



Malavika Ramanand
Associate

DRAFT EMPLOYEE'S COMPENSATION RULES UNDER SOCIAL SECURITY CODE

Introduction

The Union Ministry of Labour and Employment (“**Ministry**”) has notified the draft Code on Social Security (Employee’s Compensation) (Central) Rules, 2021 (the “**Draft Rules**”)¹ and invited comments from stakeholders within 45 days.²

The Code on Social Security, 2020 (“**CoSS**”) grants powers to the Central Government, under which the Draft Rules are made to bring into operation Chapter VII (*Employee’s Compensation*).³ The Draft Rules are proposed in supersession of Rules under the Employee’s Compensation Act, 1923, that will stand repealed by Section 164 of the CoSS, as and when it is brought into force.

The CoSS seeks to “*amend and consolidate laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors.*”⁴ It covers protection to employees and workers, introduces provisions relating to employers’ duties and liabilities, and determines rules pertaining to compensation in case of fatal accidents, serious bodily injuries, or occupational diseases to employees. The amount of compensation must amount to 50%, in case of death and 60% in case of disablement, of the employee’s monthly wages, multiplied by ‘*relevant factors or an amount as may be notified by the Central Government from time to time [...]*’.⁵

Key Features of the Draft Rules

1. Mandates that in case there is a delay in payment of compensation,⁶ the employer must, in addition to the amount of arrears,⁷ pay simple interest at 12% per annum.⁸
2. Sets out the mode of transmission by competent authority,⁹ *i.e.*, by e-transfer, net banking, or demand draft.
3. Gives effect to arrangements with other countries for transfer of money paid as compensation,

¹ Govt. of India, Ministry of Labour and Employment, No. 2988 GI/2021 G.S.R. 385(E), 3 June 2021, Accessible at: <https://egazette.nic.in/WriteReadData/2021/227359.pdf>.

² Press Release by Ministry of Labour & Employment, ‘Draft Rules relating to Employee’s Compensation under the Code on Social Security, 2020 notified’, 15 June 2021, Accessible at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1727195>.

³ Sections 73 to 99 of CoSS.

⁴ Press Release, n. 1.

⁵ Section 76 of the CoSS.

⁶ Section 77 mandates payment of compensation “as soon as it falls due.”

⁷ Section 77(3)(a) of the CoSS.

⁸ Rule 3 of the Draft Rules.

⁹ Appointed under Section 2(16) of the CoSS.

- allowing for the deduction of the cost of transmission¹⁰, by also stipulating mode of said payment.¹¹
4. Extends mechanisms of recourse for workplace accidents resulting in injury, with provisions relating to venue of proceedings, transfer of records or money¹² in case of change of jurisdiction, and manners in which applications can be processed for claim or settlement.¹³
 5. Prescribes forms for application of compensation, deposit of compensation and proceedings before a competent authority.¹⁴

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¹⁰ Rule 6 of the Draft Rules.

¹¹ Rule 6(2) of the Draft Rules.

¹² Rule 7 of the Draft Rules.

¹³ Rule 5 of the Draft Rules.

¹⁴ Forms A, B, C and D proposed in the Draft Rules.