (g), and (h) shall be taken for computation of wage.

(d) Any conveyance allowance or the value of travelling concession

(f) House rent allowance

(g) Remuneration payable under award or settlement

(h) Over time allowance

INTERPRETATION FOR THIS RIDER:

The above payment d , f & h should be equal to all genders. Hence , written policies are must.

15% Rider

Explanation. --Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen percentage . of the **total wages payable** to him, shall be deemed to form part of the wages of such employee.

INTERPRETATION FOR THIS RIDER:

Employer can give 15% of the total wages in kind.

Speaker Advise for fixing the Wages of the Employees

- a- House accommodation and its amenity cost
- b- Conveyance Allowance + TA (For formation of Policy is must)
- c- defray special expenses because nature of work (For formation of Policy is must)
- d- HRA (For formation of Policy is must)

Variable

- e- OT
- f- Commission
- g- settlement /award amount / (by court or Tribunal order)

Statutory payment

- h- PF & ESI
- i- Statutory Bonus
- j- Gratuity
- k- Retrenchment compensation /ex-gratia
- L- Notice pay /Layoff

IMPORTANT : A. From (a) to (h) , except (g) all these components should not exceed more than 49 % of gross wages. Thereby, the employer may fix at least 51% as basic wages & rest 49% other components as enumerated (a) to (h), except (g).

C. wages in kind can be given but it should not to be exceeded 15% of gross wages

NB: If the exclusion clause wages exceed one half (more than 50%) , then over and above amount of the 50% will be deemed as remuneration and will be added to wages category.

Simple Interpretation “New Wages & its fixation of wages ”

Layman Interpretation

- * Total Monthly Gross Wages should be divided into two part:

- * **(i) 50% Statutory Wages part**

(For deduction of the PF & ESI contribution subject to wages ceiling i.e. Rs.21000.00 (tentative for the PF)

- * **(ii) 50% Excluded wages i.e. Allowances**

(No statutory deduction of the PF & ESI contribution or calculation for payment of bonus and gratuity)

Additional Rider

- * **(iii) Upto15 % of the total wages can be given to their employees in kind**

*

- * **First Principle** : No bifurcation of Minimum Wages into different components to avoid statutory deduction for the PF & ESIC .

- * **Second Principle** : The monthly CTC (not annual CTC) should be divided into two component i.e. 50%, 50%

- * **Third Principle** : **50% Statutory Wages should not be less than Minimum Wages .**

- * **Forth Principle** : Upto15 % of the total wages can be given to their employees in kind which will be in addition to the above first principle.

- * **Fifth Principle** : More care be taken for those employees who have been taking gross salary (CTC) up to Rs.43K to 45K because of the statutory liabilities.

- * **Six Principle** : written policies of the HRA ,Conveyance Allowance & defray expenses or any other allowance or with respect of 15% total wages etc. must be formulated.

- * **VERY IMPORTANT** : Needs suggestion of all participants on this issue for fixation of salary, & the same can be sent through email: skpfdelhi@gmail.com

	Case Study 1	Case Study 2	Case Study 3
CTC Breakup	Amount	Amount	Amount
Basic Pay + DA	Rs 10,000	Rs 8,000	Rs 12,000
HRA	Rs 5,000	Rs 4,000	Rs 6,000
Conveyance	Rs 5,000	Rs 8,000	Rs 2,000
Total	Rs 20,000	Rs 20,000	Rs 20,000
Wages as per the Code	Rs. 10,000	Rs. 10,000	Rs. 12,000

EFFECT FROM IMPLEMENTATION OF THESE CODES

- (i) **PF & ESI** : Coverage of the employees will be increased in numbers, followed by more statutory liability upon the establishments;
- (ii) **Gratuity liability** of the old employees will extraordinarily be increased because of the new definition of wages (50% concept) and last drawn wages concept too ;
- (iii) **Payment of bonus** liability may also increase due to the new definition of wages and that too , there is no salary rider.
- (iv) **Payment of the earned** leave liabilities because of the new definition of wages , and yearly payment of un-used earned leave.
- (v) No Bifurcation of MW .

Impactful changes in the relevant chapters as
compared to the original Acts , PF Act ,
ESI Act & Gratuity Act

Registration and cancellation of an establishment under Section 3

3(1) : For getting registration , the concerned establishment has to Apply electronically (through portal) or physically for getting registration Code (PF + ESI + BOCW)

3(2) : Cancellation , if business activities are in process of closure, the concerned establishment may apply for cancelation of the PF/ESI/BOCW registration certificate)

Cancellation Provision is the new addition.

NB: Once provisions of PF / ESI /Gratuity are applicable upon the establishment , shall continue to be applied ,if the number of employees below the threshold specified in this Code. (Ref. Section 1(8)

Important Changes in Chapter-III – Employees' Provident Fund

Section	Scope	Impactful changes in the relevant chapters to original Act
125(1)	Limitation of 5 years provided for assessments	Limitation period for initiation of inquiry U/S 125 for determination of PF & ESI has been provided for 5 Years only . NB: Earlier ,there is no limitation period in the PF Act but ESI is having 5 yrs. There is no provision under ESI Act to decide the dispute of applicability but the same will be available now. PF Act is having such provision.
125(2)	Concluding Proceedings	Within two years
142(1)	Establishing Identity through Aadhaar Number	“to establish his identity or, as the case may be, the identity of his family members or dependents through Aadhaar number in such manner as may be prescribed”
1 (5)	By an application, Employer or majority of employees may agree to the application of provisions relating to EPF (Voluntary coverage)	“Notwithstanding anything contained in sub-section (4), where it appears to the Central Provident Fund Commissioner, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter III should be made applicable to that establishment, the Central Provident Fund Commissioner, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement”

Important Changes in Chapter-III – Employees' Provident Fund and Misc. Provisions Act,1952

Clause	Scope	Impactful changes in the relevant chapters to original Act
23 (1) (3)	Filing an appeal against the order passed under Cl. 125 /128 Ch.III (PF only) (7A + 14-B Section old PF Act,)	Pre-deposit 25% (no discretion) Old 75% , reduce or waive (Section 7-O of PF Act) . Tribunal (judicial forum) will be decided by the CG. However , Cl. 2(84) Tribunal means Industrial Tribunal .
23(2)	Limitation for filing an appeal and its court fee	The CG will issue separate notification with respect of limitation and fee Old Rules -- Limitation is 60 days + 60 days with delay application + Fee Rs.2000.00
23(4)	Limitation period for concluding the Appeal Proceedings	Within one years (old Act – within 6 months)
		Review provision (7-B of the PF Act,1952) and Section 7-C of PF Act,1952 (escape amount) has also removed .

Further, Section 109, provides that the Central Govt. would notify Welfare Scheme for unorganized workers on matters relating to—

- (i) life and disability cover;
- (ii) health and maternity benefits;
- (iii) old age protection;
- (iv) education; and
- (v) any other benefit as may be determined by the Central Government.

Similarly, the State Government shall frame and notify, from time to time, suitable welfare schemes for unorganized workers, including schemes relating to—

- (i) provident fund;
- (ii) employment injury benefit;
- (iii) housing;
- (iv) educational schemes for children;
- (v) skill up gradation of workers;
- (vi) funeral assistance; and
- (vii) old age homes.

Further, Sub-section (3) of Section 109 and Section 110 provides for the funding of the Welfare Schemes notified by the Central Govt. & State Govt. respectively. The such scheme notified by the respective Government may be—

- (i) wholly funded by the Central/State Government; or
- (ii) partly funded by the Central Government and partly funded by the State Government; or
- (iii) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the Central Government; or
- (iv) funded from any source including corporate social responsibility fund within the meaning of the Companies Act, 2013 or any other such source as may be specified in the scheme.

Important Changes in Chapter-IV – Employees' State Insurance

Section	Scope	Impactful changes in the relevant chapters to original Act
125(1)	Dispute of applicability / determination	Applicability dispute can also be decided now under this section which is not available under old Act, 1948
1(7)	Voluntary Coverage By an application, Employer or majority of employees may agree to the application of provisions relating to ESI coverage	“Notwithstanding anything contained in sub-section (4), where it appears to the Director General of the Corporation, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter IV should be made applicable to that establishment, the Director General of the Corporation, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement:” (Voluntary Coverage which is not available to the present Act,
48, 49, 50	Employees' Insurance Court	Old system (No change)
126	Appellate Authority (Joint Director and above)	Being Aggrieved with an order passed under Section 125 , may prefer appeal by depositing 25% before the Joint Director and above
45(1)	GIG workers and Platform workers to gain benefit of ESI	“Notwithstanding anything contained in this Chapter, the Central Government may, by notification, frame scheme for unorganised workers, gig workers and platform workers and the members of their families for providing benefits admissible under this Chapter by the Corporation”
Schedule-I	Plantations works also can gain access to benefits of ESI	“Provided further that an employer of a plantation, may opt the application of Chapter IV in respect of the plantation by giving willingness to the corporation, where the benefits available to the employees under that Chapter are better than what the employer is providing to them”:
42(1)(c)	ESI benefits to be given to employee even if employer fails to make contribution	“....the Corporation may, on being satisfied in the manner prescribed by the Central Government that the benefit is payable to the employee, pay to the employee benefit at such rate to which he is entitled or would have been entitled if the failure or neglect would not have occurred, and the Corporation shall be entitled to recover from the employer,.....”

Important Changes in Chapter-V – Gratuity

Section	Scope	Impactful changes in the relevant chapters to original Act
53(1)	Minimum Qualifying Service for entitlement of Gratuity on cessation of employment (1) Fixed Term Employee – One year or above (prorated) (2) For Working Journalists – three years of continuous service	<p>“Provided also that in the case of an <u>employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on pro rata basis.</u>”</p> <p>“Provided that <u>in case of working journalist as defined in clause (f) of section 2 of the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years</u>”:</p> <p>Calculation formula for the Gratuity = .577* Y*W Y= No. of year , W= Last wages</p>
2(17)	Completed year of services	means continuous service for twelve months (240 days , no concept , means deleted)
57	Compulsory Insurance to cover Gratuity Liability (was already in force, reiterated to draw attention to this requirement)	<p>Clause 57 of the Bill seeks to provide for compulsory insurance by every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, in the manner provided by rules made by the Central Government, for his liability for payment towards the gratuity under Chapter V, from any insurance company regulated by the Authority as defined under clause (b) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999.</p> <p>CG may allow to establish own Gratuity Trust.</p>
57(2)	More than 500 employees o	<p>Within 30 days from date of separation .</p>
	Payment of the gratuity	

Gratuity ,Chapter V

Section 53 to 59

Rule 33 to 36

* .
Form No.III (Nomination Form , R34)
(Fresh Nomination /Modification)

**Form No.IV (Application for claiming gratuity by
an employee /legal heir)**

**Form No. V (Notice for Payment /Rejecting the
claim of gratuity)**

Form No.VI (Application For directions)

’
**Duplicate by the employee through email, speed post or
physically within 30 days .**

**Employer after checking details of the employees , has
to provide receipt**

**Claim or not claim within 30 days , employer has to pay
the gratuity within 30 days (Section 56 r/w R 35)**

**The Employer has to provide the calculation of gratuity /
reasons for non-payment. (with 15 days by DD /Bank
transfer)**

**For claiming Gratuity from PA Aggrieved employee/legal heir
may file within 180 days / thereafter with an application for
seeking condoning delay .**

Important Changes in Chapter-VI – Maternity Benefit

Section	Scope	Impactful changes in the relevant chapters to original Act
64	Medical bonus for every women who is entitled for Maternity benefit	<p>“Every woman is entitled to maternity benefit under this Chapter, shall also be entitled to receive from her employer a medical bonus of three thousand five hundred rupees or such amount as may be notified by the Central Government, if no pre-natal confinement and post-natal care is provided for by the employer free of charge”.</p> <p>For 2 child : 26 Weeks paid leave (Pre-delivery 8 weeks) For Illrd. Child : 12 weeks paid leave (Pre-delivery 6 weeks) For adoption : 12 weeks subject to baby should be less than 3 months + Rs.3500.00 (Additional Benefits)</p>
65	Leave for miscarriage, etc.	<ul style="list-style-type: none"> entitled to leave with wages for a period of 6 weeks
67	Crèche Facility & intimation in writing & electronically with	<p>(i) Crèche facility 50 or more employees (ii) Common arrangement can be done within such distance , prescribed by the CG. (iii) Employer has to intimate</p>

Nursing Break

- * **Section 66 :** The woman who returns to duty after such delivery , is entitled to get two break of such duration as notify by the Central Government for nursing the child until the child attains the age of 15 months.
- * **Section 72 :** The Employer can not discharge /dismiss /terminate the woman employee during maternity leave.

Chapter VI (Section 59 to 72, R 37 to 42

Maternity Prescribed Form

- * **Form X {R-37(1) }**

- * **Form XI { R37(2)}**

- * **Medical Certificate for
confinement/miscarriage/termination of
pregnancy or tubectomy /delivery/adoption of
child)**

- * **Notice of Claim for Maternity Benefits)**

CHAPTER VII – EMPLOYEES' COMPENSATION

Applicability:

- Subject to the provisions of the Second Schedule, it applies to the employers and employees to whom chapter IV (ESIC) does not apply.

Section 73: Reports of fatal accidents and serious bodily injuries –

- Notice to competent authority, of any accident occurring on his premises which results in death or serious bodily injury, within seven days of the death or serious bodily injury, giving the circumstances attending the death or serious bodily injury

Section 74: Employer's liability for compensation

- If personal injury is caused to an employee by accident or an occupational disease listed in the Third Schedule arising out of and in the course of his employment, his employer shall be liable to pay compensation

Section 75,76: Compensation in case of death of or injury in plantation

Section 78: Method of calculating monthly wages for purposes of compensation Section 81: Distribution of compensation –

- No payment of compensation in respect of an employee whose injury has resulted in death, and no payment of a lump sum as compensation shall be made otherwise than by deposit with the competent authority.

CHAPTER VII - EMPLOYEE'S COMPENSATION

Section 82: Notice and claim

- No claim for compensation shall be entertained by a competent authority unless notice of the accident has been given

Section 83: Special provisions relating to accidents occurring outside Indian territory.

- apply in case of employees who are— (a) masters of ships or seamen; (b) captain and other members of crew of aircraft; (c) persons recruited by companies registered in India and working as such abroad; (d) persons sent for work abroad

Section 84: Medical examination

- Where an employee has given notice of an accident, he, shall, if the employer, 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, submit himself for such examination, and any employee who is in receipt of a half-monthly payment under this Chapter shall, if so required, submit himself for such examination from time to time

Section 85: Contracting

- Where any employer contracts with contractor for the execution whole or any part of any work which is ordinarily part of the trade or business, the employer shall be liable to pay to any employee employed in the execution of the work any compensation, and 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.

CHAPTER VII – EMPLOYEES' COMPENSATION

Section 88: Power to require from employers statements -regarding fatal accidents, within 30 days of serving of notice by competent authority

Section 91: Appointment of competent authority.

- The State Government may, by notification, appoint any person who is or has been a member of a State Judicial Service, or an advocate or a Gazetted Officer having educational qualifications and experience, for not less than five years.

Section 94: Power of competent authority to require further deposit in cases of fatal accident – with regard to compensation payable in respect injury resulted in death, and in the opinion of the competent authority such sum is insufficient

Section 95: Powers and procedure of competent authority. Section 99: Appeal against order of competent authority

Other Important Changes brought about in Code on Social Security, 2020

Section	Scope	Impactful changes in the relevant chapters to original Act
2(37) & 122(1)	Inspector cum Facilitator	<p>"Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under section 122;</p> <p>"The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters, and the appropriate Government for the purposes of other provisions of this Code, may, by notification, appoint Inspector -cum-Facilitators who shall discharge his duties under this Code and exercise the powers conferred on them under sub-section (6) in accordance with the inspection scheme referred to in sub-section (2)" (Complaint in Form No. XII)</p>
122(2)	"Web-based inspection and calling of information relating to the inspection under this Code electronically"	"The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters and the appropriate Government in respect of other provisions of this Code, may, by notification, lay down an inspection scheme which may provide for generation of a web-based inspection and calling of information relating to the inspection under this Code electronically and such scheme shall, inter alia, have provisions to cater to special circumstances for assigning inspections and calling for information from the establishment or any other person."
122(6)(c)	Search ,seize or take copy	Such power was not available under ESIC Act,1948 (new legislative power) ,
122(3)	Randomised selection for Inspection	"Without prejudice to the provisions of sub-section (2), the Central Government for the purposes of Chapter III and Chapter IV and the other provisions in this Code relating to those Chapters and the appropriate Government in relation to other provisions of this Code, may, by notification, confer such jurisdiction of randomized selection of inspection for the purposes of this Code, to the Inspector-cum-Facilitators as may be specified in such notification."
2(79) and Section 6	Creation of National Social Security Board and State Social Security Board	<p>"Social Security Organisation" means any of the following organisations established under this Code, namely:—</p> <ul style="list-style-type: none"> (a) the Central Board of Trustees of Employees Provident Fund constituted under section 4; (b) the Employees' State Insurance Corporation constituted under section 5; (c) the <u>National Social Security Board for Unorganised Workers</u> constituted under section 6; (d) the <u>State Unorganised Workers' Social Security Board</u> constituted under section 6;

Other Important Changes brought about in Code on Social Security, 2020

Section	Scope	Impactful changes in the relevant chapters to original Act
Chapter-IX	Social Security For Unorganised Workers, Gig Workers And Platform Workers	Chapter-IX is fully devoted to the social security related issues covering unorganised workers, Gig workers and platform workers
25(2) & 109(3)(iv) 110(1)(c) 114(3)(e)	Funding through Corporate Social responsibility (CSR Funds)	<ul style="list-style-type: none"> 25(2) –Relates to ESI Corporation: “The Corporation may accept grants, donations, Corporate Social Responsibility Fund and gifts from the Central or any State Government, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Chapter” 109(3)(iv): Relates to Social Security of Unorganised Workers: (For Central Board) “.....funded from any source including corporate social responsibility fund within the meaning of the Companies Act, 2013 or any other such source as may be specified in the scheme”. 110(1)(c): Relates to social Security of Unorganised workers (State Level Board): “funded from any source including corporate social responsibility fund referred to in clause (iv) of sub-section (3) of section 109 or any other such source as may be specified in the scheme.
114 & Seventh Schedule	Aggregators (to be accountable for social security of gig workers and platform workers) – Classification of Aggregators list in Schedule-VII	1. Ride sharing services; 2. Food and grocery delivery services; 3. Logistic services; 4. e-Market place (both market place 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 service provider platform
114(4) & (5), 114(7)(i)(c)	Creation of National Social Security Board and State Social Security Board	Contribution from an aggregator will be subject to a maximum limit of 5% of the amount paid or payable by an aggregator (by Self-assessment).

Other Important Changes brought about in Code on Social Security, 2020

Section	Scope	Employment Information And Monitoring (Chapter-XIII)
139(1)	Requirement to notify vacancies in an establishment to the Career Centre	139. (1) The appropriate Government may, by notification, require that from such date as may be specified in the notification, the employer in every establishment or any class or category of establishments, before filling up any vacancy in any employment in that establishment or such class or category of establishments, as the case may be, shall report or cause to be reported, that vacancy to such career centre as may be specified in the notification, and the employer shall thereupon comply with such requisition.
139(3)	Not obligator to fill up any vacancy though the Career Centre	139 (3) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the career centre to fill any vacancy merely because such vacancy has been reported.
Section	Scope	Miscellaneous provisions (Chapter-XIV)
144	Power to reduce or defer contributions	144. Notwithstanding anything contained in Chapter III or Chapter IV, the Central Government may by order, defer or reduce employer's contribution, or employee's contribution, or both, payable under Chapter III or Chapter IV, as the case may be, for a period up to three months at a time, in respect of establishment to which Chapter III or Chapter IV, as the case may be, applies, for whole of India or part thereof in the event of pandemic, endemic or national disaster.
141	Social Security Fund to be constituted by the Central Government	Contribution from an aggregator will be subject to a maximum limit of 5% of the amount paid or payable by an aggregator (by Self-assessment).

Repeal (Section 164)

The old 9 Acts will be repealed from the date of notification U/ S 1(3) of the Code

(2) Notwithstanding such repeal,—

(a) anything done or any action taken under the enactments so repealed including any rule, regulation, notification (including the notifications issued by the States), scheme, appointment, order or direction made thereunder or any benefit

provided or given under any provision of such enactments, rules, regulations, notifications or schemes made thereunder for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder and shall be in force to the extent they are not contrary to the provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder till they are repealed under the

corresponding provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder by the appropriate Government;

(b) the Employees' Provident Funds Scheme, 1952, the Employees', Deposit Linked Insurance Scheme, 1976 the Employees' Pension Scheme, 1995 and the Employees' Provident Funds Appellate Tribunal Procedure Rules, 1997 framed or made under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the rules, regulations and schemes made or framed under the Employees' State Insurance Act, 1948, shall remain in force, to the extent they are not inconsistent with the provisions of **this Code for a period of one year** from the date of commencement of this Code;

This presentation is designed for
educative and learning purposes

Thank you!