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OVERVIEW OF THE CODE ON SOCIAL SECURITY

The Ministry of Labour and Employment (**Ministry**) has notified¹ ²that certain provisions of the Code on Social Security, 2020 (**CSS**), have come into force on November 21, 2025. The Code subsumes nine laws *viz.*: (i) The Employee's Compensation Act, 1923; (ii) The Employees' State Insurance Act, 1948 (iii) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; (iv) The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; (v) The Maternity Benefit Act, 1961; (vi) The Payment of Gratuity Act, 1972; (vii) The Cine-Workers Welfare Fund Act, 1981; (viii) The Building and Other Construction Workers' Welfare Cess Act, 1996; and (ix) The Unorganized Workers' Social Security Act, 2008. However, since labour laws are a part of the concurrent list of the Constitution of India and various states have not yet released the final rules under the COW, the Ministry has clarified that "...[T]he relevant provisions of the existing labour Acts and their respective rules, regulations, notifications, standards, schemes, etc. will continue to remain in force."

Brief Overview

I. Registration and Applicability (Chapter I)

1. **Registration of Establishments:** Every establishment to which the CSS applies must be electronically or otherwise registered within the prescribed time and manner. An establishment already registered under any other Central labour law is deemed registered under the CSS, provided and no new registration is required.
2. **Continuity of Coverage:** An establishment initially covered by any Chapter of the CSS will continue to be applied thereafter, even if the number of employees subsequently falls below the specified threshold.
3. **Definitions and Key Worker Categories:**
The Code defines several key terms necessary for administering social security, such as:
 - a. **Social Security:** This encompasses measures of protection afforded to employees, unorganised workers, gig workers, and platform workers to ensure access to healthcare and provide income security. This includes cases of old age, unemployment, sickness, invalidity, work injury, maternity, or loss of a breadwinner.
 - b. **Gig Worker:** A person who performs work or participates in a work arrangement and earns from such activities outside of the traditional employer-employee relationship.
 - c. **Platform Worker:** A person engaged in or undertaking platform work, which is defined as a work arrangement where organizations or individuals use an online platform to access others to solve specific problems or provide specific services, in exchange for payment.

¹ Notification No. S.O. 5322(E) dated November 21, 2025 is available [here](#).

² As per the Press Bureau of India press release 'Government Makes the Four Labour Codes effective to Simplify and Streamline Labour Laws' dated November 21, 2025, available [here](#).

- d. **Unorganised Worker:** Includes a home-based worker, self-employed worker, or a wage worker in the unorganised sector.
- e. **Fixed-Term Employment:** This means the engagement of an employee based on a written contract for a fixed period. Essentially, the fixed-term employee (FTE)'s hours of work, wages, allowances, and other benefits cannot be less than those of a permanent employee doing the same or similar work. FTEs are also eligible for all benefits available to a permanent employee, proportionally to the period of service rendered, even if the period does not extend to the required qualifying period.

II. Employees' Provident Fund (EPF) & Employees' State Insurance Corporation (ESI) (Chapter III & IV):

1. The CSS mandates that the Schemes relating to EPF, Pension, Employees Deposit Linked Insurance will continue to be in force up to 21 November 2026. Also, the rate of contribution to EPF will continue at 12% each for employer and employee.
2. The CSS requires the employer to apply for coverage with the appropriate authority under the EPF. On obtaining majority approval from all employees, the employer may choose to opt out of such voluntary coverage under EPF and under ESI. these exemptions would be subject to conditions prescribed³ by the Government.
3. Every employee in an establishment is required to be insured under the ESI as per the CSS.
4. Both the employer and the employee must make contributions towards the ESI at the prescribed rate notified by the Government. The employer has an obligation to deduct and make such contributions on behalf of their employees irrespective of whether they are hired directly or via contractor.
5. All employees insured under ESI will be eligible to receive benefits arising from the ESI.

III. Gratuity (Chapter V):

1. Every full-time employee on their termination shall be entitled to gratuity on completion of five (5) years of his employment. However, the five-year mandate was excluded in cases of death and disablement.
2. The gratuity payable shall be calculated at the rate of fifteen days' wages or such number of days as may be notified by the Central Government, based on the rate of wages last drawn by the employee concerned.
3. The upper limit/threshold for gratuity under the law, is however, yet to be notified.
4. Under the CSS, fixed-term employees will be eligible to receive gratuity on a *pro-rata* basis on completion of one year of their employment.
5. Each employee on completion of one year of service will be required to make a nomination for payment of gratuity.
6. Employer shall pay gratuity within thirty days from the date on which such gratuity becomes payable.

IV. Maternity Benefit (Chapter VI):

1. Every woman, who has worked for a minimum of eighty days in the establishment shall be entitled to twenty-six weeks of paid maternity leave and maternity benefit at the rate of the average daily wage of the woman for the period of her actual absence.
2. Leave cannot be availed earlier than eight weeks from the expected date of delivery.
3. A woman legally adopting a child below three years of age shall be entitled to twelve weeks of maternity leave.

³ Will be released in the CSS Rules.

4. A woman undergoing miscarriage or tubectomy operation shall be entitled to six weeks and two weeks of paid leave.
5. Every woman shall be entitled to two nursing breaks each day.
6. Every establishment having fifty or more employees must provide creche facilities to the employees.
7. An employer cannot terminate a woman from her services when she is availing her maternity benefit.

V. Employee’s Compensation (Chapter VII)

1. Every employee/worker shall be entitled to receive compensation arising out of occupational diseases or injury caused at workplace.
2. Under the CSS an employee shall receive compensation even in cases where the employee was travelling from residence to place of employment and vice versa.
3. In the event of death of an employee, the compensation payable shall be fifty percent of monthly wages of the deceased employee. In case of permanent disablement, the compensation shall be sixty percent of the monthly wages.

VI. Social Security Mechanisms and Miscellaneous (Chapter VIII - XII)

The Government must establish specific boards and introduce schemes to implement social security benefits:

1. Schemes for Unorganised, Gig, and Platform Workers: The Central Government shall frame suitable welfare schemes for unorganised workers on matters such as life and disability cover, health and maternity benefits, old age protection, and education.
2. Aggregator Contributions (Gig/Platform Workers): Aggregators (digital intermediaries connecting buyers/users with sellers/service providers) must contribute five per cent. of the amount paid or payable by the aggregator to the gig and platform workers to the Social Security Fund at a rate not exceeding two per cent., but not less than one per cent., of their annual turnover.
3. The appropriate Government appoints Inspector-cum-Facilitators (ICF) to discharge duties under the Code. ICFs have powers to examine persons, require documents, seize documents relating to offences, and provide compliance advice.
4. Failure to Pay Deducted Employee Contribution: Punishable with imprisonment for a term of up to three years (but not less than one year) and a fine of INR 1 lakh; Failure to Pay Employer Contribution (Not Deducted): Punishable with imprisonment for a term of not less than two months but extendable up to six months, along with a fine of INR 50,000; Failure to Pay Gratuity: Punishable with imprisonment up to one year or a fine up to INR 50,000, or both; Repetition of Offences: A second or subsequent offence (after a previous conviction) is punishable with imprisonment up to two years and a fine of INR 2,00,000. If the repeat offence involves failure to pay contributions, cess, maternity benefits, gratuity, or compensation, the punishment is imprisonment for two to three years and a fine of INR 3,00,000.



