No. Z-13025/ 13 /2015-LRC
Government of India
Ministry of Labour & Employment
***

Shram Shakti Bhavan, New Delhi
Dated 16th March 2017

SUBJECT: **Draft Labour Code on Social Security & Welfare** - reg.

In line with the recommendations of the 2nd National Commission on Labour, Ministry of Labour & Employment has taken steps for simplification, amalgamation and rationalization of Central Labour Laws and replacing them with 4 Labour Codes viz. Code on Wages, Code on Industrial Relations, Code on Social Security & Welfare, and Code on Occupational Safety, Health & Working Conditions. Out of these, first two i.e. Code on Wages and Code on Industrial Relations were earlier drafted and put on the Website of the Ministry of Labour & Employment inviting comments of the stakeholders/public. Both these Codes are under consideration of the Government at present.

2. Ministry has since prepared a Preliminary draft of the **Code on Social Security & Welfare** by amalgamating all existing Labour Laws related to Social Security (*total 15 Labour Laws including EPF Act, ESI Act, Maternity Benefit Act, Payment of Gratuity Act, Employees Compensation Act, Unorganised Social Security Act, and various Welfare Cess /Fund Acts*). The draft of the Code on Social Security & Welfare is *attached*.

3. Comments/suggestions of all concerned stakeholders/other members of the public are invited on this draft Code for consideration in the Ministry of Labour & Employment. It is requested that the comments/suggestions should reach the Ministry **within one month time** from the date of issuance, on the address *S. K. Tripathi, Under Secretary (LRC), Ministry of Labour & Employment, Room No. 17, Shram Shakti Bhavan, Rafi Marg, New Delhi – 110001*, or through email to sushil.tripathi@nic.in. In order to facilitate proper consideration, the comments/suggestions on the draft Code must be in following format:

FORMAT			
Section / Sub-Section / Clause / Proviso of the Code	*Issue / Problem identified in the clause*	*Proposed Change / correction that should be made*	*Reason for proposed change*

Encl: Draft Code on Social Security & Welfare

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LABOUR CODE ON SOCIAL SECURITY 2017

A Bill

To simplify, rationalize, consolidate, and amend the laws relating to social security of workforce so as to make them less complex for easier comprehension, implementation and enforcement.

Be it enacted by Parliament in the sixty eighth year of the republic of India as follows.

PART A

Application and Definitions

CLAUSE		PROVISION
1.	Short title, extent, application and commencement	
1.1.	This Code may be called the Labour Code on Social Security 2017.	
1.2.	It shall extends to the whole of India.	
1.3.	It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint: Provided that different dates may be appointed for different classes of establishments, different provisions of this Code and for different States or different parts thereof.	
1.4.	The Code shall apply to all entities: Provided that the Code or such provisions of the Code shall not apply to such class of entities as may be specified in the Part – I of First Schedule, in respect of such workers of the entity and subject to restrictions and conditions specified therein.	**EPF 16** **MBA 26**
1.5.	The Code shall apply to – (a) workers that are employed by any entity; (b) worker who may also be the owner or the proprietor of an entity or a self-employed unit; (c) international workers; and (d) Indian citizen, working outside the territory of India, who opts to become a member of social security schemes under this Code: Provided that the Code or such provisions of the Code shall not apply to such class of workers as may be specified in the Part-II of the First Schedule, subject to restrictions and conditions mentioned therein.	
1.6.	The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956 (31 of 1956).	**EPF 17AA**
1.7.	The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this code: Provided that where under any such award, agreement, contract of service or otherwise, a worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this code.	**MBA 27**
1.8.	Nothing contained in this code shall be construed to preclude a worker from entering into an agreement with his employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Code	**MBA 27**

2.	Definitions.-In this code, unless the context otherwise requires or elsewhere in this code provide-	
2.1.	"Advisory Committee" means the Central Advisory Committee or State Advisory Committee constituted under section 6.	
2.2.	"agent" means any person ,whether appointed as such or not, who acts as the representative of the owner in respect of the management of an entity or of any part thereof, and as such superior to a manager;	
2.3.	"apprentice " means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship as defined in the Apprentice Act, 1961;	
2.4.	"Appellate Officer" means such officer as may be authorised by the Commissioner under sub-section (11) of section 116;"	
2.5.	"Appropriate Government" means- The Central Government: (a) In the matters relating to the National Social Security Councilor the Central Social Security Board; and (b) In matters relating to Welfare Funds established by the Central Government (c) In matters relating to the Executive Committee (d) In respect of Schemes framed by Central Government under section 24.1 of the Code (e) In matters relating to grant of exemptions u/s 94(2) The State Government: (a) In the matters relating to the State Board of Social Security; (b) In matters relating to Welfare Funds established by the State Government (c) In the matters relating to the Standing Committee of the concerned State Board. (d) In respect of Schemes framed by State Government under section 24.2 of the Code. (e) In matters relating to grant of exemptions u/s 94(1)	
2.6.	"assesse" means any person who is liable to pay contribution, Cess or any other amount under this Code and includes- (a) An employer (b) A non-employee from whom contribution is due under section 20(3)(b) (c) Any landlord in relation to a building or other construction work. (d) Any contractor or works contractor liable to pay Cess under section 32(2)	
2.7.	"Assessing Officer" means such officers of State Board to whom powers are delegated by the Commissioner under sub-section (10) of section 116.	
2.8.	"Audio-visual" means a media using both sight and sound,	

	typically in the form of images and recorded speech or music and includes- (a) Feature Films (b) All kinds of Television Programs and shows (c) News programs (d) Advertisements films (e) Documentaries (f) Broadcasts of theatres, live shows, events and sports (g) animation, cartoon depiction Explanation: "Audio-visual" includes any audio-video program and recordings in electronic or cinematograph form, whether transmitted through internet, physical devices or any other means.	
2.9.	"Audio visual production", with all its grammatical connotation means the act of producing an audio-visual in India but does not include audio-visual produced as a hobby or for personal use.	
2.10.	"Audio visual" worker means a worker – (i) who is employed, directly or through any contractor, in or in connection with the audio-visual production to work as an artist, technician, manager or assistant or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise in connection with the production of the audio-visual; and (ii) whose remuneration (whether by way of wage or lump-sum) with respect to such employment in or in connection with the production of audio-visual does not exceed such amount as may be prescribed.	
2.11.	"Benefit disbursement Agency" means an agency licensed under section 88(1) for the purpose of making benefit payments to the beneficiaries of Schemes in the manner as may be stipulated.	
2.12.	"benefit wage" for the purposes of calculating the compensation or benefits means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as below- (a) In case where employee has been in the service of the employer who is liable to pay compensation or benefit, for a continuous period of not less than twelve months immediately preceding the date of such liability — The last twelve months' wage, which have fallen due for payment, from the date of personal injury (or delivery or termination of employment), of the employee, divided by twelve. (b) In case where employee has been in the service of the employer who is liable to pay compensation or benefits, for a continuous period of less than one month immediately preceding the date of such liability — The last twelve months' wage, which have fallen due for payment, from the date of personal injury (or delivery or termination of employment), in respect of an employee who was employed on the same work by the same employer, or, if there was no such employee, so employed on similar work in the same	ECA 5 PGA 4(4)

	locality, divided by twelve.	
(c) In case where employee has been in the service of the employer who is liable to pay compensation or benefits, for a continuous period not less than one month, but less than twelve months immediately preceding the date of such liability	thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident (or delivery or termination of employment) from the employer who is liable to pay compensation (or maternity benefit or gratuity), divided by the number of days comprising such period.	
(d) in cases in which it is not possible for want of necessary information to calculate the monthly wages	at such rate as may be stipulated for various classes of employment.	

Provided that the benefit wage shall not be less than the minimum wage notified under the Minimum Wages Act for that employment:

Provided further that the Benefit wage shall not exceed such amount as may be prescribed.

Explanation 1. - A period of service shall, for the purposes of this section be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Explanation 2 - For the purpose of computing the compensation payable to an employee who is employed after a permanent partial disablement on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

Explanation 3 - In case of personal injury after cessation of employment, the benefit wage shall be calculated in the manner specified above, considering the date of cessation of employment as the date of liability.

2.13.	"Boards" means the Central Board or the State Boards.	
2.14.	"building or other construction work" means the construction, alteration, repairs, maintenance or demolition of or in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, waterworks (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or any construction work to which the provisions of the Factory Act, 1948 (63 of 1948), or the Mines Act,	

	1952 (35 of 1952), apply;.	
2.15.	"building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person— (i) who is employed mainly in a managerial or administrative capacity; or (ii) who, being employed in a supervisory capacity, draws wages exceeding the wage ceiling or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;	
2.16.	"business includes – (a) any factory (b) any mine (c) any plantation (d) any shop (e) a provision of service, but excluding services provided by an employee (f) any contractor or sub-contractor (g) charitable organization / Non-Governmental Orgqanisation (h) any agriculture, horticulture, animal husbandry, fishery, (i) operation of railways, waterway, airline or any other transport service (j) any trade, commerce or manufacture; (k) any adventure or concern in the nature of trade, commerce or manufacture; (l) any transaction in connection with, or incidental or ancilliary to, any trade, commerce or manufacture, adventure or concern; whether or not such service, trade, commerce or manufacture, adventure or concern is carried out with a motive to make gain or profit and whether or not any gain or profit accrues from such service trade, commerce or manufacture, adventure or concern; Explanation - in exercise and performance of powers and duties of a local authority or of any department acting on behalf of the Central or State government shall, for the purpose of this Code, unless contrary intention appears, be deemed to be a business of such local authority or department.	
2.17.	"casual worker" means a worker who is appointed for any work which is not incidental or connected with the main work carried on in the establishment and which is essentially of a casual nature.	
2.18.	"Central Board" means Central Social Security Board constituted under sub-section (4) of Section 3.	
2.19.	"Charitable organization" means an organization which has an objective of charitable purpose. Charitable purposes include "relief of the poor, education, medical relief, and the advancement of any other object of general public utility.	
2.20.	"child" in relation to maternity benefits or Maternity assistance Scheme includes a still-born child.	
2.21.	"commission and piece rate worker"	

2.22.	"Commissioner" means the Commissioner of the respective State Board appointed under sub-section (3) of section 7.	
2.23.	"commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;.	
2.24.	"Committees" means the Executive Committee constituted under sub-section (1) of Section 5 or the Standing Committees constituted under sub-section (3) of Section 5.	
2.25.	"compensation" means the compensation, to which a worker is entitled and an employer is liable, under the provisions of the Code.	
2.26.	"compensation officer" means such officers who have been delegated powers to administer employee compensation under sub-section (9) of section 116.	
2.27.	"competent authority " means the officer authorized by the appropriate Government, or the Central Board or State Board as the case may be, to perform certain functions under this Code;	
2.28.	"completed years of service" means of continuous service for one year;	
2.29.	"confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;	
2.30.	"continuous service" means continuous service as defined in section 50;	
2.31.	"Contract worker" - a workman shall be deemed to be employed as contract worker in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;	
2.32.	"contractor" in relation to an entity means a person who undertakes to produce a given result for the entity, other than a mere supply of goods or articles of manufacture to such entity, through contract worker or who supplies contract worker for any work of the entity and includes a sub-contractor.	
2.33.	"contribution" means the sum or money payable under this Code to the State Board – (a) by the principal employer or contractor in respect of an employee; or (b) by the worker himself in case of a non-employee and includes the employers' contribution and the employees' contribution;	
2.34.	"cost of construction" means cost incurred by an entity or person in connection with the building and other construction work and shall include all expenditure connected with the construction but shall not include- (a) Cost of land (b) Any compensation paid or payable to a worker or his kin under section 61.	
2.35.	"delivery" means birth of a child;	
2.36.	"dependent " means any of the following relatives of a deceased person, namely : — (i) a widow/widower, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter ; (ii) parents ; (iii) a legitimate or adopted son or daughter who has attained	

	the age of twenty-five and who is infirm, if wholly dependent on the earnings of the member at the time of his death; (iv) if wholly or in part dependent on the earnings of the member at the time of his death, — (a) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor, (b) a minor brother or an unmarried sister or a widowed sister if a minor, (c) a widowed daughter-in-law, (d) a minor child of a pre-deceased son, (e) a minor child of a pre-deceased daughter where no parent of the child is alive, or (f) a grand-parent if no parent of the person is alive ;	
2.37.	"dependent family", in respect of a person, means all or any of the following relatives of such person, namely : — (i) a spouse ; (ii) a minor legitimate or adopted child dependent upon the member ; (iii) a child who is wholly dependent on the earnings of the member and who is — (a) receiving education, till he or she attains the age of twenty-one years, (b) an unmarried daughter ; (iv) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the member, so long as the infirmity continues ; (v) dependent parents, whose income from all sources does not exceed such amount as may be prescribed; (vi) in case the member is unmarried and his or her parents are not alive, a minor to brother or sister wholly dependent upon the earnings of the person ;	
2.38.	"Director General" means the Director General of Central Board appointed under sub-section (2) of Section 7.	
2.39.	"domestic worker" means, a person who is employed for remuneration whether in cash or kind , in any house hold 'or similar Establishments' through any agency or directly, either on a temporary or contract basis or permanent, part time or full time to do the household or allied work and includes a Replacement worker who is working as a replacement for the main workers for a short and specific period of time as agreed with the main worker; Explanation- household and allied work includes but is not limited to activities such as cooking or a part of it, washing clothes or utensils, cleaning or dusting of the house, driving , gardening, caring/nursing of the children/sick/old/mentally challenged or disabled persons	
2.40.	"dues" means any amount payable or assessed to be payable under the Code or the Schemes framed thereunder and includes- (a) Any Contributions payable by employer or worker, (b) Any Cess payable under the Code,	

	(c) Any Interest or damages payable under the Code, (d) Any Administrative Charges payable under the Code, (e) Any other fees, charges or any other amount payable under the Code, Schemes, Rules, Regulation or By-laws (f) Any charges imposed by the Commissioner or Board (g) Any amount required to be deducted at source and paid in accordance with the provisions of this Code, or Rules or Regulations made thereunder.	
2.41.	"duly appointed" means appointed in accordance with the provisions of this Code or with the rules or regulations made there-under.	
2.42.	"employee" means any person who is employed for wages by the entity in accordance with the terms of contract of employment, whether written or oral and whether expressed or implied, in or in connection with the work of the entity and includes a person – (i) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the entity, whether such work is done by the employee in the premises of entity or elsewhere; (ii) who is employed by or through any other entity, contractor or contractor on the premises of the entity or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the entity or which is preliminary to the work carried on in or incidental to the purpose of the entity; (iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service ; (iv) employed for wages on any work connected with the administration of the entity or any part, department or branch thereof or with the purchase of raw materials for, or the distribution or sale of the products or services of the entity; and who gets wages directly or indirectly from the employer of the entity, but does not include a person- (a) Who is subject to the Army Act, 1950 (46 of 1950) or the Air Force Act, 1950, or the Navy Act 1957 or; (b) Who is employed in the police service or an officer or other employer of a prison; (c) Who is an apprentice engaged under the Apprentices Act, 1961 or under the standing orders of the establishment; Explanation – for removal of doubts, the term employee would include all kinds of contracts of employments and includes - (a) part-time worker (b) casual worker (c) a fixed term worker (d) piece rate worker includes commission worker (e) apprentice not covered under Apprentice Act, 1961 (f) informal worker	

	(g) outworker (h) seasonal worker (i) wage worker (j) domestic worker (k) home-based worker (l) a railway servant as defined in clause (34) of section 2 of the Railways Act 1989 (24 of 1989), excluding those permanently employed in any administrative district or sub-divisional office of a railway; (m) a master, seamen, a captain or other members of the crew of a ship or an aircraft registered in India. (n) a person recruited for work abroad by a company. (o) A person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle registered in India, and who is employed outside India.	
2.43.	"Employer" means- (a) in relation to an establishment which is a factory, — the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause f of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; (b) in relation to an establishment which is under the control of any department of the Central Government or the State Government, — the authority specified by the head of such department in this behalf or where no authority is so specified, the head of the department and in relation to an establishment under the control of a local authority, the Chief Executive of that authority; (c) in relation to any other establishment — the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a Manager or Managing Director, such Manager and Managing Director, (d) In case of household or an enterprise undertaken by an household — The head of household. Explanation 1– "employer" includes, owner , occupier or any body of persons (whether incorporated or not) and any managing agent of an owner, occupier or any body of persons and the legal representative of a deceased employer, and, when the services of an	

	employee are temporarily lent or let on hire to another person by the person with whom the employee has entered into a contract of service or apprenticeship, means such other person while the employee is working for him; Explanation 2- The term "employer" in its grammatical connotations used in this code means the employer of any entity that employs an employee or employees, either directly or through contractors.	
2.44.	"employment injury " means a personal injury to a worker caused by accident or an occupational disease arising out of and in the course of his employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;	
2.45.	"Enterprise" means any project, undertaking or business carried out by any- (a) Organization; or (b) Institution; or (c) Corporation; or (d) local body; or (e) company; or (f) co-operative society; or (g) trust; or (h) self- help group; or (i) person; or (j) Hindu Undivided family; or (k) association of person or body of individuals whether incorporated or not; or (l) any Department, Boards, and Authorities of Central, State or Union Territory Government; or (m) any other person or legal entity; and includes any organization under the control of Central or State Government, but does not include households.	
2.46.	"Entity" means – (a) An enterprise; or (b) A household.	
2.47.	"establishment registration officer" means such officers who have been delegated powers to register or de-register establishment under sub-section (5) of section 116.	
2.48.	"Establishment" means an enterprise that employs one or more worker. Explanation: where an establishment consists of different departments or has branches, whether situated in the same place or in different places within the State, all such departments or branches shall be treated as parts of the same establishment	
2.49.	Executive Committee means the committee constituted in accordance with the provisions of section 5.4	
2.50.	"Exempted employee" in relation to a scheme means an employee to whom the Scheme would, but for the exemption granted under section 94 have applied;	
2.51.	"exempted establishment" means an establishment to which provisions of the Code or the Schemes framed there under are applicable and in respect of which an exemption has been granted under section 94 from the operation of any or all of the Schemes, as	

	the case may be, whether such exemption has been granted to the establishment as such or to any person or class of persons employed therein;	
2.52.	"export" means taking any goods out of India to a place outside India;	
2.53.	"Facilitator" means the Social Security Facilitator appointed under section 114.	
2.54.	"factory" means any premises including the precincts thereof, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.	
2.55.	"family" in relation to an employee, shall be deemed to consist of— (i) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents and the dependent parents of his wife and the widow and children of his predeceased son, if any, (ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any. Explanation.--Where the personal law of an employee permits the adoption by him of a child, any child lawfully adopted by him shall be deemed to be included in his family, and where a child of an employee has been adopted by another person and such adoption is, under the personal law of the person making such adoption, lawful, such child shall be deemed to be excluded from the family of the employee.	
2.56.	"fixed term" means contractual employment or arrangements between one employer and one employee characterised by a limited duration on or a pre-specified event to end the contract between them. Explanation- Together with project-based, casual employment, and temporary work through private employment agencies, fixed-term contracts represent special forms of temporary dependent employment and they are distinct from regular employment that is open-ended, "permanent", or "of indefinite duration	
2.57.	"fund" means the State Social Security Fund or any of the funds established under any of the Schemes framed under this Code;	
2.58.	"fund management agency" means an agency licensed under section 88(1)) to perform functions of professional management, investment and custody of accumulations in a social security fund or scheme fund.	
2.59.	"Bye –Laws " means the bye –laws framed by the Central Board.	
2.60.	"Head of household" means the person who has an ultimate control over the affairs of such household, and includes any other person to whom the affairs of such household is entrusted.	
2.61.	"home-based worker" means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the	

	employer, for remuneration, irrespective of whether or not the employer provides the equipment , materials or other inputs;	
2.62.	"honorary Service" in respect of running the house hold means the work done willfully by a person without wage or any remuneration payable in lieu of such service.	
2.63.	"household" means a group of occupants or a family regarded as a unit including individuals who comprise a family unit and who live together under the same roof, dwell in the same place, and are under control of one domestic head. Explanation 1: The household may or may not encompass domestic help for performing the activities required to run the household. Explanation 2: Any project, undertaking or business, whether for sale of goods or providing of services undertaken by a household shall be treated distinct enterprise and separate to the household.	
2.64.	"income ceiling" means such amount as notified by Central Government from time to time.	
2.65.	"Informal Contract" means an oral contract between an employer and a worker in which the wage is determined for a work to be done without determining employment of the worker;	
2.66.	"Informal Worker" means a person that gets employed by any entity through an informal contract or in absence of any written contract.	
2.67.	"Inspector" means the inspector appointed under section 113.	
2.68.	"intermediate agency" means any Fund manager agency, Point of presence Agency, Service delivery Agency, Benefit disbursement Agency or Recordkeeping Agency licensed under Section 88(1)	
2.69.	"International Worker" means an employee other than an Indian Citizen working for an establishment situated in India, and excludes — The citizen or permanent resident of such country or countries as may be notified by the Central Government in the Official Gazette from time to time: Explanation - The employee who is citizen or permanent resident of such excluded countries shall have the status of an Indian employee under this Code;	
2.70.	"landlord" in relation to a building or other construction work means person or entity commissioning any building or other construction work. Explanation - A landlord may or may not be the actual owner of the land on which the building or other construction work is being executed.	
2.71.	"limestone" includes minerals like lime- shell, calcareous sand and sea sand essentially composed of lime- shell, marl, kankar or lime-kankar;	
2.72.	"local body" means the institutions of the local self governance (by whatever name called) constituted under article 243B, or article 243Q of the Constitution.	
2.73.	"major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908).	
2.74.	"manager" means the person who is responsible for the overall management, control, supervision or direction of the establishment, subject to overall instructions of the owner of the establishment: Provided that where no manager is appointed, the owner shall be deemed to be manager.	

2.75.	"managing agent " means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;	
2.76.	"manganese ore" includes ferrogenous manganese ore or ferro-manganese ore;	
2.77.	"manufacturing process" means any process for- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or (ii) pumping oil, water, sewage or any other substance; or (iii) generating, transforming or transmitting power; or (iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or (vi) preserving or storing any article in cold storage;	
2.78.	"maternity benefit" means the payment referred to in sub-section (1) of Section 57;	
2.79.	"medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of the Medical Termination of Pregnancy Act, 1971.	
2.80.	"scheme member" means a worker in respect of whom contributions are or were payable under this code and who is, by reason thereof, entitled to an of the benefits provided under a Scheme for Social Security;	
2.81.	"mine" means a mine as defined in clause (j) of Section 2 of the Mines Act, 1952 (35 of 1971);	
2.82.	"minor" means a person who has not attained the age of eighteen years;	
2.83.	"miscarriage " means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code (45 of 1860) ;	
2.84.	"monthly income" means	
2.85.	"National Council" means National Social Security Council of India constituted under sub-section (1) of Section 3.	
2.86.	"National Pension System" shall have the same meaning as assigned to it in clause (i) of sub-section (1) of section 2 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013);	
2.87.	"non-employee means – (i) A Self-employed worker; or (ii) An owner-cum-worker	
2.88.	"Non-Governmental Organisation" means organizations engaged in public service, based on ethical, cultural, social, economic, political, religious, spiritual, philanthropic or scientific & technological considerations. VOs include formal as well as informal groups, such as: community-based organizations (CBOs); non-governmental development organizations (NGDOs); charitable organizations; support organizations; networks or federations of	

	such organizations; as well as professional membership associations	
2.89.	"notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be and the expression 'notify" with grammatical variation and cognate expressions shall be construed accordingly;	
2.90.	Occupational disease means a disease included in the fifth schedule which is specified therein as a disease peculiar to the employment of the worker.	
2.91.	"occupier" of an establishment means the person who has ultimate control over the affairs of the establishment: provided that- (i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier; (ii) in the case of a company, any one of the directors shall be deemed to be the occupier; (iii) in the case of an establishment owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier; (iv) In the case of trust/NGOs, the members of the Governing body of the trust or NGOs, by whatever name called	
2.92.	"Organised Sector" means establishments where the number of such workers employed is equal to or more than the threshold;	
2.93.	"outworker" means workers who hold explicit or implicit contracts of employment under which they agree to work for a particular enterprise, or to supply a certain quantity of goods or services to a particular enterprise, by prior arrangement or contract with that enterprise, but; whose place of work is not within any of the establishments which make up that enterprise	
2.94.	"owner" when used in relation to an enterprise, means – (a) any person who is the immediate proprietor or lessee or occupier of the enterprise or any part thereof; and (b) in the case of an enterprise the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver but does not include a person who – (a) merely receives a royalty, rent or fine from the enterprise, subject to any lease, grant or license for the working thereof; or (b) is merely the owner of the premises and not interested in the activities of the enterprise: provided that in case of any contract or lease for running a business or enterprise, the contractor or the leasee shall also deemed to be the owner, but not so as to exempt the person who has granted the contract or lessor from any liabilities under this Code.	
2.95.	"owner-cum-worker" means a person who is also an owner, head or proprietor of an establishment and who is also a worker in that establishment	
2.96.	"part-time worker" means an employed person whose normal working hours fixed by government of work are less than those of	

	comparable full-time workers;	
2.97.	"permanent partial disablement" means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement: Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement.	
2.98.	"permanent total disablement " means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement: Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred percent or more ;	
2.99.	"Placement Agency" means any entity which provides or engages in employment of contract workers or domestic workers or which facilitate the placement of contract workers or domestic help for prospective employers and includes such agency or person offering such services through any print ,electronic or any form of communication	
2.100.	"plantation" means any land used or intended to be used for growing tea, coffee, rubber cinchona or cardamom	
2.101.	"Point of presence Agency" means an agency licensed under section 88(1) for receiving contributions and instructions and transmitting them to the Trustee Bank or Record keeping agency;	
2.102.	"predecessor organizations" means the Employees' Provident Fund Organisation, the Employees' State Insurance Organisation and the Directorate General Labour Welfare under the Ministry of Labour and Employment of the Central Government.	
2.103.	"prescribed" means prescribed by rules made by the central government (unless otherwise specified) under this Code;	
2.104.	"Principal Employer" in respect of any worker means – (a) In case of an entity, that contracts out whole or any part of work, which is ordinarily part of the work of the entity or is preliminary to the work carried on in, or incidental to the purpose of, any such entity, other than a mere supply of goods or articles of manufacture to such entity, to an contractor — the employer of such entity whose work is getting executed; (b) In case of an entity, that undertakes whole or any — the employer of such entity that has	

	part of work, which is ordinarily part of the work of the entity or is preliminary to the work carried on in, or incidental to the purpose of, any such entity, directly by employing employees	employed the employee;	
	(c) In case of a non-employee worker	The said non-employee worker himself.	
2.105.	"producer", in relation to a feature film, means,- (i) the person by whom arrangements necessary for making such film (including the raising of finance and engaging Audio-visual-workers for such film-making) are undertaken; or (ii) where the application for a certificate in respect of such film under section 4 of the Cinematograph Act, 1952 (37 of 1952), the person who applies for certification and the term "production" in relation to a feature film will be construed accordingly		
2.106.	"project" means a temporary endeavor undertaken to create a unique product, service, or result. The temporary nature of projects indicates that a project has a definite beginning and end.		
2.107.	"qualified medical practitioner" means any person registered under any Central Act, Provincial Act, or an Act of the Legislature of a State providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be a qualified medical practitioner for the purposes of this Code;		
2.108.	"railway company" has the meaning assigned to it in clause (31) of section 2 of the Indian Railways Act, 1989 (24 of 1989);		
2.109.	"Record keeping agency" means an agency licensed under section 88(1) to perform functions of record-keeping, accounting, administration and customer service for members of any scheme.		
2.110.	"Recovery Officer" means any officer of the Central Government, State Government, Central Board or the State Board who may be authorised by the appropriate Government, by notification, to exercise the powers of a Recovery Officer under section 138 of this Code.		
2.111.	"registered worker" means a worker registered under sub-section 8 of section 11;		
2.112.	"regulation" means a regulation made by the National Council.		
2.113.	"Regulator General" means the Regulator General of Social Security appointed under sub-section (1) of section 7.		
2.114.	"retirement" means termination of the service of an employee otherwise than on superannuation;		
2.115.	"resident" means an individual who has resided in India for a period or periods amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for registration;		**Aadhaar Act**
2.116.	"Schedule" means a schedule to this Code;		
2.117.	"scheme" means any Scheme framed by the Central or State Government under section 24 ;		

2.118.	"seamen" means any person forming part of the crew of any ship, but does not include the master of the ship;	
2.119.	"seasonal factory " means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, - (a) cotton ginning; (b) cotton or jute pressing; (c) decortication of ground-nuts; (d) manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea; or (e) any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding eight months in a year — (a) in any process of blending, packing or repacking of tea or coffee ; or (b) in such other manufacturing process as may, be prescribed	
2.120.	"seasonal worker" means – (a) In respect of self-employed workers, one who do not get a regular monthly income, and their income is intermittent or seasonal; or (b) In respect of employees, one who do not get continuous employment during at least eight months in a year.	
2.121.	"Self Employed worker" means any person who is not employed by an employer for wages, but engages himself or herself in any occupation in a self-employed unit for profit or family gain, in cash or in kind, or holds cultivable land which he tills using his own or family members' labour, including a person who takes land on share cropping or any other form of rent, and tills the same using his own or family members' labour.	
2.122.	"self-employed unit" means any self-owned business or enterprise, in which an individual works for himself (with or without assistance of his family members) for profit or family gain, in cash or in kind, instead of working for an employer, and without employing any other worker.	
2.123.	"service delivery agency" means an agency licensed under section 88(1) for the purposes of providing services, medical or otherwise, and other non-financial benefits under any Schemes.	
2.124.	"shop" means any premises where goods are sold either by retail or wholesale or where services are rendered to customers, and includes an office, a store-room, godown, warehouse or workhouse or work place, whether in the same premises or otherwise, used in or in connection with such trade or business but does not include a factory or a commercial establishment;	
2.125.	"sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds ;	
2.126.	"Social Security Organisations" mean the National Council, the Central Board or the State Boards, and the term 'concerned Social Security Organisation' shall be construed as the concerned National Council , Central Board or State Boards as the context may imply.	
2.127.	Standing Committee means a committee constituted in accordance with the provisions of section 5.4	
2.128.	"State Board" means the State Social Security Board constituted under sub-section (7) of Section 3 in respect of the concerned State	

	or Union Territory.	
2.129.	"State Government" means – (a) in relation to a Union Territory with legislature, the Government of the Union Territory, (b) in relation to a Union Territory without legislature, the Administrator thereof;	
2.130.	"stipulated" means specified by the regulations made by the National Council under this Code;	
2.131.	"sub-contractor" means a contractor who undertakes to produce a given result for another contractor through contract worker or who supplies contract worker for any work taken up by the said another contractor.	
2.132.	"superannuation" in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment: provided that in relation to application of a Scheme, superannuation shall mean the attainment of such age, as may be specified in the Schemes.	
2.133.	"temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury temporarily incapable of doing the work which he was doing prior to or at the time of the injury;	
2.134.	"temporary partial disablement" means such disablement of a temporary nature, as reduces the earning capacity of an employee in every employment in which he was engaged at the time of the accident resulting in disablement;	
2.135.	"Threshold" means such number of workers as may be notified by the central government.	
2.136.	"total disablement" means such disablement whether of a temporary or permanent nature, as incapacitates a worker for all work which he was capable of performing at the time the injury was sustained: Provided that permanent total disablement shall be deemed to result from every injury specified in the Part – I of the fourth Schedule, or from any combination of injuries, specified in the Part – II of the fourth Schedule, where the percentage, or the aggregate percentage, of disability as specified in the said Schedule against such injury, or combination of injuries, amounts to one hundred per cent. or more;	
2.137.	"Tribunal" means the Social Security Appellate Tribunal constituted under section 129 and includes the Principal Appellate Tribunal;	
2.138.	"unclaimed amount" means – (a) Any amount credited to State Social Security Fund under suspense account (or any other account) which can-not be associated with any contribution made by or on account of any particular worker in a period of three years from the date of its credit. (b) Any amount of claim due to any worker, but not claimed by him within a period of five years from the date it became due.	
2.139.	"undertaking" means an "enterprise", "venture" or "engagement".	
2.140.	"Unorgnaized sector" includes –	

	(a) establishments which employ workers, and the number of such workers is less than the threshold; (b) self-employed units; (c) Households that employ domestic workers for carrying out the activities of the household.	
2.141.	"unorganized worker" means a home-based worker, self-employed worker, owner-cum-worker or a wage worker in the unorganized sector;	
2.142.	"VIKAS" means the worker's registration number assigned to him under section 11;	
2.143.	"voluntary contribution" means a contribution paid by an employee, or as the case may be, the employer, over and above the contribution;	
2.144.	"wage ceiling" means such maximum amount of wages payable per month as may be notified by the Central Government from time to time;	
2.145.	"wage period " in relation to an employee means the period not exceeding one calendar month in respect of which wages are ordinarily payable to him whether in terms of the contract of employment, express or implied or otherwise;	
2.146.	"wage worker" means a person employed for remuneration in an entity, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind whether as a home-based worker, or as a temporary or casual worker. Or a migrant workers	
2.147.	"Wage" means all remuneration (whether by way of salary, 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, – (i) any remuneration payable under any award or settlement between the parties or order of a court; (ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period; (iii) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name); (iv) any house rent allowance; (v) any sum which by reason of the termination of employment of the person employed is payable under any law contract or instrument which provides for the payment of such sum whether with or without deductions but does not provide for the time within which the payment is to be made; *but does not include-* (a) any annual bonus payable under the payment of Bonus Act, 1965 , which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;	

	(b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity and expenditure on perquisites incurred by the employer and not paid directly to the employees ; (c) any contribution paid by the employer to any Social Security fund, and the interest which may have accrued thereon; (d) Value of any Leave travelling concession; (e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or (f) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (v) (g) Shares, prizes gifts given occasionally. Provided that for the purpose of contribution, wages shall not be less than applicable minimum wages notified for the said area by the -State Government; Provided further that If the establishment operates in one state and in case of establishment having branches in more than one state, minimum wages notified by the Central Government will be applicable.	
2.148.	"woman" means an employee who is a woman in the context of maternity benefit under this code.	
2.149.	"worker" means any person who – (i) performs a work for an entity; or (ii) provide services, whether regular or part-time to an entity, whether directly or through an agency, for wage, profit or gain, in cash or kind, whether under a contract of employment, or other contract where an individual undertakes to do or to provide personally the work or services, whether the contract is expressed or implied; and includes- (a) an employee; (b) a non-employee but does not include – (a) A person who is subject to the Army Act, 1950 (46 of 1950) or the Air Force Act, 1950, or the Navy Act 1957, or; (b) A person who is employed in the police service or an officer or other employer of a prison, or; (c) Housewives / House-husbands and other family members that provide honorary services for running the household. Explanation 1: All employees of an entity shall be workers irrespective of nature of work performed by them. Explanation 2: Apprentices shall be deemed to be workers, unless they are engaged in accordance with the provisions of Apprentices Act 1961 or the standing orders of the establishments. Explanation 3: persons performing voluntary services for an entity and receiving honorarium shall be deemed to be workers.	
2.150.	"Workplace" means any location where a worker works and includes any residential place where any domestic worker works	
2.151.	"works contract" means any agreement for carrying out for cash or For deferred payment or for an valuable consideration, any civil work, building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or	

	commissioning of any movable or immovable property, and includes- (a) production of programmes for broadcasting or telecasting; (b) carriage of goods or passengers by any mode of transport other than by railways; (c) catering; (d) manufacturing or supplying a product or software according to the requirement or specification of a customer by using material purchased from such customer,	
2.152.	"works contractor" means any person who executes a works contract and includes a works sub-contractor.	

PART B

Social Security Organisations

3.	**Constitution and functions of Social security organizations.**	
3.1.	There shall be established, by notification, for the administration of social security, an authority to be known as the National Social Security Council of India (hereinafter referred to as 'the National Council'). The National Council shall have all such administrative and financial powers as may be prescribed for discharging its functions.	
3.2.	It shall be the function of the National Council to- (a) review and monitor the implementation of the Code. (b) advise the central & state government and the Boards, generally in the matter of social security administration, enforcement and compliances; (c) recommend to the Central Government of any changes in the Code and rules. (d) regulate schemes of social security that are framed by Central government, State Governments or the local bodies whether or not within the framework of this code.; (e) co-ordinate between the central and state Government and the boards in the matter of implementation of social security schemes and ensure coordination and portability; (f) promote universalization of social security, and ensure regular growth of the social security schemes; (g) protect the interests of the scheme members of social security schemes; (h) monitor the implementation of social security schemes, enforcement of the Code and compliance; (i) in consultations with Central and State Boards prescribe Minimum Standards to achieve decent conditions of work (j) regulate the Funds administered by the Central Board and the State Boards. (k) regulate the Provident Funds constituted under the Provident Fund Act 1925. (l) laying down norms for the management of the corpus of the funds, including investment pattern under such schemes. (m) make regulations in respect of intermediate agencies. (n) make regulations in respect of distribution of assets and fund corpus between the State Boards and the Central Board. (o) any other matter as may be assigned by the central Government by general or special order. (p) regulating the regulated assets;	
3.3.	The National Council shall consist of the following members, namely : — (a) Prime Minister as Chairperson; (b) Minister, Labour and Employment as Vice-Chairperson; (c) Minister for Finance (d) Minister of Health and Family Welfare (e) Minister for Labour of five States or Union Territories by rotation, in the manner prescribed (f) not more than three officers of Central government, as may be prescribed to be appointed by the Central Government ; (g) two persons representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognized for the purpose by the Central Government out of which	

	one person shall represent employees in unorganized sector. (h) one person representing self-employed workers to be nominated by the Central Government in consultation with such organisations of self-employed workers as may be recognized for the purpose by the Central Government; (i) One person to be appointed by the Central Government, being an expert in Social Security have made a notable contribution in the field of social security. ; (j) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States ; and (k) The Regulator-General of the Social Security, ex-officio: Provided that at least one person nominated under each of the clause (g) and (h) shall be woman.	
3.4.	The Central Government shall, by notification in official gazette, constitute with effect from such date as may be specified therein a Central Board of Social Security (hereinafter referred to as 'the Central Board').	**EPF 5A** **ESIC 3**
3.5.	It shall be the function of the Central Board – (a) to administer the Scheme funds vested in it in such manner as may be specified in the respective Scheme. (b) to administer other funds in such manner as may be stipulated. (c) to design and manage the Centralized system of Registration of workers and entities. (d) to develop and manage the Centralized database and Information Technology Infrastructure for implementation of the Code (e) develop and manage the systems for portability of accounts and claims for implementation of Social Security Schemes. (f) coordination and ensure data sharing between State Boards. (g) protecting the interests of scheme members by— (i). ensuring safety of the contribution of scheme members to various social security schemes; (ii). ensuring that the intermediation and other operational costs under the Social Security Schemes are economical and reasonable; (h) establishing mechanism for redressal of grievances of members; (i) promoting professional organisations connected with the Social Security; (j) undertaking steps for educating members and the general public on issues relating to social security schemes; (k) standardising dissemination of information about performance of social security funds and performance benchmarks; (l) specifying fees or other charges for carrying out the purposes of this Code; (m) calling for information from, undertaking inspection of, conducting inquiries and investigations including audit of, intermediate agencies and other entities or organisations connected with social security; (n) collection of data, commissioning of studies, research and projects, conducting of surveys and evaluation of impact and outcome of social security programmes on its own or through State Boards or intermediate agencies. (o) monitor utilization of and expenditure from social welfare funds administered by the State Boards; (p) review the record keeping functions performed at the State level;	**UWSSA 5(1)** **UWSSA 5(8)**

	(q) advise the Central Government on such matters arising out of the administration of the Code and Schemes as may be referred to it; (r) perform such other functions as it may be required to perform by or under any provisions of the Schemes framed under this Code, (s) regulating intermediate agencies for implementation of social security schemes; (t) issuing to an intermediate agency, a license and renewing, modifying, withdrawing, suspending or cancelling such license; (u) adjudication of disputes between intermediate agencies and between intermediate agencies, State Boards and members; (v) specifying, by issuing by-laws, the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediate agencies; (w) exercising such other powers and functions as may be prescribed, or are assigned to it by the Central Government.	
3.6.	The Central Board shall consist of the following members, namely : — (a) Minister of Labour and Employment as Chairperson; (b) Regulator General of Social Security of India as Vice-Chairperson (c) Secretary, Ministry of Labour and Employment; (d) not more than two officers, as may be prescribed, to be appointed by the Central Government; (e) one officer each representing five States selected by rotation, in the manner prescribed, to be appointed by the State Government concerned; (f) one officer to be appointed by the Central Government to represent the Union territories, by rotation in the manner prescribed; (g) five persons representing employers, to be nominated by the Central Government in consultation with such organisations of employers as may be recognized for the purpose by the Central Government; of which, at least one person should be representing employers of unorganized sector; (h) five persons representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognized for the purpose by the Central Government out of which at least one person shall represent employees in unorganized sector. (i) two persons representing self-employed workers to be nominated by the Central Government in consultation with such organisations of self-employed (j) one person representing pensioners, having such qualification and experience as may be prescribed, to be appointed by the central government. (k) one expert each, having such qualification and experience as may be prescribed, to be appointed by the Central Government, having knowledge in – (i). medical sciences and public health (ii). Social Security policies; and (iii). Banking or Finance (iv). Actuarial sciences (v). Management of large financial database. (l) Director General, ex-officio: Provided that at least – (i). Two persons nominated under each of the clause (g) and (h), (ii). One person nominated under clause (i), and (iii). One expert appointed under clause (k) shall be women	**EPF 5A(1)** **ESIC 4** **UWSSA 5(2)**

3.7.	Every State Government and every Union Territory shall by notification, constitute with effect from such date as may be specified therein a State Board of Social Security, for the state concerned (hereinafter referred to as 'the State Board').	**EPF 5B** **UWSSA 6**
3.8.	It shall be the function of the State Board- (a). To implement and administer the schemes of social security in the respective states; (b). To administer and provide services and perform such other functions as may be required to perform by or under the provisions of any schemes; (c). To register entities; (d). To collect Contributions and settle of Claims (e). To enforce the Code and ensure compliance; (f). Record keeping for the purpose of implementation of the Code; (g). To manage registration of workers through the registering authorities and to regulate the registering authorities; (h). recommend the State Government in formulating suitable schemes for different sections of workers; (i). advise the State Government on such matters arising out of the administration of this Part as may be referred to it (j). monitor such social welfare scheme as are administered by the State Board (k). review the record keeping functions performed at the District level; (l). review the progress of registration and issue of cards to workers; (m). review the expenditure from the funds under various schemes; and (n). undertake such other functions as are assigned to it by the State Government from time to time.	**UWSSA 6(8)** **UWSSA 8**
3.9.	The State Board shall consist of the following members, namely : — (a) Chief minister of the state as the chairperson. (b) Minister incharge of Labour of respective state government as vice Chairperson; (c) Chief secretary in charge of labour department of the state; (d) not more than four officers of state government, as may be prescribed, to be appointed by the State Government; (e) One officer from Central Government or Central Board as may be nominated by the Central Government; (f) five persons representing employers to be nominated by the State Government in consultation with such organisations of employers as may be recognized for the purpose by the State Government; of which, at least one persons should be representing employers of unorganized sector; (g) five persons representing employees to be nominated by the State Government in consultation with such organisations of employees as may be recognized for the purpose by the State Government out of which at least one persons shall represent employees in unorganized sector. (h) one person representing self-employed workers to be nominated by the State Government in consultation with such organisations of self-employed (i) one person representing pensioners, having such qualification and experience as may be prescribed, to be appointed by the state government. (j) two members of State Legislative assembly elected by the members of the Legislative assemble of the concerned State;	**UWSSA 6(2)**

	(k) one expert each, having such qualification and experience as may be prescribed, to be appointed by the State Government, having knowledge in – (i). medical sciences and public health (ii). social Security; and (iii). Banking or Finance (iv). Actuarial sciences (l) Commissioner of the State board, ex-officio: provided that in case of Union Territory without legislature, the Administrator of the Union Territory with whatever name he may be called, shall be the chairperson. Provided further that at least – (i). Two persons nominated under each of the clause (f) and (g) (ii). One expert appointed under clause (j) shall be women.	
4.	**Procedures and processes of the National Council, the Central Board and the State Boards (hereinafter referred to as 'the Social Security Organisations')**	
4.1.	The Social Security Organisations shall be body corporate, having perpetual succession and a common seal and shall by the said name sue and be sued.	**EPF 5C**
4.2.	The term of a Social Security Organisation, unless dissolved or superseded earlier, shall be such as may be prescribed.	**UWSSA 4(5)**
4.3.	The method of nomination, terms and conditions of the Chairman, vice-chairman and other members of the Social Security Organisations shall be such as may be prescribed.	**EPF 5A(3)** **UWSSA 4(4)**
4.4.	Disqualification and removal of a member of the Social Security Organisations: No person shall be chosen as, or continue to be, a member of Social Security Organisations who,- (a). is or at any time has been adjudged insolvent; or (b). is found to be a lunatic or become of unsound mind; or (c). is or has been convicted of any offence involving moral turpitude; or (d). If he is an employer in relation to an exempted establishment or an establishment to which the Scheme applies has defaulted in the payment of any dues to the Central or the state Boards or the Fund recoverable from him under the Code or the Scheme, as the case may be; or (e). If he is a member of Parliament or member of State Legislative Assembly, and he ceases to be a member of Parliament or State Legislative assembly, as the case may be; or (f). If he is a member of Parliament or member of State Legislative Assembly, and he becomes a – (i). Minister of Central or State Government or (ii). Speaker or Deputy Speaker of House of People or State Legislative assembly, or (iii). Deputy Chairman of Council of States Explanation 1 - If any question arises whether any person is disqualified under point (d) it shall be referred to the appropriate Government and the decision of the appropriate Government on any such question shall be final. Explanation 2 – clause (f) shall not apply in case of persons who are member of the Social Security Organisation ex-officio, by virtue of being a Minister	**ESIC 12** **ESIC 13**
4.5.	The appropriate Government may remove from office any member, who,--	

	(a). is or has become subject to any of the disqualifications mentioned in sub-section (4); or (b). is absent without leave of the concerned Social Security Organisation, for more than three consecutive meetings of the concerned Social Security Organisation; (c). in the opinion of the appropriate Government, has so abused the position of member as to render that persons continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member: Provided that, no person shall be removed under clause (b) and (c), unless that person has been given a reasonable opportunity to show cause as to why he should not be removed.	
4.6.	The members shall hold office for such tenure as may be prescribed: provided that no member shall hold office for more than two consecutive terms.	**ESIC 5(1)**
4.7.	If in the opinion of the appropriate Government,-- (a). the member representing employers and the workers, ceases to adequately represent the employers or, as the case may be, the workers, or (b). the member representing to be an expert in the field, is found not to possess sufficient expertise in the relevant field, or (c). having regard to exigencies of circumstances or services in the Government, the member representing the Government cannot continue to represent the government, then, the appropriate government may, by an order, remove all or any of them from office of the concerned Social Security Organisation at any time: Provided that, no person shall be removed under clause (a) or (b), unless that person has been given a reasonable opportunity to show cause as to why he should not be removed.	**ESIC 12(2)**
4.8.	Any member of the Social Security Organisations may at any time resign his office by writing under his hand addressed to the concerned member secretary, and his office shall, on acceptance of the resignation, become vacant.	**ESIC 11**
4.9.	Vacancies in the office of appointed or elected members of the Social Security Organisations shall be filled by appointment or election, as the case may be: Provided that a member of the Social Security Organisation appointed or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is appointed or elected would have been entitled to hold office if the vacancy had not occurred.	**ESIC 14**
4.10	If any member of Social Security Organisations, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the concerned Social Security Organisation, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the concerned Social Security Organisation, and the member shall not take part in any deliberation or decision of the concerned Social Security Organisation with respect to that matter.	
4.11	The Central or the State Board shall exercise such administrative and financial powers as are conferred on it by the schemes.	
4.12	The Social Security Organisations shall meet within such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be prescribed.	**ESIC 20 UWSSA 4(6)**
4.13	Members of the Social Security Organisations, the Executive Committee, and the Standing Committee shall receive such fees and allowances as may be	**ESIC 15 UWSSA**

	prescribed.	**4(7)**
4.14	All orders and decisions of the Social Security Organisations shall be authenticated by the signature of the Executive head of the Social Security Organisation and all other instruments issued by the Social Security Organisation shall be authenticated by the signature of the Executive head or such other officer of the Social Security Organisation as may be authorized by him.	**ESIC 7**
4.15	No act done or proceeding taken by the Social Security Organisations or the Committees constituted under section 5 shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the concerned Social Security Organisation or the concerned Committee, as the case may be.	**ESIC 24** **UWSSA 12**
5.	**Executive Committee of the National Council, Standing Committee of State Boards and Medical Benefit Council**	**EPF 5AA#**
5.1.	The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the National Council in the performance of its functions.	
5.2.	The Executive Committee shall consist of the following persons as members, namely:- (a) Minister of Labour as Chairperson; (b) two persons representing the employers elected by the National Council from amongst the persons representing employers; (c) two persons representing the employees elected by the National Council from amongst the persons representing employees; (d) one person representing self-employed worker elected by the National Council from amongst the persons representing self-employed workers; (e) Three persons nominated by the Central Government from amongst members of the National Council who are officials; (f) Three persons nominated by the Central Government from amongst persons who are experts. (g) The Regulator General, ex-officio: Provided further that at least two persons from amongst persons nominated by the Central Government shall be women.	
5.3.	The State Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Standing Committee to assist the State Board in the performance of its functions.	
5.4.	The Standing Committee shall consist of the following persons as members, namely:- (a). Minister in charge of Labour of respective state/UT by whatsoever name called as Chairperson (b). Secretary in charge of Labour of the respective state/UT as Vice-Chairperson; (c). two persons representing the employers elected by the State Board from amongst the persons representing employers; (d). two persons representing the employees elected by the State Board from amongst the persons representing employees; (e). one person representing self-employed worker elected by the State Board from amongst the persons representing self-employed workers; (f). two persons nominated by the State Government from amongst members of the State Board who are officials; (g). Two persons nominated by the State Government from amongst persons who are experts. (h). The Commissioner, ex-officio: provided further that at least one person from amongst persons nominated shall	**ESIC 8**

	be women.	
5.5.	The State Government shall constitute a Medical Benefit Council consisting of — (a) the Commissioner, ex-officio as Chairperson ; (b) the Director General, Health Services, of the Stateex-officio as Co-Chairperson ; (c) the Medical Commissioner of the State Board, ex-officio ; (d) two members from amongst the persons representing employers to be appointed by the State Government in consultation with such organisations of employers as may be recognised for the purpose by the State Government; (e) two members from amongst the persons representing employees to be appointed by the State Government in consultation with such organisations of employees as may be recognised for the purpose by the State Government ; and (f) two members representing the medical profession, to be appointed by the State Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the State Government: Provided that no person shall be appointed to the Medical Benefit Council unless he or she is a member of the State Board: Provided further that at least one third of total persons appointed under the clause (d), (e) and (f) shall be women.	**ESIC 10**
5.6.	The tenure, terms and conditions subject to which – (a) a member of the National Council may be appointed or elected to the Executive Committee; or (b) a member of the State Board may be appointed or elected to the Standing Committee; (c) a person may be appointed as a member of Medical Benefit Council and the time, place and procedure of the meetings of the Committees shall be such as may be prescribed.	**ESIC 9**
5.7.	Subject to the general superintendence and control of the National Council, the Executive Committee – (a) shall administer the affairs of the National Council and may exercise any of the powers and perform any of the functions of the National Council. (b) shall submit for the consideration and decision of the National Council all such cases and matters as may be prescribed, or directed by the National Council. (c) may, in its discretion, submit any other case or matter for the decision of the National Council.	
5.8.	The Medical Benefit Council shall — (a) advise the Board and the Standing Committee on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters ; (b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance ; and (c) perform such other duties in connection with medical treatment and attendance as may be stipulated.	
5.9.	Subject to the general superintendence and control of the State Board, the Standing Committee – (a) shall administer the affairs of the State Board and may exercise any of the powers and perform any of the functions of the State Board;	**ESIC 18**

	(b) shall submit for the consideration and decision of the State Board all such cases and matters as may be prescribed by rules made by state government, or directed by the State Board; and (c) may, in its discretion, submit any other case or matter for the decision of the State Board.	
6.	**Central Advisory Committee and the State Advisory Committees**	
6.1.	The Central Government may, constitute one or more Advisory Committee, to be called the Central Advisory Committee in respect of such schemes as it deems fit, to advise the Central Government upon such matters arising out of the administration of this Code or relating to the application of the provisions of this Code to such schemes for which the Advisory Committee is constituted, and such other matters that the Central Government may refer to it for advice.	
6.2.	A Central Advisory Committee shall consist of— (a) A Chairperson to be appointed by the Central Government; (b) such number of members , as the central government may nominate , that shall include association, Union or persons espousing the cause of the said workers, individuals having expertise in issues relating to labour matters, women and child issues , law and any other interests which in the opinion of the central Government ,ought to be represented on the Central Advisory Committee (c) such number of members , as the central government may nominate , from amongst officers of central government, National Council or the Central Board (d) the Director-General – member ex-officio	**BOCWA 3(1)**
6.3.	The State Government may, subject to regulations, by notification constitute one or more Advisory Committees (to be called State Advisory Committee for welfare of concerned workers) to advise the State Board on such matters arising out of administration and utilization of one or more Welfare Funds and matters related thereto: Provided that separate advisory committee shall not be constituted for any welfare fund, for which the annual collections to the funds are, or are likely to be less than such amount as may be stipulated.	BOCWA 4
6.4.	The State Advisory Committee shall consist of following members- (a) A Chairperson appointed by the State Government (b) One member, being an officer of Central Government or Central Board, to be nominated by Central government (c) One officer of State Government, to be nominated by the State Government (d) One officer of the State Board to be nominated by the Commissioner (e) Two persons representing the employers of the concerned sector, to be nominated by the State Government (f) Two persons representing the employees of the concerned sector, to be nominated by the State Government (g) Two persons nominated by the state government, who in the opinion of the state government represent any other interests, stakeholders or experts, and ought to be represented: Provided that at least one third of the total number of persons nominated under (e), (f) and (g) shall be women.	BOCWA 4
6.5.	The State Advisory Committee shall perform the following functions: (a) advise, promote and facilitate the registration of worker and employers and contractors as per the procedure specified under this Code; (b) advise to State Board regarding contribution to be apportioned from welfare fund into the social security account of the concerned workers (c) advise the State Board, measures to promote compliance amongst	

	employers. (d) Advise on the matters relating to administration of the concerned welfare funds (e) Advise such other measures to be taken to promote and strengthen social security coverage and benefits to the concerned workers. (f) Advise on dissemination of information on available social security schemes for the concerned Workers; (g) To advise on such matters so as to prevent misuse and irregularity of the scheme.	
6.6.	The – (a) The number of persons to be appointed as members from the categories specified in sub-section (2) (b) term of office and other condition of service of the members of, (c) procedure to be followed in the discharge of their functions by, (d) fee and allowances to be paid to (for attending the meetings) to the members of, and (e) manner of filling vacancies of the Central or State Advisory Committee shall be such as may be prescribed: provided that no fee shall be payable to a member who is an officer of Government or any authority of body corporate established by or under any law for the time being in force.	BOCWA 3(3)
6.7.	An Advisory Committee at any time and for such period as it thinks fit, co- opt any person or persons to the Committee and a person co- opted shall exercise and discharge all the powers and functions of a member thereof, but shall neither be entitled to vote nor to any fee.	
7.	**Executive Heads of the Social Security Organisations**	
7.1.	There shall be a Regulator General of Social Security of India who shall be appointed by the Central Government and shall work under the general superintendence and control of the National Council, and shall be the member secretary of the National Council	**EPF 5D (1)**
7.2.	There shall be a Director General of the Central Board who shall be appointed by the Central Government and shall work under the general superintendence and control of the Central Board and shall be the member secretary of the Central Board.	**ESIC 16 (1)**
7.3.	There shall be a Commissioner of Social Security in each State who shall be appointed by the State Government and shall work under the general superintendence and control of the State Board and shall be the Chief Executive and member secretary of the State Board.	
7.4.	The method of recruitment, salary and allowances and conditions of service of the Regulator-General, Director-General and the Commissioner shall be such as may be prescribed.	
8.	**Supersession of the Boards**	
8.1.	If the Appropriate Government, on the report of National Council or otherwise is satisfied that, (a) the Central Board or the State Board is unable to perform its functions, or (b) The Central or State Board has persistently made delay in the discharge of its functions or has exceeded or abused its powers, then, the appropriate Government may, by notification in the Official Gazette, supersede the concerned Board and re-constitute it in the manner specified in section 3 as the case may be, within a period of six months from the date of supersession. Provided that, before issuing a notification under this sub-section on any of the	**ESIC 21(1)**

	grounds appropriate Government shall give a reasonable opportunity to the respective Central or Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the concerned Central or State Board.	
8.2.	After the supersession of the Central or State Board and until it is reconstituted, the powers and functions of the concerned Board under this Code shall be exercised and performed by the appropriate Government or by such officer or officers of the appropriate Government as the appropriate Government may appoint for this purpose.	
8.3.	When the Board is superseded, the following consequences shall ensue, that is to say,-- (a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1), vacate their office; (b) all the powers and functions, which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such persons as may be specified in the notification; (c) all funds and other property vesting in the Central Board or the State Board as the case may be, shall, during the period of supersession, vest in the Central and State Government respectively, and on the reconstitution of the Board, such funds and property shall re-vest in the Board.	
8.4.	The appropriate Government shall cause a full report of any action taken under this section and the circumstances leading to such action to be laid before Parliament or the state assembly as the case may be, at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Central Board or the State Board, as the case may be.	
9.	**Supersession of the Committees.**	**ESIC 21(1)**
9.1.	If in the opinion of the appropriate Government, the Executive Committee or the Standing Committee or the Central Advisory Committee or the State Advisory Committee as the case may be, persistently makes default in performing the duties imposed on it or abuses its powers, that Government may, by notification, supersede the concerned Committee: Provided that before issuing a notification under this sub-section the appropriate Government shall give a reasonable opportunity to the concerned Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the concerned Committee.	
9.2.	Upon the publication of a notification under sub-section (1) superseding the concerned Committee, all the members of the concerned Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.	
9.3.	When the Executive Committee, the Standing Committee, the Central Advisory Committee or the State Advisory Committee has been superseded, a new Committee shall be immediately constituted in accordance with section 5 or section 6.	
9.4.	When Executive Committee or the Standing Committee has been superseded, the appropriate Government in its discretion, nominate such officer of the concerned Board as it may think fit, to exercise the powers and perform the functions of the concerned Committee for such period and such officer shall be competent to exercise all the powers and perform all the functions of the concerned Committee.	
10.	**Jurisdiction and Powers of Central Board, State Board.**	
10.1	The Central Board shall have jurisdiction over whole of India, while the State	

	Boards shall have jurisdiction over the respective state. Provided that where the decision or the order of the Central Board is in conflict with the order of the State Board, the decision or the order of the Central Board shall prevail.	
10.2	The Central Board and the State Boards shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:– (i). the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Board; (ii). summoning and enforcing the attendance of persons and examining them on oath; (iii). inspection of any book, register and other document of any person or intermediate agency, at any place; (iv). issuing commissions for the examination of witnesses or documents; (v). any other matter which may be prescribed.	**PFRDA 14(3)**

PART C
Registration of Workers and Establishments

11.	**Registration of workers**	
	The State Boards, in coordination with the Central Board shall provide a unique Aadhar-based registration service for registration of workers and provide a portable Social Security account, to be named as Vishwakarma Karmik Suraksha Khata (hereinafter referred to as 'VIKAS'), which shall be linked to Aadhar Number of the worker . Provided that (a) the registration of workers may be carried out in various categories as may be stipulated, having such eligibility criteria as may be stipulated. (b) The boards shall provide all necessary assistance to workers to register themselves for Aadhar in case the worker does not have Aadhar prior to registration.	
11.1.	Such officer of the local body of the area concerned from where the worker performs work, as may be notified by the State Board, shall be the Registering Authority for the said worker.	
11.2.	The State Board shall provide such support, Information Technology infrastructure, and finance to the Registering Authorities as may be specified in by-laws to enable the Registering Authorities to perform the functions specified in this Code.	
11.3.	For the purposes of this Code, the Registering Authorities shall function under general superintendence and control of the State Board.	
11.4.	Every worker to whom this code applies shall be registered in the manner prescribed in the bye-laws Provided further that no worker shall register himself more than once. Explanation: For removal of doubt, every worker shall be required to provide his Aadhar details for registration.	**UWSSA 10(1)** **BOCA 11**
11.5.	Whenever any entity employs a worker who is not already registered, it shall, within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the bye-laws, an application for registration, providing such details of the employer and the employee, and such other particulars as may be specified in the bye laws.	**UWSSA 10(2)** **BOCA 12**
11.6.	A non-employee shall, within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the bye-laws, an application for registration, providing such details about himself and his occupation and such other particulars as may be specified in the bye-laws. Explanation: If a person migrates from being non-employee to becoming an employee or vice versa, or migrates from one place to another, or from one employer to another, he need not get registered afresh, but need to update his particulars as per sub section 14.	**UWSSA 10(2)**
11.7.	Whenever any contractor or placement agency provides or intends to provide, for any entity, the services of a worker who is not registered under this code, such contractor or placement agency shall within such time as may be stipulated, submit to the Registering Authority, in the manner specified in the bye-laws, an application for registration of the said worker, providing such details about the worker and his occupation and such other particulars as may be specified in the bye-laws.	
11.8.	If the Registering Authority is satisfied that the applicant - (a) Is a resident of India; and (b) Has been registered with UIDAI and possesses an Aadhar Card, (c) Has not been registered under this Code previously: and (d) Belongs to the category to which he has applied for.	**UWSSA 10(3)**

	it shall register the applicant: Provided that the Registering Authority shall not reject an application for registration merely on the grounds that such application for registration has been filed after expiry of the period fixed in this behalf: Provided further that the Registration Authority shall not reject the application for registration, or register him in a different category than applied for, unless the applicant is given a right to be heard. Explanation : The Registering Authority may conduct such inquiry as it may deem fit to satisfy itself that the applicant if eligible for registration under the category he has applied for.	
11.9.	It shall be the duty of the person or entity submitting application for registration of worker to verify that the information submitted is correct to his best knowledge and belief.	
11.10	Where a worker undertakes part time work in two or more entities and is not employed through any contractor, agency or placement agency, the worker may choose the employer through whom he wish to get registered: Provided that it shall be the duty of the worker to inform the other employers about his choice of employer for getting himself registered and provide them his VIKAS number.	
11.11	Whenever any registered worker undertakes an employment, it shall be the duty of such worker to inform his VIKAS number to the employer and it shall be the duty of the employer to update the registration particulars within such period as may be prescribed. Explanation: If an unregistered worker undertakes an employment, he may inform the fact of being unregistered to the employer.	
11.12	Whenever any entity employs workers through a contractor, middleman, agency or placement agency , it shall be the duty of such entity to ensure that such contractor, middleman, agency or placement agency is registered as well as the workers so provided for the purposes of his entity are also registered.	
11.13	No – (a) entity shall employ any worker beyond such period as may be stipulated; or (b) contractor shall undertake execution of any work for an entity or provide services of contract workers to any entity unless the said worker or workers are registered.	
11.14	Whenever - (a) there are any changes in the personal information, employment details or registration particulars of the worker or his family including cessation or discontinuation of work or any particular kind of work, (b) circumstances warrant change in the category of registration of the worker the concerned worker shall by himself, or through his employer inform the Registering Authority about the change for updation of his registration particulars within such period as may be stipulated . Provided that if a worker requests the employer to update the registration particulars, it shall be the duty of the employer to provide the necessary assistance.	
11.15	It shall be the duty of the employer to inform the Registration Authority, of changes in the nature of relationship of him with any of the employees registered as having been working with him in such form, in such manner and within such time as may be stipulated in the regulations.	
12.	**Cessation or deactivation of Registration –**	**BOCA 14**
12.1.	A worker registered under this Code shall cease to be such in case he or she - (a) dies; or	

	(b) emigrates for settlement.	
12.2.	If there is occurrence of any event that leads to cessation of registration of the worker, It shall be the duty of the worker or his legal heirs to submit to the Registering Authority, an application for cancellation of the Registration within such period as may be stipulated and in such form as may be specified in the bye-laws.	
12.3.	Any registered worker shall be deemed to be deactivated if he/she (a) Retires; or (b) decides to stop working for wage, profit or gain; or (c) does not engage in any work in India that will qualify him to be a 'worker' for such minimum period in a year as may be stipulated Provided that in computing the period under the clause (c), there shall be excluded any period of absence from work due to any personal injury or accident arising out of and in course of his employment. Provided further that whenever the registered worker again undertakes any work, he may within such period of his return to work, as may be stipulated , either himself or through his employer, as the case may be apply for reactivation of the registration to the Registering Authority in such form and in such manner as may be specified in the bye-laws.	
12.4.	Where it comes to the notice of the Commissioner that a registered worker – (a) has ceased to carry on any activity which would entitle him to be registered as a worker under this Code; or (b) has died or emigrated for settlement; or (c) is otherwise not eligible for registration under this Code; or (d) has been registered more than once, the Commissioner may, after service of a notice and after providing the worker or his legal heirs an opportunity of being heard, cancel, suspend or deactivate the registration of the worker with effect from the date specified by him in the notice.	
13.	**Registration certificate, Surveys etc.**	**UWSSA 10**
13.1.	The Commissioner- (a) upon registration of a worker shall issue him a Registration Certificate which shall inter-alia contain his VIKAS number and such other information as may be specified in bye-laws (b) shall maintain such records / register of workers in such form and such manner as maybe stipulated.	**BOCA 13**
13.2.	The Commissioner shall, at such intervals as may be stipulated, get such surveys of un-registered and registered workers conducted in such manner as may be stipulated, in order to – (a) facilitate the registration of workers not registered, (b) verification of registered worker and his category of registration, (c) updation of particulars provided by registered workers, and (d) verify the correctness of information provided by workers.	
13.3.	No change in the status of registration or category of registration shall be made by the registering authority, suo-moto on the basis of the survey, unless the worker has been provided an opportunity of being heard.	
14.	**Registration of establishments and entities.**	**ESIC 2A** **BOCW 7**
14.1.	Every establishment is required to apply for registration under this Code if - (a) it has, at any point of time during the year preceding the commencement of this Code, employed number of workers more than or equal to threshold; or (b) it has, at any point of time during the current year employed number of workers more than or equal to threshold, or	

	(c) it is required to deduct contribution at source under section 42, or (d) it is a contractor or placement agency: Provided that the State Government may, by notification in the Official Gazette, require any entity, establishment or class of entities or establishments employing persons less than threshold, to be compulsorily registered, and upon such notification, such entities or establishments shall also be required to apply for registration. Provided further that an establishment to which this section applies shall continue to be governed by the provisions of this code notwithstanding that the number of persons employed therein at any time falls below the threshold; Explanation: where an establishment consists of different departments or has branches, situated in different States, the establishment shall be required to register separately in each of the state where its branches are situated. Explanation 2 The responsibility of applying for registration shall lie with the employer or the self employed worker as the case may be	
14.2.	Notwithstanding anything contained in sub-section (1), any entity employing an international worker shall be required to apply for registration under this code.	
14.3.	Any entity who is not required by sub-section (1) or sub-section (2) to be registered but who - (a) is an establishment; or (b) intends from a particular date to undertake activities which would make him an establishment, may apply for registration.	
14.4.	An application for registration shall be made to Commissioner in the prescribed form, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed in the bye-laws and within such time as may be stipulated in the regulations. Provided that the Commissioner may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period. Explanation. – The State Board may, by order to be published in the official Gazette, specify certain classes of persons who may not be required to furnish a security.	
14.5.	Where – (a) an applicant furnishes a security in the prescribed form and for the prescribed amount, and (b) all other forms and evidence required by and specified under this Code are complete and in order, the Commissioner shall register the entity.	
14.6.	Where the Commissioner has not registered the entity within such time as may be stipulated from the date of application, the Commissioner shall, after conducting such inquiries as he deems fit, either– (a) register the applicant forthwith as a registered entity; or (b) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and permitting him to show cause in writing, within such period as may be stipulated as to why his application should not be rejected PROVIDED that where the Commissioner has not registered the entity or issued a notice by the required date, the applicant shall be deemed to be registered for the purposes of this Code, and the Commissioner shall issue a certificate of registration to such entity.	
14.7.	Where, pursuant to clause (b) of sub-section (6), the applicant furnishes a reply to the notice, the Commissioner may, either accept the application and register	

	the entity , or reject the application for reasons to be recorded in writing. Provided that if the applicant fails to respond to the notice issued under clause (b) of sub-section (6) within the time specified in sub-section (6), the application for registration shall stand rejected.	
14.8.	Where a registered entity has furnished a security as a condition of registration, such security shall be required for the continuance in effect of registration, unless otherwise provided by the State Board.	
15.	**Amendment of registration**	
15.1.	A registered establishment shall inform the Commissioner in the prescribed manner within such time as may be stipulated, if he - (a) sells or otherwise disposes of his establishment or any part of his business or any place of business, or effects or comes to know of any other change in the ownership; or (b) discontinues his business or changes his place of business or warehouse, or opens a new place of business, or closes the business for a period of more than one month; or (c) changes the name, style, constitution or nature of his business; or (d) enters into partnership or other association in regard to his business or (e) adds, deletes or changes the particulars of the persons having interest in business; (f) makes any other change in the ownership or management of the establishment or other prescribed particulars and if any such registered establishment dies or dissolves or ceases to exist, his legal representative shall, in like manner, inform the said Commissioner	**BOCW 7 (4)**
15.2.	The Commissioner may, after considering any information furnished under this Code or otherwise received and after making such inquiry as he may deem fit, amend from time to time any registration.	
15.3.	An amendment of the registration made under sub-section (2) shall take effect from the date of contingency which necessitates the amendment whether or not information in that behalf is furnished within the time specified under sub-section (1).	
16.	**Cancellation of Registration**	**BOCW 8**
16.1.	Where it comes to the notice of the Commissioner that– (a) Registration under this code has been obtained by misrepresentation or suppression of any material fact; or (b) a registered entity has ceased to carry on any activity which would entitle him to be registered as an entity under this Code; or (c) an incorporated body is closed down or otherwise ceases to exist; or (d) the owner of a proprietorship entity dies leaving no successor to carry on the activities; or (e) in the case of a firm or association of persons, it is dissolved; or (f) for any other reason the registration has become useless or ineffective, the Commissioner may, after service of a notice and after providing the entity an opportunity of being heard, cancel the registration of the entity with effect from the date specified by him in the notice. Provided that no notice shall be required in case the cancellation is on the basis of application by the entity.	
16.2.	The registered entity or the entity's legal representative in case of clause (c) of sub-section (1), shall apply for cancellation of his registration in the manner and within the time prescribed.	
16.3.	If an entity's registration which has been cancelled is reinstated as a result of an appeal or other proceeding under this Code, the registration of the entity shall be restored as if his registration had never been cancelled.	
16.4.	The rejection of application of registration or cancellation of registration shall	

	not affect the liability of any person to pay the contributions due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay the amounts due under this Code.	
17.	**Certificate of Registration, and effect of non-registration**	
17.1.	The Commissioner- (a) upon registration of an entity shall issue him a Certificate of Registration which shall inter-alia contain his Entity Registration Number and such other information as may be prescribed; (b) shall maintain such records / register in such form and such manner as maybe prescribed.	
17.2.	The Registered entity shall – (a) produce the Certification of Registration whenever demanded by the government or the Central Board or the State Board or any other person who may be so authorized by the Central Board or State Board. (b) Quote the Registration Number at the time of filing any return or making any other correspondence with the National Council, Central Board, State Board or any other person so authorized by the National Council or the Central Board or the State Board.	
17.3.	No employer of an entity to which this code applies, and is required to be registered under section 14, unless registered, shall employ any workers in the entity, after the expiry of such period as may be stipulated from the date on which the entity was liable to be registered: Provided that in case of an entity the registration in respect of which has been cancelled under section 16, no employer of such entity shall employ any workers in the establishment, - (a) If no appeal is preferred, after the expiry of a period for preferring an appeal under section 123; or (b) If appeal is preferred, after the dismissal of appeal.	**BOCA 10**
18.	**Facilitation Centres**	
18.1.	The State Board may, through local bodies or through any intermediate agency, set-up such facilitation centers as may be considered necessary from time to time to perform any or all of the following functions, namely:- (a) disseminate information on available social security schemes for workers; (b) facilitate filling, processing and forwarding of application forms for registration of workers; (c) facilitate workers and establishments to obtain registration under the Code; (d) Facilitate amendments, cancellation and deactivation of registration of workers; (e) facilitate the enrollment of the registered workers in social security schemes (f) disburse benefits under the schemes to workers (g) facilitate employers and workers to file returns and contributions (h) collect contributions and transfer the same to State social security fund (i) receive complaints and grievances and transmit to concerned authorities (j) collection of such information as may be authorized by the State Board	**UWSSA 9**
18.2.	The facilitation centres may collect such transaction charges as may be fixed by the State Board for delivery of services:	

	Provided that the transaction charges shall not be more than such limits as may be fixed by the Central Board trough by-laws.	

PART D
Funds and Schemes

19.	**Social Security Funds**	
19.1	There shall be established, a Fund for Social Security in accordance with the provisions of this Code, in each of the States and Union Territory, where the concerned State Board has been constituted, to be called as the respective State Social Security Fund.	**EPF 5** **ESIC 26**
19.2	There shall be established, a Fund for Gratuity in accordance with the provisions of this Code, in each of the States and Union Territory, where the concerned State Board has been constituted, to be called as the respective State Gratuity Fund.	
19.3	The State Social Security Fund and the State Gratuity Fund shall vest in, and be administered by the respective State Board in such manner as may be stipulated.	**EPF 5(1A)**
19.4	Subject to the other provisions contained in this Code and to any rules or regulations made in this behalf, all moneys accruing or payable to the State Social Security Fund or the State Gratuity Fund shall be paid into the State Bank of India or such other bank as may be stipulated, to the credit of an account styled the account of the State Social Security Fund.	**ESIC 26(3)**
20.	**Contribution to be paid by the employers and workers**	**ESIC 39**
20.1	The contribution which shall be paid by the employer to the State Social Security Fund shall be at such rate as may be notified by the Central Government, not exceeding seventeen and half percent of the wages, for the time being payable to each of the employees whether employed by him, whether directly or through a contractor. Provided that, if the Central Government is of the opinion that employer's contribution is not required to be collected (or is to be collected at a reduced rate) on account of levy of cess on any class of employers, it may, by notification in the Official Gazette, and subject to such conditions, as may be specified in the notification, reduce or waive the contribution payable under this sub-section by such employers for such period as may be specified in the notification. Explanation: Contribution shall be payable by every entity in respect of every person employed by the entity, including the workers who may also be the owner or proprietor of the establishment, irrespective of nature of worker, nature of entity or number of days of engagement.	**EPF 6***
20.2	The contribution which shall be paid by the employer of establishments to whom the Scheme of Gratuity applies to the State Gratuity Fund shall be two percent of the wages for the time being payable to each of the employees whether employed by him directly or not. Explanation 1: Contribution shall be payable by every establishment in respect of every person employed by the establishment, including the workers who may also be the owner or proprietor of the establishment, irrespective of nature of worker, nature of entity or number of days of engagement. Explanation 2: In case of workers employed through a contractor, the contribution to State Gratuity Fund shall be paid by the Principal Employer.	
20.3	The contribution which shall be payable by the worker to the State Social Security Fund shall be as follows – (a) When the worker works in organized sector - Twelve and half percent of wage (where the worker is an employee) or of monthly income (where the worker is an non-employee) as the case may be; (b) When the worker works in unorganized sector, and subject to sub-section (4), - [illegible] | if the worker is [illegible] | if the worker is a non-employee	**EPF 6***

	an employee	In case of self employed	In case of of owner-cum-worker
In case the wage (or monthly income as the case may be) is more than or equal to the wage ceiling	twelve and half percent of wage.	Twenty percent of monthly income	Twelve and half percent of monthly income
In case wage (or monthly income as the case may be) is less than the wage ceiling but more than or equal to minimum wage	twelve and half percent of minimum wage	Twenty percent of minimum wage	Twelve and half percent of minimum wage
In case wage (or monthly income as the case may be) is less than minimum wage	NIL	NIL	NIL

Provided that a worker may opt for making a higher contribution to the State Social Security Fund:
Provided further that, if the State Government is of the opinion that it is necessary or expedient in public interest so to do, it may, by notification in the Official Gazette, and subject to such conditions, as may be specified in the notification, reduce or waive the contribution payable by such workers for such period as may be specified in the notification:
Provided also that if such reduction or waiver is for employees of a particular establishment or class of establishment, any such reduction in or waiver of contribution shall be for a maximum period of five years.
Explanation 1: A worker's monthly earning or income will be treated as less than minimum wage or income ceiling as the case may be, if his average monthly earning or income for the family in the preceding year was less than the minimum wage for the occupation or the income ceiling (as the case may be);
Explanation 2: Subject to sub-section (4), assessment of Gross income or earning of a person shall be done in the same manner as specified in Income Tax Act 1961, as amended from time to time, and the average monthly income shall be determined by dividing the Gross Income or earning for the year by twelve.

20.4. The Central Board may, through bye laws, specify such asset based criteria or methodology as deemed fit, in order to determine whether the family income of a worker is below minimum wage or not (or below income ceiling or not as the case may be), and such determination of income on the basis of the sais criteria or methodology shall be deemed to be the income of the worker and shall be sufficient evidence for the purpose of determining the liability to pay contribution by the workers under this sub section.

20.5. In the case of an Indian citizen, or a citizen or permanent resident of a country whose citizens or permanent residents are excluded from the definition of International Worker under a notification issued by the Central Government under Section 2.69 of this Code, who is a member under this code and proceeds to work in another country with which India does not have a Social Security Agreement, may if the member and the employer so desire, continue to make contributions to the State Social Security Fund as provided in Section 20.3, in the same manner and under the same conditions as a member employed in India,

	for the period that the member works in the other country or till the member retains the citizenship of India, whichever is earlier. Provided that in case the employer, if any, in respect of a member who has proceeded to work in another country with which India does not have a Social Security Agreement, is not willing to pay the employer's share of contributions, then the member may at his option continue to make contributions to the State Social Security Fund as provided in Section 20.3, by remitting both the employer's share of contribution as well as the employee's share of contributions, in the same manner and under the same conditions as a member employed in India, for the period that the member works in the other country or till the member retains the citizenship of India, whichever is earlier.	
20.6.	Where the amount of any contribution payable under this Code, (whether employer's or employee's) involves a fraction of a rupee, the same shall be round off to the nearest rupee.	
21.	**Manner of payment of contribution**	
21.1.	The employer shall, in the first instance, for each wage period, pay both the contribution payable by the employer (employer's contribution) and also, on behalf of the member employed by him directly or by or through a contractor, the contribution payable by such employee (member's contribution)to the State Social Security Fund.	
21.2.	Self-employed worker shall pay the worker's contribution to the National Social Security Fund: Provided that a worker who is also the owner or proprietor of an establishment, he shall pay both the employer's as well as the employee's contribution to the Social Security Fund.	
21.3.	The employee's contribution paid by the employer under sub-section (1) may be deducted from the wage or remuneration payable to the employee in respect of the wage period for which the sais contribution was due and paid: Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period. Explanation - In respect of employees employed by a contractor, the contractor may deduct the employee contribution from the wage payable to the employee, which has paid by the principal employer.	
21.4.	The wage period in relation to an employee shall be the month in respect of which all contributions shall be payable under this section. Provided that – (a) an entity employing seasonal workers, or (b) a seasonal worker, or (c) a household employing domestic workers whose number is less than the threshold may, after informing the Commissioner in advance in such manner as may be stipulated, choose to pay consolidated contribution (in respect of seasonal workers or domestic workers as the case may be) on quarterly, half-yearly or annual basis.	**ESIC 39(3)**
21.5.	The contributions payable under this section in respect of each wage period shall ordinarily fall due on the 10th of the subsequent month, or the next working day if the 10th of a particular month happens to be a public holiday, including cases where an employee is employed for part of the month.	**ESIC 39(4)**
21.6.	Notwithstanding any contract to the contrary, no employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.	**ESIC 40**
21.7.	Any sum deducted by the employer from wages under this section shall be	**ESIC 40**

	deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.	
21.8.	The employer, or the member where there is no employer, shall bear the expenses of remitting the contribution to the Social Security fund or meeting any other obligation under the Code.	**ESIC 40**
21.9.	The contribution received in the State Social Security Fund shall, as soon as may be practicable, appropriated to the worker's Social Security Account in respect of whom the contribution was paid: Provided that where the contribution received can-not be assigned to any particular worker, it shall be appropriated to suspense account.	
22.	**Welfare Funds**	
22.1.	The Central Government or the State Government may, by notification, establish one or more welfare funds for such class of employees or workers as may be specified in the notification.	**UWSSA 4(1)** **UWSSA 7(1)**
22.2.	Notwithstanding the generality of sub-section (1), the Central Government may establish the following welfare funds under each State Board- (a) Building and other construction workers welfare fund (b) Iron Ore Mine workers welfare fund (c) Aluminum ore Mine workers welfare fund (d) Manganese Ore Mine workers welfare fund (e) Chrome Ore Mine workers welfare fund (f) Copper Ore Mine workers welfare fund (g) Zinc Ore Mine workers welfare fund (h) Mica Mine workers welfare fund (i) Limestone Mine workers welfare fund (j) Dolomite Mine workers welfare fund (k) Beedi Workers welfare fund (l) Audio-visual workers welfare fund (m) Domestic workers welfare fund: Provided that the government may establish one fund for more than one class of workers.	
22.3.	The Appropriate Government may, after due appropriation by Parliament or the State Legislature, as the case may be, by law make a additional contribution to the respective welfare funds from time to time and the moneys so received shall be credited to the respective funds.	
22.4.	The Welfare Funds shall vest in and be administered by the respective State Boards	
22.5.	The State Board, shall, from time to time, credit to the State Social Security Fund, such contributions, on behalf of such workers as may be specified by the Appropriate Government by general or special orders from time to time, by debiting the same from such welfare fund as may be specified in the order.	
22.6.	The State Board, in consultation with their respective Advisory Committees, shall apply the Welfare Funds to meet the expenditure incurred in connection with all or any of the measures mentioned below which, in the opinion of the Board, are necessary or expedient to promote the social security and welfare of persons in respect of whom the welfare fund is established; - (a) payment of any contribution, premium or charges or part thereof for or on behalf of such workers to any Scheme framed under this Code, (b) grant of loan or subsidy to a State Government, a local authority or the employer, in aid of any Scheme framed by the State Government where benefits are provided to such workers, (c) refund of any contribution (or part thereof) made by an employer to the State Social Security Fund in respect of such workers,	

	(d) subject to availability of funds, to defray the cost of measures, or part thereof, for the benefit of such workers directed towards— (i). the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities; (ii). the provision and improvement of water supplies and facilities for washing; (iii). the provision and improvement of training, skilling and educational facilities for the workers and their families; (iv). the improvement of standards of living including housing and nutrition and amelioration of social conditions; (v). the provisions of family welfare, including family planning education and services; (vi). provision of transport to and from work; (vii). any other expenditure which the National Council may allow to be defrayed from the Fund.	
22.7.	The income from investment of surplus moneys in the welfare funds, if any, shall also be credited to the respective welfare funds.	
22.8.	The State Board may accept grants, donations and gifts from the Central or any State Government, Local authority, or any individual or body whether incorporated or not, and credit the same to the State Social Security Fund.	**ESIC 26(2)**
22.9.	The grant, donation or gifts received under sub-section (8) shall – (a) If the donor has specified the workers or class of workers for whom the donation etc. is made, be credited to the Social Security accounts of such workers and in such proportion as may be specified by the donor; or If the donor has specified the Scheme for which the donation has been made (without specifying the workers or class of workers), shall be credited to the said specified Scheme Fund and, if required, shall be apportioned as per the provisions of the Schemes or Rules framed thereunder.	
23.	**Social Security Reserve Fund**	
23.1.	There may be established, a Fund in each of the States and Union Territory, to be called as the respective State Social Security Reserve Fund.	
23.2.	The State Social Security Reserve Fund shall vest in, and be administered by the respective State Board in such manner as may be stipulated.	
23.3.	The Social Security Reserve Fund shall be expended, only for the following purposes – (i) Any Compensation awarded to a worker for failure to provide any service to him or deficiency in the services provided to him (ii) Payment of benefit to any employee who has become disentitled to such benefit on account of failure or neglect on the part of any principal employer to deposit any contribution or perform his obligations under any provisions of this code (iii) Payment of the difference of entitled benefit and benefit actually received by an employee who was restricted such lower scale of benefit on account of failure or neglect on the part of any principal employer to deposit any contribution or perform his obligations under any provisions of this code. (iv) Expenses towards conduct of special audit under section 118	
24.	**Schemes for Social Security**	
24.1.	The Central government shall, after consultation with the National Council and after previous publication in the manner prescribed make one or more schemes for the provision of social security for workers or employees generally or for any class or classes of workers, employees, or for non-employees.	**UWSSA 3**
24.2.	The State Government may, after consultation with the National Council, and	**UWSSA**

	after previous publication in the manner prescribed, make one or more supplementary schemes for the provision of social security for any class or classes of workers, employees, or non-employees who are not covered or not adequately covered by the schemes drawn up under sub-section (1).	**3(3)**
24.3	The Appropriate Government, in framing the schemes under sub-section (1) or (2) as the case may be, specify – (a) the entities or class of entities; or establishments or class of establishments to which the said Scheme shall apply or not apply; and (b) workers or class of workers; or employees or class of employees who can be a member of the scheme. (c) Eligibility and conditions for availing the benefits of the Scheme. Explanation: The Appropriate government may frame different schemes for different class of workers for the same purpose. Illustration: Government may frame two pension schemes, one for employees having wage below an income ceiling and another pension scheme for employees having wage above the ceiling.	**EPF 5(1)**
24.4	Nothing in this section shall affect the right of an employee to receive better terms of social security under any award or agreement of contract with the employer.	
24.5	Notwithstanding the generality of subsection (1), The Central Government may, by notification in the Official Gazette, frame following Schemes, for the purpose mentioned against each-	**EPF 6A** **EPF 6C** **ESIC 46** **UWSSA 3(1)**

	Name of the Scheme	Purpose
(a)	Pension Scheme	(i) provide superannuation pension, retirement pension or permanent total disablement pension to the members.
(b)	Sickness Benefit Scheme	providing for periodical cash payments to member in case of his sickness
(c)	Maternity Benefit Scheme	providing periodical or other payments in the form of maternity assistance in case of confinement of miscarriage of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage to a woman member.
(d)	Disablement benefit scheme	providing disablement benefit to a person who meets with an accident arising out of and in the course of his employment in terms of wage for temporary disablement; pension for total and permanent disablement; and compensating loss of earning capacity for partial permanent disablement.
(e)	Invalidity benefit Scheme	providing invalidity benefit to a person who meets with an accident not related to his employment in terms of sickness benefit and/or pension
(f)	Dependents benefit scheme.	Providing periodical payments to dependents of member who dies during the service or work life.
(g)	Medical Benefit Scheme	provision of medical treatment and attendance to the members and, where the medical benefit is extended to their families, the provision of such medical benefit to their families and matters connected therewith.
(h)	Group Insurance	Providing group insurance to the member to

		benefit Scheme	covering natural and/or accidental death during the working life of the member	
	(i)	Unemployment Benefit Scheme	Providing unemployment allowance to a member in case of loss of job or earning due to lay-off, retrenchment or any other eventuality specified in the scheme. Providing measures for re-employment of persons rendered unemployed	
	(j)	Provident Fund Scheme	Providing a Provident fund benefit to the member wherein the member's contribution can be invested and made available in case of providence.	
	(k)	International workers' pension scheme	(a) superannuation pension, retirement pension or permanent total disablement pension to the international workers ; and (b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such international workers	
	Provided that the Central government may notify composite schemes covering one or more benefits and prescribe single consolidated contribution/ premium for the consolidated scheme.			
24.6.	Subject to the provisions of the Code, a scheme may provide for all or any of the matters specified in Schedule III, and a Scheme framed under sub-section (1) or (2) may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.			**EPF 5(1B) UWSSA 4(2)**
24.7.	The Appropriate Government, may by notification in the official gazette, add to, amend or vary, either prospectively or retrospectively, any scheme framed by it.			
24.8.	Any Scheme, framed by the Central Government under sub-section (1), including any amendment made under sub-section (7) shall be laid, as soon as may be after it is made or modified, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be: provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under the scheme.			**EPF 6D**
24.9.	Any Scheme, framed by the State Government under sub-section (2) including any amendment made under sub-section (7) shall be laid, as soon as may be after it is made or modified, before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the state legislature agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; Provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under the scheme. Provided further that in case of Union Territories without legislature, the Scheme shall be laid before the Parliament in the manner specified in sub-section (8)			**EPF 6A(7)**
25.	**Scheme Funds**			
25.1.	There shall be established, as soon as may be after framing of a Scheme under			**EPF 5(1)**

	Section 24, a Fund for the each of the scheme so framed, into which there shall be credited, from time to time, in respect of every worker who is a member of the said Scheme, - **(a)** such sums from the contributions or donations received from time to time into the State Social Security Fund on behalf of the said member (whether made by the employer, worker, or the Government) as specified in the said Scheme; (b) such sums as are payable by the employers of exempted establishments under sub-section (3) of section 95; (c) the net assets of the corresponding scheme under Employees' Provident Fund and Miscellaneous Provisions Act 1952 or Employees' State Insurance Act 1948 as on the date of establishment of the Fund of the said scheme: provided that the net assets of the Schemes under Employees' Provident Fund and Miscellaneous Provisions Act 1952 or Employees' State Insurance Act 1948 shall be distributed to various states in accordance with the regulations.	**6A**
25.2.	The contributions received in the worker's social security fund account from time to time shall be apportioned to Social Security Schemes in accordance with the following priority- (a) In the first instance, where a contribution from any welfare fund is made into the worker's social security account, (and the respective welfare scheme specifies the Social security Scheme) for which the contribution has been made, the Contribution or premium or charges towards the said Social Security Scheme shall be apportioned. (b) Thereafter, Contribution or premium or charges towards mandatory schemes of which he is a member shall be apportioned; (c) Thereafter, Contribution or premium or charges towards other Schemes of which he is a member, or in Schemes where he is a member and wishes to make voluntary contributions subject to the provisions of such schemes, as per the priority and apportionment decided by the worker: Provided that where the worker fails to exercise the option under clause (c), the amount credited to the worker's social security fund shall be apportioned in such schemes and in such priority as may be stipulated:	
25.3.	The Scheme Funds shall vest in and be administered by the State Board in such manner as may be specified in the Scheme.	
25.4.	The Scheme fund shall be expended, only for the following purposes – (i) Purposes specified in sub-section (5) of section 24, in respect of the concerned Scheme or such other purposes specified in the respective Scheme framed under sub-sections (1) or (2) of section 24. (ii) defraying the cost (including all expenses) of auditing the accounts of the respective Scheme and of the valuation of its assets and liabilities or conducting actuarial evaluations of the respective Scheme (iii) where the scheme administration is managed or Scheme benefits or services are extended by an intermediate agency, state government or local authority in accordance with any agreement entered into by the Board, towards payment of charges to the Intermediate agency, state government or local authority. (iv) payment of any sums under any contract entered into by the State Board for the purposes of implementation of the Scheme (v) payment of sums under any decree, order or award of and Court or Tribunal against the Board or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Board in respect of the concerned scheme;	

	(vi) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken for implementation of the scheme (vii) such other purposes authorized by the Regulations.	
25.5.	Any revenue surplus (that is, Contribution credited minus expenditure incurred) in a Welfare Fund, Scheme Fund or State Gratuity Fund, if any, shall be credited by the State Boards to the Central Board on such intervals as may be stipulated for professional management of investment of the Scheme Funds. Provided that the State Boards shall maintain a reserve of such amount as may be stipulated to meet contingent obligations.	
25.6.	The Central Board shall – (a) manage the investment of the Funds mentioned in Section 25.5 on behalf of the States in accordance with the investment pattern notified by the Central Government; and (b) remit to the State Boards, from time to time, such amounts from the State's Scheme Fund or Gratuity Fund being managed by it, as may be required by the State Board to meet the Scheme obligations.	
26.	**Assistance or Benefit not assignable or attachable. —**	**ESIC 60**
26.1.	The right to receive any payment of any assistance or benefit under this Code shall not be transferable or assignable. Explanation – the benefits under the Code includes gratuity, employee compensation, maternity and sickness benefits as well as benefits under any of the Schemes framed under section 24.	
26.2.	No cash assistance or benefit payable under any scheme framed under this Code shall be liable to attachment or sale in execution of any decree or order of any Court.	
26.3.	No gratuity payable under any scheme framed under this Code or no gratuity payable to an employee employed in establishment exempted in section 96 shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.	
26.4.	amount standing to the credit of any member in the Social Security Fund, Gratuity Fund or any Scheme Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member, and neither the official assignee appointed under the Presidency Towns Insolvency Act, 1909 (3 of 1909) nor any receiver appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to have any claim on, any such amount.	**EPF 10(1)**
26.5.	Any amount standing to the credit of a member in the Social Security fund, Gratuity Fund or any scheme fund at the time of his death and payable to his dependents or nominee under the Scheme, subject to any deduction authorised by the said Scheme, vest in the dependent or the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member and shall also not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member during his/her life, and neither the official assignee appointed under the Presidency Towns Insolvency Act, 1909 (3 of 1909) nor any receiver appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to have any claim on, any such amount.	**10(2)**
27.	**Certain Restrictions and prohibitions on Scheme Beneficiaries.-**	
27.1.	Save as may be specified in the disablement benefit scheme, no person shall be entitled to commute for a lump sum any disablement benefit admissible under this Code.	**ESIC 62**
27.2.	Save as may be provided in the schemes, no person shall be entitled to sickness	**ESIC 63**

	benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives wages or on any day on which he remains on strike.	
27.3.	An member shall not be entitled to receive for the same period — (a) both sickness benefit and maternity benefit ; or (b) both sickness benefit and disablement benefit for temporary disablement. (c) both maternity benefit and disablement benefit for temporary disablement: Provided that where a person is entitled to more than one of the benefits, he shall be entitled to choose which benefit he shall receive.	**ESIC 65**
27.4.	If the Commissioner is satisfied that the benefits under this Code are being misused by a member or a group of members, then the Commissioner may, by order, disentitle such persons from such of the benefits as it thinks fit : Provided that no such order shall be passed unless a reasonable opportunity of being heard is given to the concerned factory or establishment, members and the trade unions registered under the Trade Unions Act, 1926 (16 of 1926) having members in the factory or establishment.	**ESIC 69**
28.	**Allowing of Benefits even when contribution is not received.**	**ESIC 68**
28.1.	If any Employer (including Principal Employer) fails or neglects to pay any contribution which under this Code he is liable to pay in respect of any employee and by reason thereof such person becomes disentitled to any benefit or entitled to a benefit on a lower scale, the Commissioner may, on being satisfied that the contribution should have been paid by the Employer, pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Commissioner shall be entitled to recover from the Employer or Principal Employer either— (i) the difference between the amount of benefit which is paid by the State Board to the said person and the amount of the benefit which would have been payable on the basis of the contributions which were in fact paid by the employer ; or (ii) twice the amount of the contribution which the employer failed or neglected to pay ; whichever is greater; Explanation: Any interest or damages that are attracted on the non-payment or short payment of the contribution may also be assessed and recovered under the provisions of Section 117 and Section 121.	
28.2.	The amount due under this section shall be recovered under the provisions of Section 137	
28.3.	In the case of Scheme members who are employed in a Seasonal Factory or are Seasonal Workers, the period of actual service in terms of wage period for which contributions are received in any year, notwithstanding that such contributory service is less than a year, shall be treated as a full year and such members shall be entitled to any benefit under any scheme under this code accordingly. Provided that the Commissioner, may, if he has sufficient grounds to believe that such a member has not reported his employment and earning particulars during a year correctly, cause an inquiry to be conducted and disentitle the member from the benefits, in the event of false information or declaration.	
29.	**Priority of payment of contributions etc. over other debts.**	**EPF 11** **ESIC 94**
29.1.	Where any employer is adjudicated insolvent or, being a company, an order for winding up or dissolution is made, the amount due - (a) from the employer in relation to an establishment to any contribution payable under this Code or administrative charges payable or damages	**11(1)**

	recoverable under section 121, or any charges payable by him under any other provision of this Code; (b) from the employer in relation to an exempted establishment in respect of any contribution to the social security fund in so far as it relates to exempted employees, under the rules of any scheme, framed under this code – (i). any contribution payable by him towards the Scheme Fund under sub-section (3) of section 95, or (ii). any damages recoverable under section 121 or (iii). any charges payable by him to the appropriate Government under any provision of this Code, or (iv). Any accumulations required to be transferred by him under sub-section (4) of section 96, or (v). Any amount payable under any of the conditions specified under section 94, shall where the liability therefore has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under section 49 of the Presidency Towns Insolvency Act, 1909 (3 of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (5 of 1920) or under section 530 of the Companies Act, 1956 (1 of 1956), are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.	
29.2.	Without prejudice to the provisions of sub-section (1), any amount due from an employer, whether in respect of the employee's contribution deducted from the wages of the employees or the employer's contribution, the amount so due shall be deemed to be the first charge on the assets of the establishment, and shall, notwithstanding anything contained in any other law for the time being in force, be paid in priority to all other debts.	**11(2)**
30.	**Fund to be recognised under Income Tax Act, 1961.**	**EPF 9**
30.1.	For the purpose of the Indian Income Tax Act, 1961, as amended from time to time, the State Social Security Fund, The State Gratuity Fund and the Scheme Funds shall be deemed to be a recognised funds within the meaning of Fourth Schedule of that Act: Provided that nothing contained in the said Schedule shall operate to render ineffective any provision of the Scheme under which the Fund is established, which is repugnant to any of the provisions of that Chapter or of the rules made thereunder.	
31.	**Portability of member's social security account**	
31.1.	If a worker whose social security account is maintained by a State Board of a state (source state) moves to another state (destination state) for work, the said worker may, by an application to the Registering Authority in the destination state, – (a) request for continuance of his social security account in the source state, or (b) Request for transfer of his social security account to the destination state where he works or to the State of his permanent residence: Provided that if no request is made, the social security account shall be continued to be maintained in the source state.	
31.2.	The manner, form and procedure for submission of application under sub-section (1) shall be such as may be specified in by-laws.	
31.3.	Where a worker works in a State and the social Security Account is maintained by another state, (a) The State Board of the State where the worker is working shall remit the contribution made to the Social Security Account of the worker	

	(whether employer's, employee's or from welfare fund) to the State where his account is maintained: Provided that the state board shall be authorized to retain such percentage of contribution as may be stipulated, for the purpose of providing medical benefits to the worker. (b) The worker shall be entitled to claim all the benefits of the schemes, except medical benefits for himself, only from the State Board where his account is maintained. Explanation- The family members shall be provided medical benefits, if entitled under the medical benefit scheme, in the state where the social security account of the worker is maintained. (c) The worker shall be entitled to claim or avail medical benefits available in the Medical benefit scheme, from the state where he works.	
31.4	Where a worker requests for transfer of his social security account from one state (first state) to another (second state),- (a) The state board of first state shall, within a period of one month, transfer such amount from the various scheme funds, in respect of the concerned worker as may be stipulated, to the scheme funds in the state board of second state. (b) The worker shall be provided benefits (subject to entitlement) of the schemes of which he is a member by the state board of second state as if he was a member of the scheme continuously in the second state, from the date of such transfer of funds under clause (a): Provided that the member shall be provided to benefits of the schemes (subject to entitlement) from the state board of the first state till such time the funds are transferred under clause (a)	
31.5	The manner and procedure for transfer of funds under sub-section (4) shall be such as may be specified in by-laws.	

PART E
Cess and Welfare Funds

32.	**Levy of Cess on buildings and other construction**	
32.1.	There shall be levied and collected a Cess for the purpose of welfare of building and other construction workers, at such rate as specified in Schedule II, of the cost of construction incurred by the landlord: Provided that the rate of Cess shall not exceed two percent: Provided further that no cess shall be levied on construction, where the total cost of construction is less such amount as may be stipulated.	**BOCWCA 3(1)**
32.2.	The Cess levied under sub-section (1) shall be levied and collected from the landlord who shall be liable to pay the cess amount on the construction that has been executed by him directly, or through a contractor or works contractor and he shall pay the same within thirty days from the date of completion of the construction work.	**BOCWCA 3(2)**
32.3.	The Central Board may, through by-laws, specify rules and schedule of rates to estimate the cost of construction of a building.	
32.4.	Where the actual cost of construction is less than the estimated amount under sub section (3), the cess shall be payable on the estimated amount.	
32.5.	Notwithstanding the provisions of sub-section (2), where the duration of construction work exceeds one year, cess shall be paid within thirty days of completion of one year from the date of commencement of work and every year thereafter, on the cost of construction incurred during the relevant period.	
32.6.	The cess levied under sub section (1) shall be collected from every landlord in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such work by such local authority is required, as may be prescribed, and the said amount shall be credited to the Building and Other Construction workers welfare fund.	
32.7.	The proceeds of the cess collected under sub-section (6) shall be paid by the local authority or the State Government collecting the cess to the state Board after deducting such collection charges as may be prescribed.	**BOCWCA 3(3)**
32.8.	The landlord may pay in advance an amount of cess calculated on the basis of the estimated cost of construction and such amount paid in advance shall be adjusted in the final assessment.	
32.9.	The State Board shall refund the overpaid amount to the landlord in such manner and such time as may be prescribed.	
33.	**Levy of Cess on Ores and Minerals**	
33.1.	There shall be levied and collected by way of cess for the purpose of welfare of Mine workers, on all such ores and minerals as specified in Schedule II – (a) A duty of customs, where such ore or mineral is exported; or (b) A duty of excise, where such ore or mineral is sold or otherwise disposed of to the occupier of any factory, or to any person who in turn sells it to a factory, or is used by the owner of the mine in any factory at such rate as specified in Schedule II:	

	Provided that the rate of cess shall not exceed the rate specified in table – Type of the Ore — Maximum rate of cess Iron ore — Rupee two per metric tonnes Manganese ore — Rupee eight per metric tonnes Chrome ore — Rupee eight per metric tonnes Aluminum ore — Rupee eight per metric tonnes Copper ore — Rupee eight per metric tonnes Zinc Ore — Rupee eight per metric tonnes Lead ore — Rupee eight per metric tonnes Mica — Six percent ad valorem Limestone and Dolomite — Rupee four and paisa fifty per metric tonnes Any other ore or mineral — Zero Explanation.—Where the owner of any mine is also the occupier of a factory, then, for the purposes of sub-clause (b), all the ore or mineral, produced in the mine and not sold or otherwise disposed of to the occupier of any other factory or to any other person shall be deemed, unless the contrary is proved, to have been used by such owner for his own factory.	
33.2.	Every duty of customs leviable under this section on any ore or mineral shall be payable to the Central Government by the person by whom the ore or, mineral, as the case may be, is exported.	
33.3.	Every duty of excise leviable under this section on any ore or mineral shall be payable— (a) to the occupier of the factory by the person by whom such ore or mineral is sold or otherwise disposed of to such occupier; (b) to the Central Government, by the owner of the mine where the ore or mineral is used by such owner in any factory, within such period as may be prescribed.	
33.4.	All amounts referred to in clause (a) of sub-section (3) shall be collected by the occupier of the factory in such manner, and paid by him to the Central Government within such period, as may be prescribed.	
34.	**Levy of Cess on manufacture of Bidis**	
34.1.	There shall be levied and collected by way of cess for the purpose of welfare of Beedi workers, a duty of excise on manufactured beedis at such rate as specified in Schedule II: Provided that the rate of cess shall not exceed rupees twenty four per thousand manufactured beedis.	**BWCA 3**
34.2.	The duty of excise levied under sub-section (1) shall be in addition to any cess or duty leviable on manufactured beedis (whether spelt as such or as biris or in any other manner) under any law for the time being in force.	
34.3.	The Provisions of the Central Excises and Salt Act, 1944 or the rules thereunder, including those relating to refunds and exemption from duty, as in force from time to time, shall so far 'as may be, apply in relation to the levy, collection and refund of, or exemption from, cess under this Part, as they apply in relation to the levy, collection and refund of, or exemption from, duties of excise in respect of the relevant produce under that Act.	**BWCA 3A**
35.	**Levy of Cess on Audio visual productions**	
35.1.	There shall be levied and collected by way of cess for the purpose of welfare of audio visual workers, a duty of excise on every audio visual	

	production at such rate as specified in Schedule II: Provided that the rate of cess shall not exceed one percent of the cost of audio visual production	
35.2.	The duty of excise levied under sub- section (1) shall be in addition to any cess or duty leviable on audio visual production under any other law for time being in force.	
35.3.	The duty of excise levied on any audio visual production shall be payable to the Central Government by the producer of such audio visual production in such manner and within such time period as may be prescribed to such authority.	
36.	**Collection of the duties of Excise and its remittance**	
36.1.	The proceeds of – (a) the duty of excise or customs levied under section 33; or (b) the duty of excise levied under section 34 (c) the duty of excise levied under section 35 shall be credited to the Consolidated Fund of India, and the Central Government shall, after deducting such collection charges as may be prescribed, remit the amount of Cess collected to the Central Board within one month of receipt.	**BWCA 4**
36.2.	The Central Board shall, on receipt of funds under sub-section (1) distribute and remit the amount to the States' Fund for Welfare of Beedi workers, Mine, or Audio visual workers, as the case may be, in such manner as may be stipulated.	

PART F
Obligations

37.	**Method of payment of contribution, maintenance of registers and filing of returns**	**ESIC 43**
37.1.	Save as provided in sub-section (2), every employer, including principal employer, contractor, and works contractor shall deliver or cause to be delivered, to the State Board or to such person authorized by by-laws, such returns for such periods, within such time, in such form, verified in such manner and containing – (a) such particulars relating to persons employed by him or to any establishment in respect of which he is the principal employer or contractor, and (b) such particulars relating to contracts and works contracts where he is liable to pay Cess under sub-section (2) of section 32, and (c) such other particulars, as may be specified in the by-laws. Explanation- The return by an employer shall also include particulars in respect of the worker who is also the owner or proprietor of the entity.	**ESIC 44** **BOCWCA 4**
37.2.	Every – **(a)** self-employed worker, **(b)** head of household, that employs domestic help for running the household, **(c)** employer of establishment belonging to unorganized sector **(d)** landlord, and **(e)** manufacturer of beedi, a owner of a mine or a producer of a cinematographic film, liable to pay cess under this Code. shall deliver or cause to be delivered, to the State Board or to such person authorized by by-laws, such return-cum-challan for such periods, within such time, in such form, verified in such manner and containing such particulars relating to himself as may be specified in by-laws made in this behalf. Explanation - If a person is required to furnish return under this sub-section but is not required to be registered under section 14, such person shall use his own VIKAS as the 'Employer code' for furnishing return under this sub-section.	**BOCWCA4**
37.3.	The person responsible for deducting contributions at source shall, prepare such returns for such periods, containing such particulars and in such form and verified in such manner as may be specified by the by-laws, and deliver or cause to be delivered, to the State Board or to such person authorized by by-laws, within such time as may be specified in the by-laws.	
37.4.	Where in respect of any person or entity the Commissioner has reason to believe that a return should have been submitted under sub-section (1) or sub-section (2), but has not been so submitted, the Commissioner may require him or person in charge of the entity to furnish such particulars as it may consider necessary for the purpose of enabling him to decide whether the person or entity was required to furnish return under this provision.	
37.5.	Where the Commissioner considers that the return delivered or caused to be delivered under sub-section (1) or (2) is incorrect or incomplete or otherwise defective, he may intimate the defect to the person responsible for payment of contribution or Cess or deduction of contribution at source, as the case may be, and give him an opportunity of rectifying the defect	

	within such period as may be specified in by-laws or within such further period not exceeding 30 days which, on an application made in this behalf, the Commissioner may, in his discretion, allow;	
37.6.	If the defect is not rectified to the satisfaction of Commissioner within the said period specified in sub section 5 then, notwithstanding anything contained in any other provision of this Code, such return shall be treated as an invalid return and the provisions of this Code shall apply as if such person had failed to deliver the return.	
37.7.	Every employer, including principal and contractor, shall maintain such registers or records in respect of persons employed by him or to any establishment in respect of which he is the principal or contractor, as may be required by by-laws.	**ESIC 44** **MBA 20**
37.8.	Every landlord, contractor or works contractor shall maintain such registers or records in respect of construction work undertaken or executed or contracted by him in respect of which Cess under section 32(1) is payable, as may be required by by-laws.	**BOCWCA 4**
37.9.	Every person required to make deduction of contribution at source shall maintain such registers or records in respect of works contracts awarded by him or to any works contractor in respect of which he is the principal or contractor, as may be required by by-laws.	
37.10.	The Commissioner or any other authority specified by the State Government in this behalf may require any person to furnish, for the purposes of this Code, such statistical and any other information as it may think fit, and upon such requisition, the person called upon to furnish the information shall furnish the information, within such time and in such manner as may be directed by the concerned authority.	**BWCA 5**
38.	**Administrative Charges**	**ESIC 28A**
38.1.	There shall be established, a State Administrative Fund in accordance with the provisions of this Code, in each of the States and Union Territory, which shall vest in, and be administered by the respective State Board in such manner as may be stipulated.	
38.2.	Every – (a) Employer; and (b) Self-employed worker whose income or earning is more than the income ceiling, shall, pay to the State board, along with the contribution payable, and in the same manner in which the contribution is paid, administrative charge of such percentage of the total contribution due and payable, as may be prescribed: provided that the administrative charges shall not exceed five percent of total contribution due and payable. Explanation- "total contribution" means the sum of employer's and employee's contribution due and payable in respect of workers.	
38.3.	Whenever any amount is credited to any welfare fund created under Section 22(1), administrative charges at the rate specified in sub-section (2) shall be deducted from the said amount and credited to the Administrative fund.	
38.4.	Administrative charges shall become due on the same date as the contribution becomes due.	
38.5.	The Administrative Charges shall be credited to the State Administrative Fund in the first instance.	
39.	**Interest**	**EPF 7Q**
39.1.	The employer or any person shall be liable to pay simple interest at the rate of twelve percent per annum or at such higher rate as may be prescribed in	

	this behalf on any amount due from him under this code from the date of which the amount has become so due till the date of its actual payments Provided that higher interest prescribed shall not exceed the lending rate of interest charged by any scheduled bank. Explanation. — In this sub-section 'scheduled bank' means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).	
39.2.	If any contribution (employer's as well as workers'), Cess or administrative charges payable by any person is not paid by him on the date on which such contribution, cess or administrative charges has become due, he shall be liable to pay interest as per sub-section (1)	**ESIC 39(5)** **BOCWCA 8**
39.3.	If any person, including principal officer or company who is required to deduct any sum in accordance with the provisions of Section 42, does not deduct the whole or any part of the contribution or after deducting fails to pay the contribution as required by or under this Code, he or it shall be liable to pay – (a) simple interest as per sub-section (2) on the amount of such contribution from the date on which such contribution was deductible to the date on which such contribution is deducted; and (b) at one and one-half per cent for every month or part of a month on the amount of such contribution from the date on which such contribution was due to the date on which such contribution is actually paid, and such interest shall be paid before furnishing the return in accordance with the provisions of sub-section (3) of Section 37.	
39.4.	Any interest due under this section shall be recoverable in the same manner as recovery of contribution or other charges under Section 137.	
40.	**Repayment of Benefits improperly received**	
40.1.	Where any person has received any benefit or payment under this Code when he is not lawfully entitled thereto, he shall be liable to repay to the State Board the value of the benefit or the amount of such payment, along with interest under section 39: Provided that in the case of death of the person his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands.	**ESIC 70(1)**
40.2.	The Commissioner may, after conducting such inquiry as deemed fit, and after giving the affected persons an opportunity of being heard, by order, determine if a person has improperly received any benefits under the Code, amount to be repaid and the value of any benefits received other than cash payments.	**ESIC 70(2)**
40.3.	The amount recoverable under this section may be recovered under the provisions of Section 137	**ESIC 70(3)**
41.	**Refunds**	
41.1.	Subject to the other provisions of this section and the rules, the Commissioner shall refund to a person the amount of contribution, damages and interest, if any, paid by such person in excess of the amount due from him.	
41.2.	Before making any refund, the Commissioner shall first apply such excess towards the recovery of any other amount due under this Code and any amount remaining thereafter shall be refunded to the person, within one month after the date on which the return was furnished and claim for the refund was made	
41.3.	The Commissioner may, as a condition of the payment of a refund, demand security from the person, within such period as may be specified	

	in the by-laws from the date on which the return was furnished or claim for the refund was made, and when such security is furnished to the satisfaction of the Commissioner, Commissioner shall grant refund within such period as may be specified in the by-laws from the date he furnishes the security.	
41.4.	For calculating the period for payment of refund in clause (4), the time taken to – (a) furnish the security under sub-section (4) to the satisfaction of the Commissioner; or (b) furnish the additional information sought for the purpose of refund; (c) furnish returns under section 37; shall be excluded	
41.5.	No amount of employee's contribution shall be refunded to an establishment under this section unless the Commissioner is satisfied that the establishment has not deducted that amount from the employees.	
41.6.	Where a person is entitled to a refund and any proceeding under this Act, and a proceeding of Assessment of dues under section 117 is pending against him, and the Commissioner is of the opinion that it may not be possible to recover the amount later, the Commissioner may for reasons to be recorded in writing, either obtain a security equal to the amount to be refunded to the person or withhold the refund till such time the proceeding has been concluded.	
41.7.	Where a refund is withheld under sub-section (7) of this section, the person shall be entitled to interest at the same rate as specified in section 39 of this Act if as a result of the appeal or further proceeding, or any other proceeding, he becomes entitled to the refund.	
42.	**Contribution deduction at source in case of works contract**	
42.1.	Any person other than individual or Hindu Undivided Family responsible for paying any sum to any works contractor for carrying out any works contract in pursuance of a contract between the said person and the works contractor shall, at the time of credit of such sum to the account of the works contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to (a) Twenty five per cent of the value of the cost towards labour, in case labour component is invoiced separately; or (b) four percent of the whole of invoice value payable to the works contractor, in case the labour component is not invoiced separately. Provided that no deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the works contractor, if the value of the works contract does not exceed such amount as may be stipulated. Explanation 1- If multiple works contracts are executed for performing a single work, they shall be clubbed together to determine liability of deduction and payment of contribution at source. Explanation 2: For removal of doubts, all establishments awarding works contract to any works contractor will be required to deduct contribution at source.	
42.2.	Where any sum referred to in sub-section (1) is credited to any account of	

	the State Board, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such sum to a works contractor, such crediting shall be deemed to be credit of such sum to the works contractor to the account of the payee and the provisions of this section shall apply accordingly.	
42.3.	The person deducting contributions in accordance with the foregoing provisions shall, within such period as may be stipulated from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any sum, furnish to the works contractor to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that contribution has been deducted, and specifying the amount so deducted, the rate at which the contribution has been deducted, and such other particulars as may be stipulated.	
42.4.	Any works contractor entitled to receive any sum or income or amount, on which contribution is deductible shall furnish his Registration Number to the person responsible for deducting such contribution.	
42.5.	Subject to by-laws made under sub-section (8), where, in the case of any works contract, the Commissioner is satisfied that the works contractor justifies deduction of contribution at any lower rates or no deduction of contribution as the case may be, the Commissioner shall, on an application made by the works contractor in this behalf, give to him such certificate as may be appropriate.	
42.6.	Where any such certificate is given, the person responsible for paying the sum to the works contractor shall, until such certificate is cancelled by the Commissioner, deduct contribution at the rates specified in such certificate or deduct no contribution as the case may be.	
42.7.	Any deduction of contribution made in accordance with the foregoing provisions and paid to the State Social Security Fund shall be treated as part-payment of contribution payable by the works contractor in respect of the persons employed by him (or through its contractor) for the execution of the works contract.	
42.8.	Any person deducting any sum in accordance with the foregoing provisions shall pay within the stipulated time, the sum so deducted to the credit of the State Social Security Fund.	
42.9.	Where any person, including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of this section, does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the contribution, as required by or under this Code, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an employer in default in respect of such contribution.	
42.10.	Every person, deducting contribution in accordance with the forgoing provisions, who has not been registered shall, within such time as may be stipulated, apply to the Establishment Registration Authority for registration.	
42.11.	Every person, required to deduct contribution at source shall quote his registration number and the registration number of the Contractor— (a) in all challans for the payment of any sum in accordance with the foregoing provisions (b) in all certificates furnished under sub-section (3) (c) in all other documents pertaining to such transactions as may be specified by commissioner in the interests of employees/operations of the Social Security Fund.	

43.	**Obligation of Principal Employers and contractors**	
43.1.	The principal employer shall be obliged to ensure that in respect of every employee, whether employed by him directly, or through a contractor, all the contributions and administrative charges are paid to the respective funds. Explanation :- For the purpose of this section all contributions mean the employer's contributions, employee's contributions, gratuity contributions and any other contribution or charges payable under this Code.	**ESIC 40**
43.2.	The Principal Employer may, pay the contribution in respect of employees employed by him, or through a contractor, and deduct the amount so paid in accordance with subsection (4)	
43.3.	Where in case of any employee, whole or any part of the contribution as required by or under this Code is not paid, and the principal employer was required to ensure payment of contributions under sub-section (1), then, such principal employer, shall, without prejudice to any other consequences which he may incur, be deemed to be an employer in default in respect of such contribution. Explanation: The Principal Employer and the Contractor/sub-contractor shall be jointly and severally liable for payment of contributions.	
43.4.	The Principal employer who has paid or proposes to pay contribution, in respect of an employee employed by or through an contractor shall be entitled to recover the amount of the contribution and administrative charges so paid under sub-section (1) from the contractor either by deduction from any amount payable by him to the contractor under any contract or as a debt payable by the contractor. Explanation 1- For the purpose of this sub-section, the entity to whom the Principal employer has given a contract to undertake whole or part of the work, shall be deemed to be the contractor, whether such entity undertakes the work directly by employing employees or by further sub-contracting the said work or part of said work to another entity. Explanation 2- Where an entity A to whom the Principal employer has given a contract to undertake whole or part of the work, and such entity A further sub-contracts the said work or part of said work to another entity B, entity A shall also be deemed to be the Principal employer in respect of its relation to entity B.	**EPF 8A** **ESIC 41**
43.5.	The principal employer deducting contributions in accordance with the sub-section (4) shall, within such period as may be stipulated from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any sum, furnish to the contractor to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that contribution and other charges has been deducted, and specifying the amount so deducted, the employees on account of whom the contribution and other charges is deducted, the rate at which the contribution has been deducted, and such other particulars as may be stipulated.	
43.6.	The contractor shall submit relevant details of employees, employed by or through him for the Principal Employer, to the principal employer before settlement of any amount payable to him by the principal employer.	
43.7.	No employer in relation to an establishment shall, by reason only of his liability for the payment of any contribution to the Social Security Fund or any charges under this Code or the Scheme reduce whether directly or indirectly, the wages of any employee or the total quantum of benefits in the nature of old age pension, gratuity, provident fund or life insurance to which the employee is entitled under the terms of his employment, express	**ESIC 72**

	or implied.	
44.	**Liability in case of transfer of establishment -**	**EPFO 17B**
44.1.	Where an employer, in relation to an establishment, transfers that establishment in whole or in part, by sale, gift, lease or license or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the contribution and other sums due from the employer under any provision of this Code or the Scheme as the case may be, in respect of the period upto the date of such transfer: Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer: Provided further that in case of transfer of the establishment as a result of public auction by the Central Government or the State Government or the local authorities or other authorities constituted by the Central Government or the State Government or public financial institution, the liability shall not be transferred.	**ESIC 93A**
45.	**Returns, etc. to be confidential**	
45.1.	All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Code, or in any record of evidence given in the course of any proceedings under this Code, other than proceedings before a criminal court, shall, save as provided in sub-section (3) of this section, be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no court shall, save as aforesaid, be entitled to require any Official of the National Council, Board or intermediate agency to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.	
45.2.	Nothing in this section shall apply to the disclosure – (a) of any of the particulars referred to in sub-section (1) of this section for the purposes of investigation or prosecution under this Act or the Indian Penal Code 1860 (45 of 1860) or any other enactment for the time being in force; (b) of such facts to an officer of the Central Government or any State Government as may be necessary for verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it; (c) of any such particulars where such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; (d) of any such particulars to a civil court in any suit or proceeding to which the Government or any authority under this Code is a party and which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorising any authority to exercise any powers thereunder; (e) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899 (2 of 1899) to impound an insufficiently stamped document; (f) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment; (g) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for purpose of audit of tax	

	receipts or refunds; (h) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs; (i) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Government may, by general or special order, direct; or (j) of any information relating to a class of establishments or class of transactions, if, in the opinion of the Commissioner it is desirable in the public interest to publish such information.	

PART G
Gratuity

46.	**Application of Gratuity Scheme**	
46.1.	The Gratuity Scheme and the provisions of this part shall apply to – (a) All establishments that are required to be registered under section 14 of this Code. (b) All employees employed by the establishment referred to in clause (a), whether employed directly or through contractor.	**PGA 1(3)**
46.2.	An employee to whom the Gratuity scheme applies shall be entitled to receive by way of Gratuity, an amount as specified in Section 47, on the termination of his employment due to superannuation, or retirement or resignation, or death or disablement due to accident or disease after completion of continuous service for not less than five years. Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of an employee is due to death or permanent disablement as a result of an employment injury or occupational disease. Explanation 1: An employee shall be deemed to have been in continuous service so long as his service is not terminated for any valid reason.	**PGA 4(1)**
46.3.	The Gratuity shall be paid in one lump sum immediately after the termination of service.	
46.4.	In the case of death of the employee, the Gratuity payable to him shall be distributed amongst his family members in the same manner as if it was to be paid and distributed as employee compensation under section 64.	**PGA 4(1)p**
46.5.	Nothing this part shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.	**PGA 4(5)**
46.6.	The Gratuity payable to an employee whose services have been terminated for any act, willful omission or commission or negligence causing any damage or loss to, or destruction of, property belonging to the employer shall be forfeited to the extent of the damage or loss so caused.	**PGA 4(6)(a)**
46.7.	The Gratuity payable to an employee may be wholly or partially forfeited by an order of the Commissioner if his services have been terminated for riotous and disorderly conduct or any other act of violence on his part or for any act which constitutes an offence involving moral turpitude provided that such offence is committed by him in the course of his employment.	**PGA 4(6)(b)**
47.	**Gratuity Amount payable**	
47.1.	The amount of Gratuity shall not be less than rate of half of benefit wage for every completed year of service or any part thereof in excess of six months.	**PGA 4(2)**
47.2.	In the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of one-fourth of benefit wage for each season.	**PGA 4(2)p**
47.3.	The amount of Gratuity payable to an employee shall not exceed such amount as may be prescribed.	**PGA 4(3)**
48.	**Liability of Principal Employer and Contractor in case of Gratuity**	
48.1.	The Principal employer shall have the liability to pay the Gratuity in the first instance. Explanation: If an employee meets the qualifying continuous service, serving for a Principal employer, the said principal employer shall pay the Gratuity.	

48.2.	In case where Principal employer is not liable under sub-section (1) and the employee has rendered the qualifying continuous service under the contractor, the contractor shall be liable for payment of Gratuity.	
49.	**Withdrawal from State Gratuity Fund to meet Gratuity liability**	**PGA 4A**
49.1.	The Commissioner may, on notice from an employer in such form, and subject to such conditions as may be stipulated, sanction from the amount standing to the credit of the employer in the State Gratuity Fund, a withdrawal for settling his liability towards payment of gratuity in respect of any of his ex-employee.	
49.2.	When a withdrawal is sanctioned in terms of sub-section (1), the amount shall directly be credited to the account of the employee concerned to whom gratuity is due, and the said amount shall be deemed to have been paid by the said employer.	
49.3.	No withdrawal under this section shall be granted unless the Commissioner is satisfied that the withdrawal sought is against a bona-fide gratuity claim.	
50.	**Continuous service -** For the purposes of this Part,—	**PGA 2A**
50.1.	An employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Code; Explanation: An employee shall be deemed to have been in continuous service of the Principal Employer so long as he has served continuously for the same principal employer, whether or not through same or different contractors.	
50.2.	Where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of sub-section (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer— (a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than— (i) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and (ii) two hundred and forty days, in any other case; (b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than— (i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and (ii) one hundred and twenty days, in any other case. Explanation.—For the purposes of sub-section (2) the number of days on which an employee has actually worked under an employer shall include the days on which—	

	(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947 (14 of 1947), or under any other law applicable to the establishment; (ii) he has been on leave with full wages, earned in the previous year; (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and (iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.	
50.3.	Where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of sub-section (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy- five per cent. of the number of days on which the establishment was in operation during such period.	
51.	**Determination of the amount of gratuity.**	
51.1.	As soon as gratuity becomes payable, the employer shall, whether an application for the same has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the Commissioner specifying the amount of gratuity so determined within a period of 15 days from the date the gratuity becomes due	**PGA 7(2)**
51.2.	The Commissioner shall arrange to pay the amount of gratuity from the Gratuity Fund of the employer who is liable to pay the gratuity within thirty days from the date of receipt of notice under sub section (1): Provided that if sufficient amount is not available in the gratuity fund account of the employer who is liable to pay the gratuity, the commissioner shall direct the employer to pay the gratuity to the employee directly from his own funds: Provided that sufficient money is not available in the account of the employer with whom the employee was employed, the employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.	**PGA 7(3)**
51.3.	Notwithstanding anything contained in subsection (1) and (2) it shall be the responsibility of the employer to arrange to pay the amount of gratuity within sixty days from the date it becomes payable to the person to whom the gratuity is payable.	
51.4.	If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3) the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, interest in accordance with section 39: Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the Commissioner for the delayed payment on this ground.	**PGA 7(3A)**
51.5.	If there is any dispute as to the amount of gratuity payable to an employee under this Part or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the Commissioner such amount as he admits to be payable by him as gratuity and raise a dispute under sub-section (7).	**PGA 7(4)(a)**

	Provided that deposit of the said amount with the Commissioner shall not be necessary if sufficient money is available in the gratuity fund account of the employer.	
51.6.	The Commissioner shall pay the amount the employer admits to be payable by him under sub-section (5)-- (i) to the applicant where he was the employee; or (ii) where the applicant is not the employee, in the manner specified in section 64.	**PGA 7(4)(e)**
51.7.	Where there is a dispute with regard to any matter or mattes specified in sub-section (5), the employer or employee or any other person raising the dispute may make an application to the Commissioner for deciding the dispute	**PGA 7(4)(b)**
51.8.	The Commissioner shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the Commissioner shall arrange to pay such amount from the account of the employer with whom the employee was employed, if sufficient money is available in the said account or direct the employer to pay such amount, as the case may be.	**PGA 7(4)(c)**
51.9.	For the purpose of conducting an inquiry under sub-section (8), the Commissioner shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-- (a) enforcing the attendance of any person or examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) issuing commissions for the examination of witnesses.	**PGA 7(5)**
51.10.	Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).	**PGA 7(6)**
52.	**Recovery of Gratuity**	
52.1.	If the amount of gratuity payable under this Part is not paid by the employer, within the time specified under this Code, to the person entitled thereto, the same shall be recovered in the manner specified in section 137.	

Part H
Maternity Benefits

53.	**Obligations of Employers and Rights of woman in case of Maternity.—**	**MBA 4**
53.1.	No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, stillbirth, miscarriage or medical termination of pregnancy.	**MBA 4(1)**
53.2.	No woman shall be forced or obliged to work by any other person or in any entity during six weeks immediately following the day of her delivery, stillbirth, miscarriage or medical termination of pregnancy.	**MBA 4(2)**
53.3.	No pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period of ten weeks, before the date of her expected delivery , any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.	**MBA 4(3)**
53.4.	Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work four breaks of the stipulated duration for nursing the child until the child attains the age of fifteen months.	**MBA 11**
53.5.	Every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities. Provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the interval for rest allowed to her.	
53.6.	No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Code shall be made by reason only of— (a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3); or (b) breaks for nursing the child allowed to her under the provisions of sub-Section (4).	**MBA 13**
53.7.	All establishments having fifty or more employee shall establish a facility of crèche within such distance as may be prescribed, either separately or as a common facilities for their employees. Provided that the establishment may hire services of a professional crèche within the said distance from the premises and provide the facility to its employees,	
53.8.	The crèche established by the employer shall have such facilities as may be specified by by-laws made by the Central Board.	
53.9.	An abstract of the provisions of this Part and the rules made thereunder and the benefits available to the women under this part shall be informed in writing and electronically to all women employee by the employer at the time of her initial appointment and where the number of employees are more than five, also be exhibited in a conspicuous place of the establishment in the language or languages of the locality, by the employer.	**MBA 19**
54.	**Maternity Benefit Scheme**	**ESIC 50**
54.1.	There shall be a Maternity Benefit scheme framed under sub section (1) of section 24 of this Code for providing periodical or other payments in the form of maternity assistance to the woman in case of pregnancy, delivery, adoption of child, or on account of confinement arising out of childbirth (including premature birth), miscarriage or sickness arising out of	

	pregnancy or childbirth.	
54.2.	Subject to Section 55, The qualification of a woman to claim maternity Benefit the conditions subject to which such benefit may be given shall be such as may be specified in the Maternity Benefit Scheme framed under sub-section (1) of Section 24.	
54.3.	The Scheme of Maternity Benefit shall apply to – (c) All entities that are required to pay contribution under sub-section (1) of Section 20; (d) All non-employees that are required to pay contribution under sub-section (3) of section 20; (e) Such other persons, in respect of whom, the contribution to the Social Security Fund and subscription to the Maternity Benefit Scheme is made from the Welfare fund, by the State Government under sub-section (5) of Section 22	
54.4.	Following persons shall be covered under the Maternity Benefit Scheme- (a) All employees employed by the establishment (including the owner-cum-worker) to whom the Maternity Benefit Scheme applies, whether employed directly or through contractor; (b) The non-employees to whom the Maternity Benefit Scheme applies;	
54.5.	Subscription to the Maternity Benefit Scheme shall be compulsory for every worker covered under sub-section (2), irrespective of his or her entitlement, gender, ability or intention to avail the benefits of Maternity Benefit Scheme.	
55.	**Eligibility for maternity benefit**	
55.1.	Subject to sub-section (2), every woman who is employed in an establishment and has less than two surviving children shall be entitled to the payment of maternity benefits in case of pregnancy, delivery, adoption of child or receiving a commissioned child through surrogacy. Provided that in case of adoption of child, the woman shall be entitled to maternity benefits only if the child is less than twelve month of age on the date of adoption.	**MBA 5B**
55.2.	No woman shall be entitled to maternity benefit unless she has actually worked in an establishment for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery. Explanation.—For the purpose of calculating under this sub-section the days on which a woman has actually worked in the establishment, the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the date of her expected delivery shall be taken into account.	**MBA 5(2)**
56.	**Notice of Maternity benefit claim and payment thereof.—**	**MBA 6**
56.1.	Every women covered under this code and entitled to maternity benefits shall, in such form and within such time frame as may be prescribed give notice to the Commissioner of her claim for maternity benefit together with an appropriate medical or such other certificate, as may be prescribed.	**MBA 6(1)**
56.2.	Any women entitled to maternity benefits may, by giving a notice in the form prescribed, inform her employer of the date from which she will be absent from work, not being a date earlier than eight weeks from the date of her expected delivery. Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.	**ESI Reg. 87 MBA 6(3)**
56.3.	On receipt of the notice, the employer shall permit such woman to absent	**MBA 6(4)**

	herself from the establishment during the period for which she receives the maternity benefit. Provided that if a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of this section, she shall forfeit her claim for the maternity benefit for such period	**MBA 18**
56.4.	The failure to give notice under this section shall not disentitle a woman to maternity benefit if she is otherwise entitled to such benefit or amount.	**MBA 6(6)**
57.	**Entitlement, Amount and period of Maternity Benefit**	
57.1.	Subject to provisions of section 55, every women shall be entitled to the payment of maternity benefit specified in this section.	
57.2.	The amount of maternity benefit due shall be – (a) at the rate of benefit wage for the period of the woman's actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day; and (b) Such other amount as may be prescribed as medical bonus, per confinement, if no pre-natal confinement and post-natal care is provided to her under any medical benefit scheme in operation at the time of confinement or by her employer : provided that the Central Government may from time to time but before the expiry of every third year increase the amount of medical bonus.	**MBA 5(1)** **MBA 8** **ESIC R 56A**
57.3.	The maximum period for which any woman shall be entitled to maternity benefit shall be twenty six weeks of which not more than eight weeks shall precede the date of her expected delivery : Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery: Provided further that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death : Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery, for which she is entitled for the maternity benefit, leaving behind in either case the child, the maternity benefit shall be paid for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child: Provided also that in respect of – (a) A woman who legally adopts a child; and (b) Commissioning mother, The woman shall be entitled to twelve weeks of maternity benefit, from the date the child is handed over to the mother.	**MBA 5(3)**
57.4.	If a woman entitled to maternity benefit dies before receiving such maternity benefit or amount, or where she was entitled to maternity benefit under the second proviso to sub-section (2), the maternity benefit shall be paid to the person nominated by the woman and in case there is no such nominee, to her legal representative.	**MBA 7**
57.5.	The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance to the woman on production of such proof as may be specified in by-laws that the woman is pregnant, and the amount due for the subsequent period shall be paid to the woman within forty-eight hours of production of such proof as may be specified in by-laws that the woman has been delivered of a child.	**MBA 6(5)**
58.	**Entitlement of maternity benefit in certain cases**	

58.1.	In case of miscarriage, or medical termination of pregnancy, a woman shall, on production of such proof as may be specified in by-laws, be entitled to maternity benefits at the rates specified in section 57, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.	**MBA 9 ESIC R56(3)**
58.2.	In case of tubectomy operation, a woman shall, on production of such proof as may be specified in by-laws, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.	**MBA 9A ESIC R56(3)**
58.3.	A woman suffering from illness arising out of pregnancy, delivery, premature birth of child miscarriage, medical termination of pregnancy or tubectomy operation shall, on production of such proof as may be specified in by-laws, be entitled, in addition to the period of absence allowed to her under Section under sub-section (1) or sub-section (2) of this section, to leave with wages for a maximum period of one month.	**MBA 10 ESIC R56(3)**
59.	**Dismissal during absence or pregnancy.—**	**MBA 12**
59.1.	When a woman absents herself from work in accordance with the provisions of this Part, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.	
59.2.	The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in Section 58, shall not have the effect of depriving her of the maternity benefit or medical bonus: Provided that in case of any gross misconduct, the employer may, by order in writing communicated to the woman, dismiss her from service and inform the Commissioner of such dismissal within such time and such manner as may be prescribed.	
60.	**Power of Commissioner to direct payments and recoveries.**	
60.1.	Any woman claiming that her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Part, may make a complaint to the Facilitator.	**MBA 17(1)**
60.2.	The Commissioner may, of his own motion or on receipt of a complaint referred to in sub-section (1), or on the basis of report from Social Security Facilitator, make an inquiry or cause an inquiry to be made and if satisfied that she has been discharged or dismissed during or on account of her the employer has unjustly dismissed her from service in violation of the provisions of this Part, may direct reinstatement of the women and payment of her dues, and further, may also pass such orders as are just and proper according to the circumstances of the case.	**MBA 17(2)**
60.3.	If any Employer or Principal Employer or the contractor, fails or otherwise neglects to cover his employees under the Maternity Benefit Scheme or defaults in the payment of contributions he is liable to pay in respect of such employees and by reason thereof any women under his employment becomes disentitled to maternity benefits, provisions of section 28 shall apply accordingly.	
60.4.	Any amount payable by an employer under this part shall be recoverable in the manner provided in section 137.	

PART I
Employee Compensation

61.	**Employer's liability for compensation**	ECA 3
61.1.	If personal injury is caused to an employee by accident arising out of and in the course of employment, employer shall be liable to pay compensation in accordance with the provisions of this Code: Provided that the employer shall not be so liable in respect of any personal injury which does not result in the total or partial disablement of the employee for a period exceeding three days: Provided further that where the employer has covered his employees under the Disablement Benefit and Dependent Benefit Scheme framed under sub-section (1) of section 24, and the concerned employee is entitled for the benefits under the said Schemes, the employer shall be absolved with the liability to pay the compensation to the employee under this section. Explanation - Every employer liable for the payment of compensation under this section to an employee shall, notwithstanding the application of the Disablement Benefit Scheme or Dependent Benefit Scheme to the establishment, continue to be so entitled until the concerned employee becomes qualified to claim the disablement benefit or dependent benefit, as the case may be, under the said Disablement Benefit Scheme or Dependent Benefit Scheme.	ECA 3(1)
61.2.	If an accident is attributable to serious and wilful misconduct of the employee, no compensation shall be payable in terms of the provisions of this code, unless- (a) The accident results in permanent total disablement; or (b) The employee dies in consequence thereof leaving a dependent wholly financially dependent upon him: Provided that the employer shall pay the cost of medical aid incurred on account of such accident, unless the concerned employee is covered under the medical benefit scheme framed under subsection (1) of section 24.	ECA 3(1) p
61.3.	For the purpose of this part, an accident arising in the course of employee's employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment.	ESIC 51A
61.4.	Where an employer who is liable to pay compensation transfers his assets before any amount due in respect of any compensation, the liability wherefor accrued before the date of the transfer, has been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property.	
61.5.	Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of any injury— (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or *(b) if an agreement has been come to between the employee and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Part.*	ECA 3(5)
61.6.	No person – (a) shall claim compensation for a personal injury from more than	

	one employer. (b) who has availed benefit under the Disablement Benefit Scheme or Dependent Benefit Scheme as the case may be, shall, for the same injury, claim compensation from the employer.	
61.7.	Any contract or agreement whether made before or after the commencement of this Code, whereby an employee relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Part.	ECA 17
61.8.	If any question or dispute arises in any proceedings under this part – (a) as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not an employee) or (b) entitlement of a person to receive compensation, or (c) as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question or the dispute shall be settled by the Commissioner.	ECA 19(1)
61.9.	No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this section required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Part.	ECA 19(2)
62.	**Compensation in case of occupational diseases**	ECA 3(2)
62.1.	If an employee contracts any disease specified in the fifth Schedule as an occupational disease peculiar to the employment he is employed in, and where the work involves exposure to the risk concerned, contracting of such disease shall be deemed to be a personal injury by an accident arisen out of, and in the course of the employment, within the meaning of Section 61.	ESIC 52A
62.2.	If a person, who having served under any employer has, within a period of two years after the cessation of such employment, contracts any disease specified in the fifth Schedule, and such disease is an occupational disease peculiar to that employment, and where the work involved exposure to the risk concerned, contracting of the said disease shall be deemed to be an injury by accident arisen out of, and in the course of the employment, within the meaning of Section 61.	
62.3.	If an employee contracts any disease, and that disease is directly attributable to a specific injury by accident arising out of and in the course of his employment, contracting of the said disease shall be deemed to be an injury by accident arisen out of, and in the course of the employment, within the meaning of Section 61.	
62.4.	The liability to pay compensation in case of occupational disease shall primarily be of the current employer, if liable under sub-section (1): Provided that in cases where any previous employer(s) are also liable under sub-section (2), the current employer shall be entitled to a reimbursement of 50% of the compensation paid to the employee from the immediate previous employer of the said employee, who is liable under sub-section (2).	ECA 3(2A)
62.5.	Save as provided by sub-sections (1), (2) and (3), no compensation under this Chapter shall be payable to an employee in respect of any other disease.	ECA 3(4)
62.6.	Where the accident is the contracting of a disease in respect of which the provisions of this section are applicable, the accident shall be deemed to have occurred – (a) In case where the employee — On the first day of such absence	

	becomes continuously absent from work in consequence of the disablement caused by the disease		
	(b) in case of partial disablement due to the contracting of any such disease and which does not force the employee to absent himself from work,	On the day the employee gives notice of the disablement to his employer	
	(c) in case where an employee who, having been employed in an employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment	on the day on which the symptoms were first detected	
62.7.	The Central Government or the State Government, after giving, by notification, not less than three months' notice of its intention so to do, may, by a like notification, add any disease in the fifth Schedule, which shall be deemed for the purposes of this section to be an occupational disease. Provided that in case of a notification by the State Government, the said disease shall be an occupational disease in respect of only that State.		ECA 3(3)
63.	**Amount of Compensation and interest thereupon**		ECA 4
63.1.	Subject to the provisions of this Chapter, the amount of compensation shall be as specified in the following table, namely :—		ECA 4(1) .
	(a) where death results from the injury	(a) an amount equal to fifty per cent of the benefit wage wages of the deceased person multiplied by the relevant factor, or (b) such amount as may be prescribed, whichever is more;	
	(b) where permanent total disablement results from the injury	i. an amount equal to sixty per cent of the benefit wage of the injured person multiplied by the relevant factor; or ii. such amount as may be prescribed,, whichever is more.	
	(c) Where permanent partial disablement results from the injury	(i). in the case of an injury specified in Part II of the fourth Schedule, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and (ii). in the case of an injury not specified in the fourth Schedule, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the medical board) permanently caused by the injury;	
	(d) where temporary disablement, whether	a half-monthly payment of the sum equivalent to twenty-five per cent of benefit wage of the	

	total or partial, results from the injury | person, to be paid in accordance with the provisions of sub-section (2) Provided that the amount prescribed under clause (a) and clause (b) shall not be less than rupees Two Lakhs and Fifty Thousand. Explanation 1 - For the purposes of clause (a) and clause (b), "relevant factor", in relation to an employee means the factor specified in the second column of the Fourth Schedule to this Code against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the employee on his last birthday immediately preceding the date on which the compensation fell due: Explanation 2-Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries; Explanation 3.-In assessing the loss of earning capacity for the purposes of sub-clause (ii) of clause (c), the medical board, shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in the fourth Schedule;	
63.2.	The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day— (i). from the date of disablement where such disablement lasts for a period of twenty-eight days or more, or (ii). after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter: Provided that— (a) there shall be deduction from any lump sum or half-monthly payments to which the employee is entitled, the amount of any payment or allowance which the employee has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be; and (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the benefit wage of the employee before the accident exceeds half the amount of such wages which he is earning after the accident. Explanation. - Any payment or allowance which the employee has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (a) of the proviso.	ECA 4(2)
63.3.	On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.	ECA 4(3)
63.4.	Any half-monthly payment payable under this Code, either under an agreement between the parties or under the order, may be reviewed by the Commissioner, on the application either of the employer or of the employee accompanied by the certificate of a medical board that there has been a change in the condition of the employee or, subject to rules relating to this Part, on application made without such certificate.	ECA 6(1)

63.5.	Any half-monthly payment may, on review under sub-section (4), subject to the provisions of this Part, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the employee is entitled less any amount which he has already received by way of half-monthly payments.	ECA 6(2)
63.6.	The employee shall be reimbursed, the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment, by his employer.	ECA 4(2A)
63.7.	If the injury of the employee results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the Commissioner such sum as may be prescribed for payment of the same to the eldest surviving dependent of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependent or was not living with his dependent at the time of his death to the person who actually incurred such expenditure.	ECA 4(4)
63.8.	Notwithstanding anything contained in sub-section (1), if an accident has occurred outside India, and some compensation has been awarded to the employee in accordance with the law of the country in which the accident occurred, Commissioner may, after conducting such enquiry as he may deem fit, by order, reduce the amount of compensation payable to the employee under sub-section (1) by such amount of compensation awarded to the employee in accordance with the law of that country: Provided that no order under this sub-section shall be passed unless the employee, or their dependents in case of deceased employee is given an opportunity of being heard.	ECA 4(1A)
63.9.	The compensation to an employee shall be paid within fifteen days of the date of occurrence of accident: Provided that the half-monthly payments referred to in clause (d) of sub-section (1) shall be paid within the period specified in sub-section (2)	ECA 4A(1)
63.10.	Where any employer is in default in paying the compensation due under this Part within the period specified in sub-section (9)), the Commissioner shall- (a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification, on the amount due; and (b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of damages: Provided that an order for the payment of damages shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed: Provided further that the interest and the damages payable under sub-section (1) shall be paid to the employee or his dependent, as the case may be. Explanation: For the purposes of this sub-section, “scheduled bank” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934, (2 of 1934).	ECA 4A(3)
63.11.	Save as provided by this Part, no lump sum or half-monthly payment payable under this Part shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the employee by operation of law, nor shall any claim be set off against the	ECA 9

	same.	
63.12.	The compensation payable shall be subject to such minimum and maximum amounts as Central Government may, by notification, fix, and accordingly the amount of compensation shall be determined on the basis of – (a) the said minimum amount, if the compensation calculated as per sub-section(1) is less than the said minimum amount; and (b) the said maximum amount, if the compensation calculated as per sub-section (1) is more than the maximum amount: Provided that the Central government may fix different minimum or maximum amounts for different nature of injury.	
64.	**Distribution of compensation.-**	
64.1.	No payment of compensation in respect of an employee whose injury has resulted in death, and no payment of a lump sum as compensation to a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation: Provided that, in the case of a deceased employee, an employer may make to any dependent advances on account of compensation of an amount equal to three months' wages of such employee and so much of such amount as does not exceed the compensation payable to that dependent shall be deducted by the Commissioner from such compensation and repaid to the employer.	ECA 8(1)
64.2.	Any other sum amounting to not less than such amount as may be prescribed, which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.	ECA 8(2)
64.3.	The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.	ECA 8(3)
64.4.	In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the employee, as the case may be, without prejudice to the right of the employee to make any further claim.	ECA 4A(2)
64.5.	On the deposit of any money under sub-section (1), as compensation in respect of a deceased employee the Commissioner shall, if he thinks necessary, cause notice to be published or to be served on each dependent in such manner as may be specified in bylaws, calling upon the dependents to appear before him on such date as he may fix for determining the distribution of the compensation.	ECA 8(4)
64.6.	Compensation deposited in respect of a deceased employee shall, subject to any deduction made under sub-section (1), be apportioned among the dependents of the deceased employee or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependent.	ECA 8(5)
64.7.	Where any compensation deposited with the Commissioner is payable to any person, other than a person under legal disability, the Commissioner may pay the compensation to the person entitled thereto.	ECA 8(6)
64.8.	Where any lump sum deposited with the Commissioner is payable to a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him	ECA 8(7)

	in this behalf, order that the payment be made during the disability to any dependent of the employee or to any other person, whom the Commissioner thinks best fitted to provide for the welfare of the employee.	
64.9.	If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependent exists, he shall credit the said sum to such fund as may be prescribed and on application by the employer, furnish a statement showing in detail all disbursements or credits made.	ECA 8(4)
64.10.	Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependent or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependent is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case: Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependent of any sum already paid to him.	ECA 8(8)
64.11.	Where the Commissioner varies any order under sub-section (10) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 137	ECA 8(9)
65.	**Notice of Claim for Compensation -**	ECA 10
65.1.	Every employee who sustains personal injury caused due to occupational disease shall give notice of such injury to the employer in such manner and containing such particulars as may be specified in bylaws, as soon as practicable after the happening of the injury. Provided that any such notice required to be given by an employee or person may be given by some other person acting on his behalf.	
65.2.	Every such notice shall be given to the employer or to other official under whose supervision the employee is employed at the time of occurrence of the personal injury or any other person designated for the purpose by the employer.	
65.3.	A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or where possible, electronically or, where a notice-book is maintained, by entry in the notice book.	ECA 10(4)
65.4	The State Board may, by notification, require that any employer or class of employers shall maintain at their premises at which employee are employed a notice-book, in such form (including in electronic form), as is specified in the notification, which shall be readily accessible at all reasonable times to any injured employee employed on the premises and to any person acting bona fide on his behalf.	ECA 10(3)
65.5	An entry of the appropriate particulars of the accident made in a book kept for that purpose shall, if made as soon as practicable after the happening of the accident, be deemed to be notice of the accident for the purpose of this section. Explanation: Any failure by the employer to make entry in the accident	

	book shall not vitiate the claim of the employee for compensation.	
66.	**Claim for compensation preferred before Commissioner**	
66.1	In case of death of employee or where the employee is covered under disablement benefit scheme or dependent benefit scheme, the employee or his dependent or any other person authorized by the claimant shall give a notice to the commissioner in such manner and in such form as may be prescribed.	
66.2	No claim for compensation shall be entertained by the Commissioner unless notice has been given to the employer in the manner specified in sub-section (1) of section 66 and the claim is preferred within a period of three years from the date of occurrence of the personal injury. Provided that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.	
66.3	Where an accident occurs in respect of which liability to pay compensation by the employer arises and the employer fails to pay the due compensation, a claim for such compensation may, subject to the provisions of this section, be made before the Commissioner.	ECA 22(1)
66.4	Subject to the provisions of sub-section (5), no application for the settlement of any matter by a Commissioner, other than an application by a dependent or dependents for compensation shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.	ECA 22(1A)
66.5	An application under subsection (3) to a Commissioner may be made in such form as may be stipulated, and shall contain, in addition to any particulars which may be stipulated, the following particulars, namely:— (i) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims; (ii) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission; (iii) the names and addresses of the parties ; and (iv) except in the case of an application by dependents for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to.	ECA 22(2)
66.6	If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.	ECA 22(3)
67.	**Medical examination.-**	ECA 11
67.1	Where an employee has given notice of an accident, he, shall, if the employer or the Commissioner, 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 an authorized medical practitioner, submit himself for such examination, and any employee who is in receipt of a half-monthly payment under this Code shall, if so required, submit himself for such examination from time to time : Provided that an employee shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules relating to this Part, or at more frequent intervals than may be stipulated.	ECA 11(1)
67.2	If an employee, on being required to do so by the employer under sub-	ECA 11(2)

	section (1) or by the Commissioner at any time, refuses to submit himself for examination by an authorized medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.	
67.3	If an employee, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.	ECA 11(3)
67.4	Where an employee, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased employee.	ECA 11(4)
67.5	Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (ii) of sub-section (2) of section 62, the waiting period shall be increased by the period during which the suspension continues.	ECA 11(5)
67.6	Where an injured employee has refused to be attended by an authorized medical practitioner whose services have been offered to him by the employer (or commissioner) free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the employee has not thereafter been regularly attended by an authorised medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the employee had been regularly attended by a qualified medical practitioner, whose instructions he had followed, and compensation, if any, shall be payable accordingly.	ECA 11(6)
68.	**Liabilities of Principal employer etc.**	ECA 12
68.1	The principal employer shall be liable to pay to any employee employed in the execution of the work any compensation which he would have been liable to pay if that employee had been immediately employed by him; and where compensation is claimed from the principal employer, this Part shall apply as if references to the principal employer were substituted for references to the contractor except 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.	ECA 12(1)
68.2	Where the principal employer is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, contractor, or any other person from whom the employee could have recovered compensation: Provided that where a contractor who is himself a principal employer is liable to pay compensation or to indemnify a principal employer under this section, he shall be entitled to be indemnified by any person standing to him in the relation of an contractor from whom the employee could have recovered compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the	ECA 12(2)

	Commissioner.	
68.3	Nothing in this section shall be construed as preventing an employee from recovering compensation from the contractor or the contractor instead of the principal employer.	ECA 12(3)
68.4	This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal employer has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.	ECA 12(4)
68.5	Where an employee has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under this section shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.	ECA 13
69.	**Insolvency of employer.-**	ECA 14
69.1	Where any employer has entered into a contract with any insurers in respect of any liability under this Part to any employee, then, in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the employee, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the employee than they would have been under to the employer.	
69.2	If the liability of the insurers to the employee is less than the liability of the employer to the employee, the employee may prove for the balance in the insolvency proceedings or liquidation.	
69.3	Where in any case such as is referred to in sub-section(1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the employee: Provided that the provisions of this sub-section shall not apply in any case in which the employee fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.	
69.4	There shall be deemed to be included among the debts which under section 53 of the Insolvency and Bankrupcy Code, 2016 (31 of 2016) or under section 320 of the Companies Act, 2013 (18 of 2013), are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability whereof accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Part shall have effect accordingly.	
69.5	Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the	

	amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.	
69.6	The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).	
69.7	This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.	
70.	**Special provisions relating to accidents occurring outside the Indian territory -**	
70.1	The provisions of this section shall apply, subject to the modifications specified in this section, in case of employees who are – (i). masters of ships or seamen or, (ii). captain and other members of crew of aircraft, (iii). persons recruited by companies registered in India and working as such abroad (iv). persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 (59 of 1988) as drivers, helpers, mechanics, cleaners or other employees	ECA 15 ECA 15A ECA 15B
70.2	The notice of the accident and the claim for compensation by a person injured may be served on the following persons, as if they were the employer – (a) In case of accident where the person injured is a seamen, but not the not the master of the ship — the master of the ship (b) In case of accident where the person injured is a member of crew of an aircraft, but not the not the captain of the aircraft — the captain of the aircraft (c) In case of persons recruited by companies registered in India and working as such abroad, — The local agent of the company (d) persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees — The local agent of the owner of the motor vehicle, in the country of the accident Provided that where the accident happened and the disablement commenced on board the ship or aircraft, as the case may be, it shall not be necessary for any seaman or members of the crew of aircraft to give any notice of the accident.	15(1)
70.3	The claim of compensation shall be made within - (a) In the case of the death of an employee referred to in sub-section (1) — one year after the news of the death has been received by the claimant. (b) In the case where the ship or the aircraft as the case may be, has been or is deemed to have been lost with all hands — eighteen months of the date on which the ship or the aircraft was, or is deemed to have been, so lost: Provided that the Commissioner may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due	15(2)

	time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.	
70.4	Where an injured employee referred to in sub-section (1) is discharged or left behind in any part of India or in any foreign country, then any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claim, be admissible in evidence - (a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made; (b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and (c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused, and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.	15(3)
70.5	No half -monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.	15(4)
70.6	No compensation shall be payable under this Part in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, or under War pensions and Detention Allowances (Indian Seaman) Scheme, 1942, made by the Central Government.	15(5)
70.7	Failure to give a notice or make a claim or commence proceedings within the time required by this section shall not be a bar to the maintenance of proceedings under this Part in respect of any personal injury, if— (a) an application has been made for payment in respect of the injury under any of the schemes referred to in the preceding clause, and (b) the State Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and (c) the proceedings under this Part are commenced within one month from the date on which the said certificate of the State Government was furnished to the person commencing the proceedings.	15(6)
71.	**Return and Information to be furnished by employers**	
71.1	Every employer shall give notice of any accident occurring on his premises, for which a compensation is liable to be paid by him under this part, within such time of occurrence of accident, in such form, in such manner, and give such report containing such details and to such authority as may be	ECA 10B (1)

	specified in the bylaws: Provided that the notice of a fatal accident shall be given within 48 hours of such accident.	
71.2	Every employer liable to be registered under Section 14 shall, furnish true and correct annual return of accidents, injuries, compensation liabilities, compensation paid, and such other particulars as may be specified in the by-laws, in such manner, in such form, and within such time as may be prescribed, and to such authorities as may be specified in the by-laws : Provided that the State government by notification, may require any employer or class of employer to furnish special return for such periods and by such time as may be specified in the notification.	ECA 16 ECA 10B(2)
71.3	Where a Commissioner receives information from any source that an employee has died or has been disabled permanently as a result of an accident arising out of and in the course of his employment, he may send by registered post or where possible, electronically a notice to the employer requiring him to submit, within such time as may be specified in the notice, a statement, in the form specified in by-laws, giving the circumstances attending the death or injury of the employee, and indicating whether, in the opinion of the employer, he is or is not liable to pay compensation (with grounds thereof), along with such other information the Commissioner may deem fit.	ECA 10A(1)
71.4	Where the employer fails to submit reply to the notice or where the employer disclaims liability, the Commissioner may, after conducting such inquiry as he may think fit, and after giving the concerned persons an opportunity of being heard, make an award determining the total amount payable by the employer or any other person(s) to liable pay compensation, or, as the case may be, determine that no compensation is to be paid.	ECA 10A(4)
71.5	Where any sum has been deposited or paid by an employer as compensation payable in respect of an employee whose injury has resulted in death or permanent disability, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit or payment within such time as may be stated in the notice.	ECA 22A(1)
71.6	If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit or pay the deficiency.	ECA 22A(2)
72.	**Delegation, Venue of proceedings and transfer.-**	
72.1	Where any matter under this Part is to be done by or before a Compensation Officer, the same shall, subject to the provisions of this Part and to any rules made relating thereto, be done by or before the Compensation officer having jurisdiction for the area in which— (a) the accident took place which resulted in the injury; or (b) the employee or in case of his death, the dependent claiming the compensation ordinarily resides; or (c) the employer has his registered office : Provided that no matter shall be processed before or by a Compensation officer, other than the Compensation officer having jurisdiction over the area in which the accident took place, without his giving notice in the manner specified by the Central Board to the Compensation officers having jurisdiction over the area and the State Government concerned: Provided further that, where the employee, being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or an employee in a motor vehicle or a company, meets with the accident outside India any such matter may be done by or before a Compensation officer for	ECA 21(1)

	the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.	
72.2	If a Compensation officer, other than the Compensation officer with whom any money has been deposited under section 64, proceeds with a matter under this Part, the former may for the proper disposal of the matter call for transfer of any records or money remaining with the latter and on receipt of such a request, he shall comply with the same.	ECA 21(1A)
72.3	If a Compensation officer is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other Compensation officer, whether in the same State or not, he may, subject to rules relating to this Part, order such matter to be transferred to such other Compensation officer either for report or for disposal, and, if he does so, shall forthwith transmit to such other Compensation officer all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings: Provided that the Compensation officer shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependents of a lump sum without giving such party an opportunity of being heard.	ECA 21(2)
72.4	The Compensation officer to whom any matter is so transferred shall, subject to rules relating to this Part, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.	ECA 21(3)
72.5	On receipt of a report from a Compensation officer to whom any matter has been transferred for report under sub-section (3), the Compensation officer by whom it was referred shall decide the matter referred in conformity with such report.	ECA 21(4)
72.6	The State Board may transfer any matter from any officer to any other office appointed by it.	ECA 21(5)
73.	**Procedures & Recovery**	
73.1	The Commissioner shall dispose of the matter relating to compensation under this Code within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.	ECA 25A
73.2	The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).	ECA 23
73.3	Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or registered trade union or by an Inspector appointed under sub-section (1) of section 8 of the Factories Act, 1948 (63 of 1948), or under sub-section (1) of section 5 of the Mines Act, 1952, (35 of 1952), or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with	ECA 24

	the permission of the Commissioner, by any other person so authorised.	
73.4	The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record: Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form a part of the record: Provided further that the evidence of any medical witness shall be taken down as nearby as may be word for word.	ECA 25
73.5	All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Code, be in the discretion of the Commissioner.	ECA 26
74.	**Decisions by medical board.**	
74.1	The Commissioner may refer any question — (a) whether the relevant accident has resulted in permanent disablement; or (b) whether the extent of loss of earning capacity can be assessed provisionally or finally ; or (c) whether the assessment of the proportion of the loss of earning capacity is provisional or final ; or (d) in the case of provisional assessment, as to the period for which such assessment shall hold good, for determination by a medical board constituted in accordance with the by-laws.	ESIC 54
74.2	The case of any employee is referred by the Commissioner to a medical board for determination under sub-section (3) and if, on that or any subsequent reference, the extent of loss of earning capacity of the employee is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.	ESIC 54A(1)
74.3	Any amount payable by any person as compensation under this Part, whether under an agreement for the payment of compensation or otherwise, shall be recovered as per the provisions of section 137	ECA 31
74.4	A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.	
74.5	Any decision under this Part of a medical board may be reviewed at any time by the medical board if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).	ESIC 55
74.6	Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the result of the relevant injury : Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of opinion that having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it.	ESIC 55
74.7	Except with the leave of a tribunal, an assessment shall not be reviewed under sub-section (6) on any application made less than five years, or in the	

	case of a provisional assessment, six months, from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.	
74.8	Subject to the foregoing provisions of this section, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment of question notwithstanding that the assessment under review was final ;	
74.9	The provisions of section ???? shall apply to an application for review under this section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under that section and to a decision of the medical board in connection with such case.	
75.	**Registration of agreements.-**	
75.1	Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner: Provided that no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;	ECA 28
75.2	Where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.	ECA 28(1)p
75.3	An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Code notwithstanding anything contained in the Indian Contract Act, 1872 (9 of 1872), or in any other law for the time being in force.	ECA 28(2)
75.4	Where a memorandum of any agreement, the registration of which is required by this section, is not sent to the Commissioner for registration, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Part, and shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the employees by way of compensation whether under the agreement or otherwise.	ECA 29
76.	**Application of Disablement Benefit Scheme and Dependent Benefit Scheme**	
76.1	The Scheme of Disablement benefit and the Scheme of Dependent Benefit shall apply to – (a) All entities that are required to pay contribution under sub-section (1) of Section 20; (b) All non-employees that are required to pay contribution under sub-section (3) of section 20; (c) Such other persons, in respect of whom, the contribution to the Social Security Fund and subscription to the Disablement benefit scheme, and/or Dependent benefit scheme as the case may be, is	

	made from the Welfare fund, by the State Government under sub-section (5) of Section 22	
76.2	Following persons shall be insured under the Disablement benefit Scheme and dependent benefit scheme- (a) All employees employed by the establishment (including the owner-cum-worker) to whom the scheme of Disablement Benefit (or Dependent Benefit, as the case may be) applies, whether employed directly or through contractor; (b) The non-employees to whom the scheme of Disablement Benefit (or Dependent Benefit, as the case may be)applies;	
76.3	Subscription to the Disablement benefit Scheme and the Dependent Benefit Scheme (as the case may be), shall be compulsory for every worker covered under sub-section (2), irrespective of his or her entitlement, gender, ability or intention to avail the benefits of the said Schemes.	
76.4	No worker shall be covered under the Disablement benefit Scheme and the Dependent Benefit Scheme from a retrospective date, even after payment of contributions for all previous periods for which the contribution was not paid. Explanation – If any employee becomes disentitled from availing benefits under the Disablement benefit Scheme and the Dependent Benefit Scheme on account of non-payment of contribution in time, the employer would be liable to pay the compensation, if due, in accordance with the provisions under Section 61.	
77.	**Disablement benefit Scheme and Dependent Benefit Scheme**	
77.1	The qualification of an member to claim Disablement benefit or Dependent Benefit as the case may be, the conditions subject to which such benefits may be given, qualifications of accidents and occupational diseases that are covered for claiming benefits, the rates and period thereof shall be such as may be specified in the Disablement Benefit Scheme or the Dependent Benefit Scheme framed under sub-section (1) of Section 24.	ESIC 51
77.2	Any decision awarding disablement benefit or dependent benefit under the respective Schemes may be reviewed at any time by the Commissioner if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with the Scheme due to any birth or death or due to the marriage, re-marriage, or cessation of infirmity of, or attainment of the age of eighteen years by, a claimant.	ESIC 55A
77.3	Subject to the sub-section (2), the Commissioner may, on such review as aforesaid, direct that the disablement benefit or dependent benefit be continued, increased, reduced or discontinued.	ESIC 55A
77.4	A person or his dependent, entitled to dependent benefit or disablement benefit shall not be entitled to receive or recover, whether from the employer of the member or from any other person, any compensation or damages under section 63 or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the member as an employee under this section	ESIC 53

PART J
Sickness Benefits and Medical Benefits

78.	**Obligations of Employers and Rights of person in case of Sickness.—**	
78.1.	The worker shall be entitled to leave of absence with or without Sickness Benefits for the entire period of Sickness including the period of convalescence on the strength of a certificate from such medical practitioner as may be recognized by the employer: Provided that in case of a medical emergency or where it is not practically possible to get a certificate from such recognized medical practitioner, the leave of absence shall be granted on the strength of certificate from any registered medical practitioner. Provided further that where the worker is covered under the sickness benefit scheme, the certificate shall be obtained from authorised medical practitioner.	
78.2.	No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit, nor shall he, except as provided under the Scheme, dismiss, discharge or reduce or otherwise punish an employee during the period he is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the Scheme to arise out of confinement rendering the employee unfit for work.	**ESIC 73**
78.3.	No notice of dismissal or discharge or reduction given to an employee during the period specified in sub section (2) shall be valid or operative.	
79.	**Application of Sickness Benefit Scheme**	
79.1.	The Scheme of Sickness Benefit shall apply to – (a) All entities that are required to pay contribution under sub-section (1) of Section 20; (b) All non-employees that are required to pay contribution under sub-section (3) of section 20; (c) Such other persons, in respect of whom, the contribution to the Social Security Fund and subscription to the Sickness benefit Scheme is made from the Welfare fund, by the State Government under sub-section (5)) of Section 22	
79.2.	Following persons shall be insured under the Sickness Benefit Scheme- (a) All employees employed by the establishment (including the owner-cum-worker) to whom the scheme of Sickness Benefit applies, whether employed directly or through contractor; (b) The non-employees to whom the scheme of Sickness Benefit applies; Provided that the worker's wage or monthly income, as the case may be, is less than or equal to the wage ceiling.	
79.3.	Subscription to the Sickness Benefit Scheme shall be compulsory for every worker covered under sub-section (2), irrespective of his or her entitlement, gender, ability or intention to avail the benefits of the Sickness Benefit Scheme.	
79.4.	No worker shall be covered under the Sickness benefit Scheme from a retrospective date, even after payment of contributions for all previous periods for which the contribution was not paid.	
80.	**Sickness Benefit Scheme**	
80.1.	The qualification of a member to claim sickness benefits, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be specified in the Sickness Benefit Scheme framed under sub-section (1) of Section 24.	**ESIC 49**

80.2.	Whenever in any particular year, the incidence of sickness benefits in any State is found to exceed the subscriptions, the amount of such excess, if it can-not be borne from the previous years' surpluses of the Sickness Benefit Scheme, shall be paid by the State Government to the State Board: Provided that the Central Government may, on receipt of a request from the State Government, waive the recovery of the whole or any part of the incidence of the scheme which is to be borne by the State Government, and bear the same on behalf of the State Government.	
81.	**Recipients of sickness benefits to observe conditions.**	**ESIC 64**
81.1.	A person who is in receipt of sickness benefit— (a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution specified in the Scheme, and shall carry out the instructions given by the medical officer or medical attendant in-charge thereof; (b) shall not while under treatment do anything which might retard or prejudice his chances of recovery ; (c) shall not leave the area in which medical treatment provided is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf in the Scheme; and (d) shall allow himself to be examined by any duly appointed medical officer or other person authorized by the State Board in this behalf.	
82.	**Liability of employer, etc. for excessive sickness benefit.**	**ESIC 69**
82.1.	Where the Commissioner considers that the incidence of sickness among members of the scheme is excessive by reasons of — (a) insanitary working conditions in an establishment or the neglect of the owner or occupier of the establishment to observe any health regulations enjoined on him by or under any enactment, or (b) insanitary conditions of any tenements or lodgings occupied by members and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined upon him by or under any enactments, the Commissioner may send to the owner or occupier of the establishment or to the owner of the tenement or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the State Board as sickness benefit; and if the claim is not settled by agreement, the State Board may refer the matter, with a statement in support of its claim, to the Commissioner in charge of the Labour Department of the State Government (hereinafter referred to as Labour Commissioner).	
82.2.	If the Labour Commissioner is of opinion that a prima facie case for inquiry is disclosed, he may appoint a competent person or persons to hold an inquiry into the matter.	
82.3.	If upon such inquiry it is proved to the satisfaction of the labour commissioner that the excess in incidence of sickness among the members is due to the default or neglect of the owner or occupier of the establishment or the owner of the tenements or lodgings, as the case may be, the labour commissioner shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the State Board.	
82.4.	A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.	
82.5.	For the purposes of this section, "owner" of tenements or lodging shall include any agent of the owner and any person who is entitled to collect	

	the rent of the tenements or lodgings as a lessee of the owner.	
83.	**Application of Medical Benefit Scheme**	
83.1.	The Scheme of Medical Benefit shall apply to – (a) All entities that are required to pay contribution under sub-section (1) of Section 20; (b) All non-employees that are required to pay contribution under sub-section (3) of section 20; (c) Such other persons, in respect of whom, the contribution to the Social Security Fund and subscription to the Medical benefit Scheme is made from the Welfare fund, by the State Government under sub-section (5) of Section 22 That are situated in areas where the Medical benefit scheme is applicable under sub-section (3)	
83.2.	Following persons and the members of their family are eligible to be insured under the Medical Benefit Scheme- (a) All employees employed by the establishment (including the owner-cum-worker) to whom the scheme of Medical Benefit applies, whether employed directly or through contractor; (b) The non-employees to whom the scheme of Medical Benefit applies;	
83.3.	The Medical Benefit Scheme shall be applicable in such areas as may be specified in the Scheme.	
83.4.	Subscription to the Medical Benefit Scheme shall be compulsory for every worker covered under sub-section (2), in areas where Scheme is applicable.	
83.5.	No worker shall be covered under the Medical benefit Scheme from a retrospective date, even after payment of contributions for all previous periods for which the contribution was not paid.	
84.	**Medical Benefit Scheme**	
84.1.	The qualification of a member the scheme to claim medical benefits, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be specified in the Medical Benefit Scheme framed under sub-section (1) of Section 24.	
84.2.	A member of the scheme or a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.	**ESIC 56 (1)**
84.3.	Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the member or treatment as in-patient in a hospital or other institution.	**ESIC 56(2)**
84.4.	A person shall be entitled to medical benefit during any period for which subscription to the Medical Benefit scheme are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the Medical Benefit Scheme: Provided that a person in respect of whom contribution ceases to be payable under the Code may be allowed medical benefit for such period and of such nature as may be provided in the Medical Benefit Scheme : Provided further that a member who ceases to be in insurable employment on account of permanent disablement shall continue, subject to payment of contribution and such other conditions as may be specified in the Medical Benefit Scheme, to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement :	**ESIC 56(3)**

	Provided also that a member who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, he and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be specified in the Medical Benefit Scheme: Provided also that a member who has expired, his or her spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be specified in the Medical Benefit Scheme Explanation. — In this section, "superannuation", in relation to an member, means the attainment by that person of such age as is fixed in the contract or conditions of service as the age on the attainment of which he shall vacate the employment or the age of sixty years where no such age is fixed and the person is no more in the employment.	
84.5.	The State Board shall provide for members, and where such benefit is extended to their families, their families residing in the State, reasonable medical, surgical and obstetric treatment : Provided that the State Board may, with the approval of the State Government, arrange for medical treatment at clinics of an intermediate agency on such scale and subject to such terms and conditions as may be agreed upon.	**ESIC 58(1)**
85.	**Obligations of State Governments in respect of Medical Benefit Scheme**	
85.1.	Whenever in any particular year, the incidence of medical benefits in any State is found to exceed the subscriptions, the amount of such excess, if it can-not be borne from the previous years' surpluses of the Medical Benefit Scheme, shall be paid by the State Government to the State Board: Provided that the Central Government may, on receipt of a request from the State Government, waive the recovery of the whole or any part of the incidence of the scheme which is to be borne by the State Government, and bear the same on behalf of the State Government.	**ESIC 58(2)**
85.2.	The State Government may, with the previous approval of the Central Board, establish or designate any organisation (by whatever name called) to act as Intermediate Agency for the purpose of providing for certain benefits to employees in case of sickness, maternity and employment injury.	**ESIC 58(5)**
85.3.	The organisation referred to in sub-section (2) shall have such structure and discharge functions, exercise powers and undertake such activities as may be stipulated.	**ESIC 58(6)**
86.	**Establishment and maintenance of hospitals, etc., by the State Board.** –	**ESIC 59**
86.1.	The State Board shall, establish and maintain in the State, such hospitals, dispensaries and other medical and surgical services as it may deem fit for the benefit of members and where such medical benefit is extended to their families, their families.	
86.2.	The State Board may enter into agreement with any other State Board, local authority, or any Intermediate Agency in regard to the provision of such medical treatment and attendance for such members and their families, as may be specified in the agreement and sharing the cost thereof.	
86.3.	The State Board may also enter into agreement with any local authority, local body or intermediate agency for commissioning and running any of its hospitals through third party participation for providing medical treatment and attendance to members and their families.	
87.	**Usage of Medical Facilities by non-members of Medical benefit Scheme**	

87.1.	State Government may, by notification, and subject to such conditions and restrictions as may be specified in the notification, allow such non-members and the members of their families of such non-members for availing such medical facility in such hospital established by the State Board in any area which is under-utilised, for such period and on payment of such user charges as may be specified in the notification.	**ESIC 73B**
87.2.	The user charges collected from the non-members shall be credited to Medical Benefit Scheme Fund.	**ESIC 73C**
87.3.	The Notification issued by the State Government under sub-section (1) may provide for all or any of the following matters, namely : — (i). the non-members who may be covered under this notification; (ii). the time and manner in which the medical facilities may be availed by the non-members or their family; (iii). the form in which the non-member shall furnish particulars about himself and his family whenever required as may be specified by the State Board; (iv). The amount of user charge(s) required to be paid (v). any other matter which is to be provided and may be necessary or proper for the purpose of implementing the notification. (vi). time period for which the notification shall be valid	**ESIC 73D**

PART K
Intermediate Agencies

88.	**Licensing of Intermediate Agencies**	
88.1.	The Director General may, by granting a License under this Code, permit any organization or person to act as an intermediate agency for all or any of the following purposes : Type of intermediate agency — For the purposes of- (a) Fund manager Agency — management of accumulations in a social security fund in accordance with the regulations; (b) Point of presence Agency — receiving contributions and instructions and transmitting them to the Trustee Bank or Record keeping agency; (c) Service delivery Agency — providing any service to the members of the schemes; (d) Benefit disbursement Agency — paying out benefits to the members; (e) Record keeping Agency — Receiving instructions from members, transmitting instructions to board and fund managers (f) Facilitation Agencies — To augment the registration process, dissemination of information to the stakeholders, increase public awareness and outreach Provided that the Intermediate agencies shall also discharge such duties and perform such functions, as may be assigned to it under the conditions of License and as may be stipulated.	**PFRDA 22(1)**
88.2.	The intermediate agency, for grant of license, shall satisfy the eligibility norms as may be stipulated, including minimum capital requirement, past track record, ability to provide guaranteed returns, cost and fees, geographical reach, customer base, information technology capability, human resources and such other matters as may be stipulated	
88.3.	An Intermediate Agency shall function in accordance with the terms of its License and the Regulations.	**PFRDA 22(2)**
88.4.	No intermediate agency, to the extent regulated under this Code, shall commence any activity relating to a social security scheme except under and in accordance with the conditions of a License by the Central Board in accordance with the provisions of this Code and the Regulations.	**PFRDA 27(1)**
88.5.	Every application for grant of a License as intermediate agency shall be in such form and manner and shall be accompanied by such fees as may be stipulated.	**PFRDA 27(2)**
88.6.	The Director General may, after considering the application and subject to such terms and conditions as it may specify, grant a License as an intermediate agency for the purpose specified in the license	**PFRDA 27(3)**
89.	**Cancellation and Suspension of License**	
89.1.	The Director General, on receipt of report from State Board or otherwise, and after making such inquiry as may deem necessary, may by order, suspend or cancel a License in such manner as may be stipulated: Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.	**PFRDA 27(4)**

	Provided further that no such enquiry would be necessary if there is sufficient documentary evidence with the Central Board regarding the non-fulfillment of any of the eligibility conditions specified under section 88(2)	
90.	**Investigation into affairs of Intermediate Agency**	
90.1.	Where the State Board has a reasonable ground to believe that any intermediate agency - (a) has violated any of the provisions of this Code or the rules or the regulations or the by-laws; or (b) Carried our any activity in a manner detrimental to the interest of the members; it may, at any time, by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediate agency and to report thereon to the State Board.	**PFRDA 16(1)**
90.2.	Any person, directed to make an investigation, may examine on oath any person associated with the intermediate agency in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.	**PFRDA 16(5)**
90.3.	Notes of any examination under sub-section (2) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.	**PFRDA 16(6)**
91.	**Search and seizure**	
91.1.	Where the Commissioner, in consequence of information in its possession, has reason to believe that– (i). any person who has been required to produce, or cause to be produced, any books, accounts or other documents in his custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents; or (ii). any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which will be useful for, or relevant to, an investigation; or (iii). a contravention of any provision of this Code has been committed or is likely to be committed by an intermediate Agency; or (iv). any claim which is due to be settled by the intermediate agency, has been or is likely to be rejected or settled at a figure higher than a reasonable amount; or (v). any claim which is due to be settled by an Intermediate Agency, has been or is likely to be rejected or settled at a figure lower than a reasonable amount; or (vi). any illegal fees and charges have been transacted or are likely to be transacted by an Intermediate Agency; or (vii). any books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to an Intermediate Agency are likely to be tampered with, falsified or manufactured; or (viii). A Fund Manager Agency has failed to manage the scheme funds in accordance with the regulations (ix). irregularity has been committed or likely to be committed in delivery of service under a Scheme, (x). An intermediate agency has failed to discharge the functions assigned to it in accordance with the terms of license	**PFRDA 17(1)**

	he may authorise any officer of the State Board, not below the rank equivalent to that of a Gazetted Officer of the Government (hereafter referred to as the authorised officer), to– (i). enter and search any building or place where he has reason to suspect that such books, accounts or other documents, or any books or papers relating to any claim, rebate or commission or any receipts, vouchers, reports or other documents are kept; (ii). break open the lock of any box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available; (iii). seize all or any such books, accounts or other documents, found as a result of such search; (iv). place marks of identification on such books, accounts or other documents or make or cause to be made extracts or copies therefrom.	
91.2.	The authorised officer may requisition the services of any police officer or of any officer of the State Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) and it shall be the duty of every such police officer or officer to comply with such requisition.	**PFRDA 17(2)**
91.3.	The authorised officer may, where it is not practicable to seize any such book, account or other document, serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.	**PFRDA 17(3)**
91.4.	The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books, accounts or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Code.	**PFRDA 17(4)**
91.5.	The books, accounts, papers, receipts, vouchers, reports, or other documents seized shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the State Board for such retention is obtained: Provided that the State Board shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports, or other documents for a period exceeding thirty days after all the proceedings under this Code, for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant, are completed.	**PFRDA 17(5)**
91.6.	The person from whose custody the books, accounts, papers, receipts, vouchers, reports, or other documents are seized may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.	**PFRDA 17(6)**
91.7.	If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports or other documents seized objects for any reason to the approval given by the State Board under sub-section (5), he may make an application to the Appellate Tribunal stating therein the reason for such objection and requesting for the return of the books, accounts, papers, receipts, vouchers, report or other documents; and thereupon the Tribunal may, after giving the applicant an opportunity of being heard, pass such order as it thinks fit.	**PFRDA 17(7)**
91.8.	The provisions of the Code of Criminal Procedure, 1973 relating to	**PFRDA**

	searches and seizures shall apply, so far as may be, to every search and seizure made under this Code.	**17(9)**
92.	**Maintenance and Furnishing of Records**	
92.1.	Without prejudice to the provisions contained in sections 210, 211, 212, 214, 215, 217,220 and 223 of the Companies Act, 2013, it shall be the duty of Managing Director, Directors, all officers and other employees and agents including former Managing Director, Directors, all officers, employees and agents of a Company, in case of a company and every intermediate agency to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the Intermediate Agency or such person, which are in their custody or power.	**PFRDA 16(2) Section 217 (1) and 217 (6) of Companies Act 2013**
92.2.	The Investigating Authority may require any Intermediate Agency to furnish such information to, or produce such books, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or register, or other documents, or record is relevant or necessary for the purposes of its investigation.	**PFRDA 16(3)**
92.3.	The Investigating Authority may keep in its custody any books, registers, other documents and record produced for six months and thereafter shall return the same to the intermediate agency by whom or on whose behalf the books, registers, other documents and record are produced: Provided that the Investigating Authority may call for any book, register, other documents and record if they are required again: Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents or record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents or, as the case may be, record to such person or on whose behalf the books, registers, other documents and record were produced.	**PFRDA 16(4)**
93.	**Powers to ensure compliance**	
93.1.	If at any time the State Board has reason to believe that an intermediate agency is acting in a manner likely to be prejudicial to the interest of subscriber, it may, after giving the intermediate agency an opportunity of being heard, make a report to the Central Board	**PFRDA 19(1)**
93.2.	If the Central Board, - (a) after considering the report made under sub-section (1), or (b) suo-moto, after conducting an inquiry, comes to the conclusion that the persons in control of any intermediate agency to the extent regulated under this Code are indulging in any activity which is in contravention to the provisions of this Code, rules, regulations or by-laws, it may supersede the governing board or board of directors or management of the intermediate agency in accordance with the Regulations.	**PFRDA 19(2)**
93.3.	In case the governing board or board of directors or management of the intermediate agency is superseded under sub-section (2), the Central Board may, by order, appoint an administrator to manage the affairs of the intermediate agency under the direction and control of the Central Board, in such manner and as may be specified by the order,	**PFRDA 19(2)**
93.4.	If the Central Board, - (a) after considering the report made under sub-section (1), or (b) suo-moto, after conducting an inquiry,	

	comes to the conclusion that it is necessary to the protect the interest of the members of any scheme, it may- (i). secure the fund managed by an intermediate agency, including moneys, assets and properties owned by or under the control of the intermediate agency; (ii). retain, preserve, take interim custody, or sell any asset or property owned by or under the control of the intermediate agency; (iii). Take such other interim measure as may appear to the Central Board to be just and necessary, And the Central Board shall have power to make such orders including order for attachment of assets of the intermediate agency as it deem fit in this regard.	
93.5.	The Central Board or the State Board may, by order, for reasons to be recorded in writing, in the interest of subscribers, take any of the following measures, pending investigation or inquiry, namely:— (i). restrain any person from participating in any scheme; (ii). restrain any office bearer of an intermediate agency from acting as such; (iii). impound and retain the proceeds under the scheme in respect of any activity which is under investigation; (iv). attach, after passing an order, on an application made for approval, by the Judicial Magistrate of first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediate agency or any person or agency associated with the scheme in any manner involved in violation of any of the provisions of this Code or the rules or the regulations or the by-laws made thereunder: Provided that only the bank account or accounts or any transaction entered therein, relating to the proceeds actually involved in the violation of any of the provisions of this Code or the rules or the regulations or the by-laws made thereunder shall be allowed to be attached; (v). direct any intermediate agency or any person or agency associated with the scheme in any manner not to dispose of or alienate an asset forming part of any activity which is under investigation: Provided that the Central Board or the State Board shall, either before or after, passing such orders, under this section, give to such agencies or persons concerned an opportunity of being heard	**PFRDA 14(4)**
93.6.	If after making, or causing to be made, an inquiry, or receipt of report from state Board, the Central Board is satisfied that it is necessary— (i). in the interests of subscribers or orderly development of Social Security scheme; or (ii). to prevent the affairs of any intermediate agency or other persons or agencies associated with the scheme being conducted in a manner detrimental to the interests of members; or (iii). to secure the proper management of any such intermediate agency or person or agency, it may issue such directions to such intermediate agencies or person associated with a scheme, as it may deem fit: Provided that the Central Board shall, either before or after passing such orders, give an opportunity of being heard to such agencies, or persons concerned.	**PFRDA 15**

PART L
Exemptions

94.	Power to exempt-	
94.1.	The State government may, by notification in official gazette, and subject to such conditions as may be specified in the notification, exempt – (a) Any establishment or class of establishments; or (b) any person or class of persons from the operation of all or any of the provisions of any Scheme mentioned in column 2 of the table below, if the conditions specified in column 1 of the table are satisfied in respect of establishment or the workers to whom exemption is granted	**ESIC 87** **ESIC 88**

Conditions to be met (column 1)	Schemes in respect of which exemption may be granted (column 2)	**EPF 17(1)(a)**
(c) the rules of its provident fund with respect to the rates of contribution to the employees (or persons as the case may be) are not less favourable than those specified in the provident fund scheme and the employees (or persons) are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees (or persons) than the benefits provided under this Code or any Scheme in relation to the employees in any other establishment of a similar character;	all or any of the provisions of Provident Fund Scheme	**17(1)(b)**
(d) employees (or persons as the case may be) are in receipt of gratuity not less favourable than the benefits conferred under the Gratuity Scheme under this Code	all or any of the provisions of the gratuity scheme	**17(2)** **17(1)p**
(e) the employees (or persons as the case may be) are in enjoyment of benefits in the nature of provident fund, pension or gratuity and such benefits, separately or jointly, are on the whole not less favourable to such employees (or persons) than the benefits provided under this Code or any Scheme in relation to employees in any other establishment of a similar character	all or any of the provisions of the Provident Fund, pension and/or the gratuity scheme	**17(2)p**
(f) the employees (or persons) are members of any other pension scheme, where the pensionary benefits are at par or more favourable than the pension scheme under this Code.	all or any of the provisions of the pension scheme	
(g) the employees (or persons as the case may be) are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life	all or any of the provisions of the insurance Scheme	

	insurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme	
	(h) the employees (or persons) are otherwise in receipt of benefits similar or superior to the benefits specified in a scheme	All or any of the provisions of the respective scheme
	Provided that no such exemption shall be granted or renewed except after consultation with the State Board which on such consultation shall forward its views on exemption to the State Government within such time limit as may be specified in the by-laws framed by the Central Board. Provided further that no such exemption shall be granted in respect of any establishment or class of establishment unless such establishment employ at least one hundred employees. Provided also that no such exemption shall be granted in respect of a class of persons unless the State Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits: Provided also that the exemption granted under this section shall be valid for such period as specified in the notification, but not exceeding three years at a time.	
94.2.	Notwithstanding anything contained in sub-section (1), the Central Government may exercise the powers to exempt under sub-section (1) in relation to an establishment that is — (i) belonging to, or under the control of, the Central Government; or (ii) having branches in more than one State; or (iii) a major port, mine, oilfield airline, shipping company or railway company: Provided that no such exemption shall be granted or renewed except after consultation with the Central Board which on such consultation shall forward its views on exemption to the Central Government within such time limit as may be prescribed.	
94.3.	A notification issued under sub-section (1) or sub- section (2) may be issued retrospectively from a date not earlier than the date of commencement of this Code, but no such notification shall be issued so as to prejudicially affect the interests of any person.	**EPF 17(1)**
94.4.	When an exemption is granted to an employer from the Gratuity Scheme, he shall be deemed to have been granted an exemption to pay contribution towards State Gratuity Fund under sub-section (2) of Section 20.	
94.5.	When exemption is granted to an employer or worker from any scheme under sub-section (1) or sub-section (2), the employer's or the employee's contribution payable to the State Social Security fund under section 20 may be reduced by such percentage as may be stipulated, for the period the exemption is valid.	
95.	**Obligations of exempted establishment**	
95.1.	Where an exemption has been granted to an establishment under section 94,	**EPF 17(1A)**

	(a) the employer shall establish a Board of Trustees for the administration of the respective Scheme fund consisting of such number of members as may be specified in the Scheme; (b) the terms and conditions of service of members of the Board of Trustees shall be such as may be specified in the Scheme: (c) The Board of Trustees constituted under clause (b) shall – (i). maintain detailed accounts to show the contributions credited, withdrawals made and interest accrued in respect of each employee; (ii). submit such returns to the Commissioner or any other officer as the State or Central Government as the case may be, may direct from time to time; (iii). invest the Scheme fund monies in accordance with the directions issued by the Central Government from time to time; (iv). transfer, where necessary, the Scheme fund account of any employee; and (v). perform such other duties as may be specified in the Scheme or schemes for which exemption is granted.	**(b)** **(c)** **(d)**
95.2.	Where in respect of any person or class of persons employed in an establishment an exemption is granted under section 96, whether such exemption has been granted to the establishment wherein such person or class of persons is employed, or to the person or class of persons as such, the employer in relation to such establishment - (a) shall, in relation to the Scheme to which any such person or class of persons is entitled, maintain such accounts, submit such returns, make such investment in accordance with directions of central government, provide for such facilities for inspection, as the State Government may direct. (b) shall not, at any time after the exemption, without the leave of the State Government, reduce the total quantum of benefits in the Scheme to which any such person or class of persons was entitled at the time of exemption; and (c) shall, where any such person leaves his employment and obtains re-employment in another establishment to which this Code applies, transfer within such time as may be stipulated, the amount of accumulations to the credit of that person in the provident fund (or any other Scheme) of the establishment left by him to the credit of that person's account in the provident fund (or respective Scheme) of the establishment in which he is re-employed or, as the case may be, in the Provident Fund or Scheme Fund established under this Code, and applicable to the establishment.	**EPF 17(3)**
95.3.	The employer of– (a) an exempted establishment or (b) an exempted employee of an establishment, shall, notwithstanding any exemption grated under section 94, pay to the Fund constituted under such Scheme in respect of which no exemption is granted, such portion of the employer's contribution as well as the employee's contribution within such time and in such manner as may be specified in the respective Schemes.	**EPF 17(6)**
95.4.	Any establishment seeking renewal of exemption shall apply to the appropriate government at least three months prior to the date of expiry of the exemption in such manner and in such form, and to such	

	authority of the appropriate government as may be prescribed	
96.	**Violation of Conditions of Exemptions**	
96.1.	Where the Board of Trustees established under clause (a) of sub-section (1) of Section 95 contravenes, or makes default in complying with, any provisions of clause (c) of that sub-section, the Trustees of the said Board shall be deemed to have committed an offence under sub-section (1) of section 156 and shall be punishable with the penalties provided in that sub-section.	**EPF 17(1B)**
96.2.	If an employer exempted under section 94 contravenes or makes default in complying with any of the provisions of this Code or conditions of the exemption, he shall be punishable under this Code as if the said establishment had not been exempted under the clause (a) of sub-section (1) of section 94;	**EPF 17(1A) (a)**
96.3.	Any exemption granted under section 96 may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply with any of the conditions imposed under that section;	**EPF 17(4)**
96.4.	Where any exemption granted under section 94 is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in all the Scheme Funds of the establishment in which he is employed together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service shall be transferred within such time and in such manner as may be stipulated to the credit of his account in such scheme funds as may be specified by the State Board by general or special order.	**EPF 17(5)**
96.5.	Commissioner and the State Board shall have the same powers in relation to an exempted establishment as they respectively have in relation to intermediate agencies under sections 90,91, 92 and 93..	
97.	**Exemption from levy of Cess**	
97.1.	If the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the social security and welfare of such person for whom any particular Cess is being collected, it may, by notification, direct that the provisions of this Code concerning levy and collection of such Cess shall not apply or shall apply to such State or part thereof subject to such exceptions and modifications as may be specified in the notification.	
97.2.	The Central Government may, by notification, and subject to such conditions as may be specified in the notification, exempt prospectively of retrospectively, any employer or class of employers in a State from the payment of any or all cess payable under Part E.	
98.	**Transfer of accounts –**	**EPF 17A**
98.1.	Where an employee employed in an establishment to which this Code applies leaves his employment and obtains re-employment in another establishment to which this Code does not apply, the amount of accumulations to the credit of such employee in the Provident fund, or as the case may be, in the provident fund of the establishment left by him shall be transferred, within such time as may be specified by the Central Government in this behalf, to the credit of his account in the provident fund of the establishment in which he is re-employed, if the employee so desires and the rules in relation to that provident fund permit such transfer.	
98.2.	Where an employee employed in an establishment to which this Code does not apply leaves his employment and obtains reemployment in	

	another establishment to which this Code applies, the amount of accumulations to the credit of such employee in the provident fund of the establishment left by him may, if the employee so desires and the rules in relation to such provident fund permit, be transferred to the credit of his account in the Provident Fund or as the case may be, in the provident fund of the establishment in which he is re-employed.	

PART M
Finance and Accounts

99.	**Accounts**	**ESIC 33**
99.1.	The Social Security Organisations shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may, after consultation with the Comptroller and Auditor-General of India, specify.	**EPF 5A (5)**
99.2.	Individual accounts shall be prepared in respect of Social Security fund, Gratuity Fund, Administrative Fund, each of the Scheme Funds and each of the Welfare funds.	
100.	**Audit**	**ESIC 34**
100.1.	The accounts of the – (a) Social Security Organisations; (b) Any establishment exempted under section 94; (c) An Intermediate Agency where the Central government is of the opinion that such audit is necessary and expedient in public interest shall be audited annually (or at such intervals as may be specified by the central government) by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the respective Social Security Organisation or establishment or Intermediate agency as the case may be, to the Comptroller and Auditor-General of India.	**EPF 5A (6)**
100.2.	The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Social Security Organisations or establishment or Intermediate agency as the case may be, shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the concerned Social Security Organisation or establishment or Intermediate agency as the case may be.	**EPF 5A(7)**
100.3.	The accounts of the Social Security Organisations as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the appropriate government along with the comments of the concerned Social Security Organisation which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor-General.	**EPF 5A(8)**
101.	**Budget Estimates**	**ESIC 32**
101.1.	The Social Security Organisations shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the appropriate Government before such date as may be fixed by it in that behalf.	
101.2.	The budget shall contain provisions adequate in the opinion of the appropriate Government for the discharge of the liabilities incurred by the Social Security Organisations and for the maintenance of a working balance.	

101.3.	Separate Budget estimates shall be prepared in respect of Social Security fund, Gratuity Fund, Administrative Fund, each of the Scheme Funds and each of the Welfare funds.	
102.	**Social Audit**	
102.1.	The State Boards shall get social audits of the Schemes conducted in such manner as may be prescribed, at least once in five years through such agencies as may be empanelled by the Central Board.	
102.2.	The procedure of conducting Social Audits, its formats and measurement indicators and methodologies shall be such as may be stipulated.	
103.	**Annual Report**	**ESIC 35**
103.1.	The Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities along with the budget finally adopted by the concerned Social Security Organisation. Explanation - The annual report shall also contain report of the activities financed from the Welfare Funds.	**EPF 5A(9)**
103.2.	The appropriate Government shall cause a copy of the annual report, Budget, the audited accounts and any social audit reports together with the report of the Comptroller and Auditor-General of India and the comments of the respective Board thereon to be laid before each House of Parliament or the State legislature as the case may be.	**ESIC 36**
104.	**Valuation of assets and liabilities. —**	**ESIC 37**
104.1.	The Social Security Organisations shall, at intervals of three years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the appropriate Government : Provided that it shall be open to the appropriate Government to direct a valuation to be made at such other times as it may consider necessary.	
104.2.	The valuation of assets and liabilities shall be done separately for each of the Fund maintained by the respective Board.	
105.	**Sharing of Revenues of State Administrative Fund.**	
105.1.	The Administrative Charges credited into the State Administrative Fund shall be shared between the Central Board, State Board and the Local bodies in such proportion and in manner as may be stipulated.	
105.2.	The Commissioner shall, credit to the accounts of Central Board or the Local body as the case may be, their respective share of administrative charges in respect of contribution received during a particular monthwithin such time as may be stipulated.	
105.3.	The State Board may, from their own share of Administrative Fund, sanction additional grants to the Local bodies to defray Capital or one-time expenditure required for creation of infrastructure to carry out their functions under this Code.	
106.	**Holding of property etc.**	**ESIC 29**
106.1.	The Social Security Organisations may, subject to such conditions as may be prescribed by the appropriate Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the said Social Security Organisation is established.	
106.2.	Subject to such conditions as may be prescribed, the Boards may, from time to time invest any moneys which are not immediately required for expenses properly defrayable and may, subject to as aforesaid, from time to time re-invest or realise such investments.	
107.	**Writing off of losses. —**	

107.1.	Subject to the conditions as may be prescribed, where the State Board is of opinion that the amount of contribution, interest and damages due to the Board is irrecoverable, the Board may sanction the writing off finally of the said amount.	**ESIC 91C**
108.	**Unclaimed amounts**	
108.1.	Commissioner shall, by 30st April every year, notify in the manner stipulated, such details as may be stipulated, of amounts that has become "unclaimed amount" in the preceding financial year, inviting claims and objections within such time as may be specified in the notification: Provided that a minimum period of six months shall be provided for filing claims and objections.	
108.2.	The Commissioner may, after considering the claims and objections that may be received, by order, confiscate the unclaimed amount so notified under sub-section (1), if no claimant could be found for the said amounts, debit the amount from the concerned scheme fund, and credit the same into such welfare fund or funds, and in such proportions as may be stipulated.	
108.3.	The unclaimed amounts confiscated under sub-section (2) shall be notified in the official gazettee, within such time and in such form as may be prescribed.	
108.4.	No claim or liability against the Board shall be maintainable in respect of unclaimed amounts that have been confiscated under sub-section (2)	

Part N

Officers and staff of social security organisations

109.	**Appointment of Officers of National Council**	
109.1.	The Central Government shall appoint the Regulator-General of the National Council who shall function subject to the general control and superintendence of the Authority.	**EPF 5D(1)** **ESIC 16**
109.2.	The Central Government may also appoint a Social Security Advisor, a Financial Advisor-cum-Chief Accounts Officer, and a Chief Vigilance Officer to assist the Regulator-General in the discharge of his duties	**5D(2)**
109.3.	The National Council may appoint, as many Additional Secretaries, Joint Secretaries, Senior Deputy Secretaries, Deputy Secretaries, Assistant Secretaries and such other officers and employees as it may consider necessary for the efficient functioning of the Board: Provided that the maximum scale of pay of officers appointed under this sub-section shall be such, as may be prescribed.	**5D(3)**
109.4.	No appointment to the post of the Regulator-General, Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer or any other post under the National Council carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' Gazetted post under the Central Government shall be made except after consultation with the Union Public Service Commission: Provided that no such consultation shall be necessary in regard to any such appointment – (a) for a period not exceeding one year; or (b) if the person to be appointed is at the time of his appointment- (i) a member of the Indian Administrative Service, or (ii) in the service of the Central Government or a State Government or the National Council in a Group 'A' or Group 'B' post.	**5D(4)**
109.5.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Regulator-General, Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer and Chief Vigilance Officer shall be such as may be prescribed and such salary and allowances shall be paid out of the Fund of National Council.	**5D(6)**
109.6.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Secretaries, Joint Secretaries, Senior Deputy Secretaries, Deputy Secretaries, Assistant Secretaries and such other officers and employees of the National Council shall be such as may be specified by the National Council in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay: Provided that where the National Council is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.	**5D(7)***
109.7.	In determining the corresponding scales of pay of officers and employees under sub-section (6), the National Council shall have regard to the educational qualifications, method of recruitment,	**5D(7)***

	duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the National Council shall refer the matter to the Central Government whose decision thereon shall be final.	
109.8.	Save as provided in sub-section (9), The tenure of the Regulator-General shall be five years.	
109.9.	The Central Government, for the reasons recorded in writing, may at any time remove the Regulator-General from office and shall do so if such removal is recommended by a resolution of the National Council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the National Council.	
110.	**Appointment of Officers of Central Board**	**EPF 5D**
110.1.	The Central Government shall appoint a Director General of the Central Board who shall function subject to the general control and superintendence of that Board.	
110.2.	The Central Government may also appoint an Investment Advisor, a Financial Advisor-cum-Chief Accounts Officer, and a Chief Vigilance Officer to assist the Director General in the discharge of his duties	
110.3.	The Central Board may appoint, as many Additional Director Generals, Joint Director Generals, Directors, Joint Directors, Deputy Directors, Assistant Directors, and such other officers and employees as it may consider necessary for the efficient functioning of the Board: Provided that the maximum scale of pay of officers appointed under this sub-section shall be such, as may be prescribed.	
110.4.	No appointment to the post of the Director General, Investment Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' Gazetted post under the Central Government shall be made except after consultation with the Union Public Service Commission: Provided that no such consultation shall be necessary in regard to any such appointment – (a) That is temporary or officiating for a period not exceeding one year; or (b) if the person to be appointed is at the time of his appointment- (i) a member of the Indian Administrative Service, or (ii) in the service of the Central Government or a State Government or the Central Board or a State Borad in a Group 'A' or Group 'B' post. Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the rules for promotion to next higher grade.	**ESIC 17(3)**
110.5.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Director General, Investment Advisor, Financial Advisor-cum-Chief Accounts Officer and Chief Vigilance Officer shall be such as may be prescribed and such salary and allowances shall be paid out of the Administrative Fund.	

110.6.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Director Generals, Joint Director Generals, Directors, Joint Directors, Deputy Directors, Assistant Directors, and such other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay: Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.	
110.7.	In determining the corresponding scales of pay of officers and employees under sub-section (6), the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.	
110.8.	Save as provided in sub-section (9), The tenure of the Director General shall be five years.	
110.9.	The Central Government, for the reasons recorded in writing, may at any time remove the Director General from office and shall do so if such removal is recommended by a resolution of the Central Board passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Central Board.	
111.	**Appointment of Officers of State Board**	
111.1.	The State Government shall appoint a Commissioner of the State Board who shall function subject to the general control and superintendence of that Board.	**ESIC 16(1)**
111.2.	The State Government may also appoint a Financial Commissioner, Chief Accounts Officer, and a Chief Vigilance Officer to assist the Commissioner in the discharge of his duties.	**ESIC 16(1)**
111.3.	The State Board may appoint, as many Additional Commissioner, Joint Commissioners, Medical Commissioners, Scheme Commissioners, Investment Commissioners, Deputy Commissioners, Assistant Commissioners, and such other officers and employees as it may consider necessary for the efficient functioning of the Board: Provided that the maximum scale of pay of officers appointed under this sub-section shall be such, as may be specified by an order of the State Government: Provided further that sanction of the State Government shall be obtained for the creation of any post the maximum monthly salary of which exceeds such amount or pay scale as may be prescribed.	**EPF 5D(5)** **ESIC 17(1)**
111.4.	No appointment to the post of the Commissioner, Financial Commissioner, Chief Accounts Officer, and Chief Vigilance Officer or any other post under the State Board carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' Gazetted post under the Central Government shall be made except after consultation with the State Public Service Commission or such other Agency as the State Government may nominate in this regard:	**ESIC 17(3)**

	Provided that no such consultation shall be necessary in regard to any such appointment – (a) That is temporary or officiating for a period not exceeding one year; or (b) if the person to be appointed is at the time of his appointment- (i). a member of the Indian Administrative Service, or (ii). in the service of the Central Government or a State Government or the Central Board or the State Board in a Group 'A' or Group 'B' post. Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the rules for promotion to next higher grade.	
111.5.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Commissioner, Financial Commissioner, Chief Accounts Officer, and Chief Vigilance Officer shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Administrative Fund.	**ESIC 16(5)**
111.6.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Commissioner, Joint Commissioners, Medical Commissioners, Scheme Commissioners, Investment Commissioners, Deputy Commissioners, Assistant Commissioners and such other officers and employees of the State Board shall be such as may be specified by the State Board in accordance with the rules and orders applicable to the officers and employees of the State Government drawing corresponding scales of pay: Provided that where the State Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the State Government. Provided further that this sub-section shall not apply to appointment of medical consultants and specialists in various fields appointed on contract basis	**EPF 5D(8)** **ESIC 17 (2)**
111.7.	In determining the corresponding scales of pay of officers and employees under sub-section (6), the State Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the State Government and in case of any doubt, the State Board shall refer the matter to the State Government whose decision thereon shall be final.	**ESIC 17(2)(b)**
111.8.	The Commissioner and the Financial Commissioner shall be whole-time officers of the State Board and shall not undertake any work unconnected with their office without the sanction of the State Government and of the Board.	**ESIC 16(3)**
111.9.	Save as provided in sub-section (10), The tenure of the Commissioner or the Financial Commissioner shall be five years.	**ESIC 16(4)**
111.10.	The State Government, for the reasons recorded in writing, may at any time remove the Commissioner or the Financial Commissioner from office and shall do so if such removal is recommended by a resolution of the State Board passed at a special meeting called for	

	the purpose and supported by the votes of not less than two-thirds of the total strength of the State Board.	
112.	**Constitution of Central Social Security Service**	
112.1.		
113.	**Inspectors.**	**EPF 13** **ESIC 45**
113.1.	The State Board may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Code, or the Schemes made under section 24, and may define their jurisdiction.	**EPF 13(1)**
113.2.	Any Inspector appointed under sub-section (1) may, for the purpose of – (a) inquiring into the correctness of any information furnished in connection with this Code or with any Scheme or (b) ascertaining whether any of the provisions of this Code or of any Scheme have been complied with in respect of an establishment to which the Code or any Scheme applies or (c) ascertaining whether the provisions of this Code or any Scheme are applicable to any establishment to which the Scheme has not been applied or (d) determining whether the conditions subject to which exemption was granted under section 96 are being complied with by the employer in relation to an exempted establishment, or (e) determining whether the conditions subject to which exclusion was granted under sub-sections (4) or (5) of section 1 are being complied with by the employer or the workers in relation to an excluded establishment or excluded worker, or (f) Ascertaining that benefits availed under this code by a person was eligible and rightfully entitled. carry out any or all of the following - (i) require any entity or person to furnish such information as he may consider necessary. (ii) at any reasonable time and with such assistance, if any, as he may think fit, enter and search any entity or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the entity; (iii) examine, with respect to any matter relevant to any of the purposes aforesaid, the entity, his agent or servant or any other person found in charge of the entity or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the entity; (iv) make copies of, or take extracts from, any book, register or other document maintained in relation to the entity and, where he has reason to believe that any offence under this Code has been committed by an employer, seize with such assistance as he may think fit, such book, register or other document or portions thereof as he may consider relevant in respect of that offence;	**EPF 13(2)** **MBA 15**

	(v) exercise such other powers as the Scheme may provide.	
113.3.	The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.	**EPF 13(2B)**
114.	**Social Security Facilitators**	
114.1.	The local bodies shall appoint as many officers as may be authorized by the State Board to act as Social Security Facilitators under this Code.	
114.2.	The method of recruitment, salary and allowances, discipline and other conditions of service of the Social Security Facilitators shall be such as may be specified by the State Board in accordance with the rules and orders applicable to the officers and employees of the State Government drawing corresponding scales of pay.	
114.3.	The State Board shall provide grants the local bodies to meet the salary and allowances to be paid to the Social Security Facilitators and such grant shall be paid out of the Administrative Fund.	
114.4.	Any Social Security Facilitator may- (a) with such assistance, if any, as he thinks fit, enter at any reasonable time any place which he considers it necessary to enter for the purpose of supervising or carrying out the activities financed from the Social Security Fund, or Scheme Fundand (b) make such reports to the Commissioner for the proper discharge of his duties. (c) exercise such other powers as may be stipulated.	MMWCA
115.	**Protection**	
115.1.	Any officer and employee appointed under this Code including- (i). Regulator-General of Social Security, (ii). Director General of the Central Board, (iii). Commissioner of the State Board, (iv). Members and staff of Tribunal, (v). Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer, Additional Secretaries, Joint Secretaries, Senior Deputy Secretaries, Deputy Secretaries, Assistant Secretaries and other officers and employees of National Council (vi). Investment Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer, Additional Director Generals, Joint Director Generals, Directors, Joint Directors, Deputy Directors, Assistant Directors, and other officers and employees of the Central Board (vii). Financial Commissioner, Chief Accounts Officer, a Chief Vigilance Officer Commissioner, Additional Commissioner, Joint Commissioners, Medical Commissioners, Scheme Commissioners, Investment Commissioners, Deputy Commissioners, Assistant Commissioners, and other officers and employees of the State Board (viii). every Inspector appointed in section 113 (ix). Every facilitator appointed under section 114 (x). Registration Authority, Establishment Registration Officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.	**MBA 16**

115.2.	No suit, prosecution or other legal proceedings shall lie against – (d) the Central Government or State Government; or (e) the National Council, Central Board, State Board; or (f) any local body; or (g) any officer of Central Government, State Government, local body; or (h) any officer or employee referred to in sub-section (1); for anything which is in good faith done or intended to be done under this Code or the rules or regulations made thereunder.	**MBA 24**
116.	**Delegation**	
116.1.	The National Council may, by general or special order in writing, delegate to the Executive Committee, Regulator-General, or any other officer of the National Council, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Code as it may deem necessary.	**EPF 5E**
116.2.	The Central Board may, by general or special order in writing, delegate to the Director General, or any other officer of the Central Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Code as it may deem necessary.	
116.3.	The State Board may, by general or special order in writing, delegate to the Standing Committee, Commissioner, any other officer of the State Board, or any officer in District Administration subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Code as it may deem necessary. Provided that the State Board may delegate certain record keeping functions to local bodies under the overall supervision and financing of the State Board.	**EPF 5E** **UWSSA 8**
116.4.	The Commissioner may, by general or special order, delegate the powers under this sub-section (4) of section 12 to any officer of the State Board or any officers of local authority with such conditions and restrictions as may be specified in the said order.	
116.5.	The Commissioner may, by general or special order, delegate his powers regarding registration or de-registration of any establishment under sub-sections (5) to (8) of section 14, and sections 15,16 and17, to such officers of the State Board (referred to as establishment registration officer) as may be specified in such order, and define jurisdictions of such officers.	
116.6.	The State Board may, by general or special order in writing, delegate to any officer of the local body, subject to such conditions, if any, as may be specified in the order, such of its powers and functions of Commissioner under Section 14,15, 16 or 17 (except powers under section 14(4)) as it may deem necessary.	
116.7.	Wherever the State Board delegates any of the functions to a local body under sub-section (6), it shall provide to the local body, necessary support, Information Technology Infrastructure and finance required for it to carry out such functions.	
116.8.	The Commissioner may, by general or special order, delegate his powers under sub-section (1) of section 28, section 37, sub-sections (2) of section 40, section 41, to such officers of the State Board as may be specified in such order, and define jurisdictions of such officers.	
116.9.	The Commissioner may, by general or special order, delegate his	ECA 20(1)

	powers under section 61, 63, 64, 65, 66, 67, , 69, 70, 71, and section 82 to any officer of the State Board (referred to as Compensation Officer), and define jurisdictions of such officers.	
116.10.	Subject to such conditions and restrictions as may be prescribed, the Commissioner may, by order, delegate his powers, functions and duties under Sections 117,118, 119 and 121 to such officers of State Board as deemed fit, and define their jurisdictions (referred to as assessing officers).	
116.11.	Subject to such conditions and restrictions as may be prescribed, the Commissioner may, by order, delegate the powers under Section 122 to such officers of State Board as deemed fit, and define their jurisdictions (hereinafter referred to as appellate officers).	
116.12.	The Commissioner may on receipt of an application from any of the parties to an inquiry under sections 117, 118, 119 and 121, or an appeal under section 122 may, after consideration of the said application, by an order in writing, transfer the said inquiry proceedings being conducted by an Assessing Officer or by an Appellate Officer to another Assessing Officer or Appellate Officer: Provided that the officer to whom the proceedings have been transferred shall proceed with the inquiry from the stage from which the inquiry has already been completed.	

PART O
Assessment of Dues and Resolution of Disputes

117.	**Assessment of moneys due from assesse-**	**EPF 7A** **ESIC 45A**
117.1.	Where in respect of any assessee, (i) No returns are furnished under sub-section (1), (2) or (3) of section 37; or, (ii) A defective return is not rectified as per sub-section (6) of section 37; or (iii) No registers or records are maintained in accordance with sub-section (7), (8) or (9) of section 37; or (iv) Fails to furnish any information sought by Commissioner of any other Authority under the provisions of this Code (v) Fails to furnish any particulars or information as may be sought by an inspector under sub-section (2) of section 113; or (vi) Any inspector or any other officer is prevented in any manner by any person in exercising his functions or discharging his duties; or (vii) Commissioner has reasons to believe that the assesse has defaulted in payment of contribution required of him under this Code The Commissioner may, after making such inquiry as he thinks fit, and on the basis of information available with him, by order - (a) in a case where a dispute arises regarding the applicability of this Code or any provision of this Code or any Scheme under this Code to any entity or person, decide such dispute; and (b) assess the amount due from any assessee under any provision of this Code: Provided that no such order shall be passed in respect of a period beyond five years from the end of the financial year during which the contribution or Cess had become payable, except in cases where the State Board may allow: Provided further that when an Appellate Officer or the Tribunal refers a case back for a fresh adjudication or order, no such order shall be passed after the expiry of two years from the date of such reference.	**ESIC 45A** **EPF 7A(1)** **BOCWCA 5**
117.2.	The officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry have the same powers as are vested in a court under the code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely:- (a) enforcing the attendance of any person or examining him on oath: (b) requiring the discovery and production of documents; (c) receiving evidence on affidavit; (d) issuing commissions for the examination of witnesses, and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code 45 of 1960.	**7A(2)**
117.3.	No order shall be made under sub-section (1), unless the assessee concerned is given a opportunity of representing his case.	**7A(3)**
117.4.	Where the assessee, employee or any other person required to attend the inquiry under sub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file	**7A(3A)**

	any report or return when called upon to do so, the officer conducting the inquiry may decide the applicability of the Code or assess the amount due from any assessee, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.	
117.5.	Where an order under sub-section (1) is passed against an assessee ex-parte, he may, within three months from the date of communication of such order, apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from appearing when the inquiry was held, the officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry: Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the officer is satisfied that the assessee had notice of the date of hearing and had sufficient time to appear before the officer. Explanation.- Where an appeal has been preferred under this Code against an order passed ex-parte and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the ex-parte order.	**7A(4)***
117.6.	No order passed under this section shall be set aside on any application under sub-section (5) unless notice thereof has been served on the opposite party.	**7A(5)**
117.7.	Any Return furnished under section 37, or any order made under sub-section (1) shall be sufficient proof of the claim of the Board over such amount specified in the return or the order as the case may be, and for recovery of such amount under section 137.	**ESIC 45A(2)**
118.	**Special Audit**	
118.1.	If the Commissioner, having regard to,- (a) the nature and complexity of employment in the business of an establishment; or (b) volume or complexity of accounts; or (c) nature of employer-employee relationship in the establishment; or (d) non-regular nature of employment contracts in the establishment; or (e) non-production of records and accounts; or (f) manner of maintenance of the records or registers; or (g) any other reason to be recorded in writing. is of the opinion that it is necessary so to do, he may direct the establishment by a notice in writing to get his records including books of accounts, examined and audited by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and verified by such accountant or panel of accountants or professional or panel of professionals and setting forth such particulars as may be specified.	
118.2.	The provision of sub-section (1) shall have effect notwithstanding that the accounts of the establishment have been audited under any other provision of this Code or any other law for the time being in force or otherwise.	
118.3.	Every report under sub-section (1) shall be furnished by the	

	establishment to the Commissioner within such period as may be specified by the Commissioner: PROVIDED that the Commissioner may, on an application made in this behalf by the establishment and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit: PROVIDED FURTHER that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred eighty days from the date on which the direction under sub-section (1) is received by the dealer.	
118.4.	The expenses of, and incidental to, the examination and audit of records under sub-section (1), (including the remuneration of the accountant or a panel of accountants or professional or panel of professionals) shall be borne by the State Board.	
119.	**Assessment of escaped amount. -**	**EPF 7C**
119.1.	Where an order assessing the amount due from an assessee under section 117 has been passed and if the Commissioner – (a) has reason to believe that by reason of the omission or failure on the part of the assessee to make any document or report available, or to disclose, fully and truly, all material facts necessary for assessing the correct amount due from the assessee, any amount so due from such assessee for any period has escaped his notice; (b) has, in consequence of information in his possession, reason to believe that any amount to be assessed under section 117 has escaped from his Assessment for any period notwithstanding that there has been no omission or failure as mentioned in clause a on the part of the assessee, he may, within a period of five years from the date of communication of the order, re-open the case and pass appropriate orders re-assessing the amount due from the assessee in accordance with the provisions of this Code.	
119.2.	No order re-assessing the amount due from the assessee shall be passed under this section unless the assessee is given an opportunity of representing his case.	
120.	**Review.**	**EPF 7B**
120.1.	Any person aggrieved by an order made by the Assessing Officer but for which no appeal has been preferred under this Code, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order: Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.	
120.2.	Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be prescribed.	
120.3.	Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.	
120.4.	Where the officer is of opinion that the application for review should be granted, be shall grant the same:	

	Provided that, - (a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and (b) (b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.	
120.5.	An order of review passed under sub-section (4) shall have same force as the original order under section 117 or 119as the case may be, and can be subjected to re-Assessment under section 119 or can be appealed against under Section 122.	
120.6.	No appeal shall lie against the order of the officer rejecting an application for review.	
121.	**Power to determine damages -**	**EPF 14B**
121.1.	Where an assessee makes default in – (a) the payment of any contribution to the Social Security Fund or, (b) the transfer of accumulations required to be transferred by him under sub- section (4) of section 96 or section 98; or (c) the payment of any charges payable under any other provision of this Code or Schemes, or (d) the payment of any amount under any of the conditions specified under section 94, (e) the payment of any cess levied under the Code the Commissioner may determine from the assessee by way of penalty such damages, not exceeding the amount of arrears, as may be stipulated. Provided that before levying such damages, the assessee shall be given an opportunity of being heard.	**BOCWCA 9**
121.2.	State Board may reduce or waive the damages levied under sub-section (1) in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), subject to such terms and conditions as may be stipulated.	
121.3.	If any duty of customs or excise payable by a person under section 33, 34 or 35, is not paid to that Government before the date, or, as the case may be, within the period specified therein, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit, impose on the person, damages, not exceeding the amount in arrears during which the duty of excise is in arrears: Provided that before imposing any such damages, such person shall be given an opportunity of being heard and, if after such hearing, the said authority is satisfied that the default was for any good and sufficient reason, no damages shall be imposed under this section.	
122.	**Appeal and determination of certain questions**	**EPF 7CA (NEW) ESIC 45AA**
122.1.	Any person aggrieved by an order passed by Assessing Officer under – (a) sub-section (1) of Section 117; or	**BOCWCA 11**

	(b) sub-section (1) of section 119; or (c) sub-section (1) of section 121 including order of review under section 120, may prefer an appeal to an Appellate Officer in such manner, in such form, within such time and on payment of such fee as may be prescribed.	
122.2.	Any person aggrieved by an order passed by – (a) Registration Authority under section 11(8), or an order of cancellation, deactivation or suspension of registration under section 12(4); or (b) Establishment Registration Officer under sub-sections (5), (6) (7), or (8) of section 14, or sub-section (2) of section 15, or sub-section (1) of section 16. may prefer an appeal to an Appellate Officer in such manner, in such form, within such time and on payment of such fee as may be prescribed.	
122.3.	Any person aggrieved by – (a) an order regarding certificate of deduction passed under section 42(5); or (b) an order of determination under 40(2); or (c) an order of forfeiture of Gratuity under section 46(6); or (d) an order of sanction (or decline to sanction) withdrawal from gratuity fund under section 49; or (e) an order determining gratuity payable to an employee under section 51(8); or (f) an order directing payment (or otherwise) under clause (a) of section 61(2), or (g) an order on validity of dismissal or discharge of a women during pregnancy under section 60(2) (h) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum or settlement of any question under section 61(8); or (i) an order of review of half monthly payments under section 63(4); or (j) an order reducing the compensation payable under section 63(8); or (k) an order directing payment of interest and/ or penalty under section 63(10); or (l) an order of distribution of compensation under section 64(6) or disallowing any claim of a person alleging himself to be such dependent; or (m) refund of compensation to employer under section 64(9); or (n) an order of variation of compensation under section 64(10); or (o) a decision on claim of compensation made under section 66 or (p) an order directing payment of compensation to dependents of diseased employee under section 67(4); or (q) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 68; or (r) an award made under section 71(4) or 71(6); or (s) decision of Medical Board under section 74(1) or 74(2); or (t) an order to register (or decline to register) an agreement or providing for the registration of the same subject to conditions under section 75 ; or (u) order of the Commissioner confiscating any unclaimed	**ECA 30** **MBA 17(3)** **PGA 7(7)**

	amount under section 108; or (v) a report of Facilitator under section 135(6); or (w) with the measures undertaken or compensation awarded by the Commissioner or appropriate authority under section 136(2) (x) an order of Assessment of dues about moneys invested under section 142(1) may prefer an appeal to an Appellate Officer in such manner, in such form within such time and on payment of such fee as may be prescribed: Provided that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.	
122.4.	If any question or dispute arises as to — (i). whether any person is an employee within the meaning of this Code or whether he is liable to pay the employee's contribution, or whether the employer is liable to pay the employer's contribution in respect of that employee; or (ii). the rate of wages or average daily wages of an employee for the purposes of this Code, or (iii). the rate of contribution payable by a principal employer in respect of any employee, or (iv). the person who is or was the principal employer in respect of any employee, or (v). the right of any person to any benefit and as to the amount and duration thereof, or (vi). claim of recovery of contributions from the Principal Employer, or (vii). claim by a principal employer to recover contributions from any contractor; or (viii). claim against principal employer under section 28(1) (ix). any other matter which is in dispute between a principal employer and an contractor, or between any employee and a principal employer or contractor, in respect of any contribution or benefit or other dues payable or recoverable under this Code, or any other matter required to be or which may be decided for implementation of Schemes, such question or dispute shall be decided by the Appellate Officer after conducting such inquiry as deemed fit: provided that no application for determination of dispute shall be entertained after a period of three years from the date on which the cause of action arose: Provided further that no claim shall be made by the Board after five years of the period to which the claim relates, Explanation 1. — the cause of action in respect of a claim for benefit shall not be deemed to arise unless the person or in the case of dependants' benefit, the dependants of the member claims or claim that benefit in accordance with the regulations made in that behalf within a period of twelve months after the claim became due or within such further period as the Court may allow on grounds which appear to it to be reasonable; Explanation 2.- the cause of action in respect of a claim by the Board for recovering contributions (including interest and damages) from the principal employer shall be deemed to have arisen on the date on	**ESIC 75** **ESIC 77(1A)**

	which such claim is made by the Board for the first time. Explanation 3.- the cause of action in respect of a claim by the principal employer for recovering contributions from an contractor shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be received by the Board.	
122.5.	Every such application for resolving any question or dispute under sub-section (4) shall be in such form and shall contain such particulars and shall be accompanied by such fee if any, as may be prescribed.	
122.6.	If in any proceedings before the Appellate Officer under sub-section (4), a disablement question arises and the decision of a medical board or a tribunal has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Commissioner, he shall direct the Commissioner to have the question decided by the Medical Board and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or the tribunal, as the case may be.	**ESIC 75(2A)**
122.7.	The Appellate Officer shall conduct the inquiry in accordance with the provisions contained in section 117 and shall for the said purposes exercise all such powers as provided under sub-section (2) of that section: Provided that any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code (45 of 1860): Provided further that the officer conducting the inquiry shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).	**ESIC 78**
122.8.	The Appellate Officer may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as he thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Appellate Officer may think fit, for a fresh adjudication or order, as the case may be, after taking into consideration additional evidence, if necessary.	
123.	**Miscellaneous in case of appeals.**	
123.1.	The period of limitation for an appeal under this section shall be sixty days from the date of the order of the Commissioner and the provision of section 5 of the Limitation Act, 1963 (36 of 1963) shall be applicable to appeals under this section.	**ESIC 30(2) & (3)**
123.2.	The Appellate Officer shall dispose of the proceedings within such period as may be prescribed.	
123.3.	The orders so passed by the Appellate Officer shall be deemed to be orders passed under the relevant section under which the order appealed against was passed: Provided that the order of determination of damages by an appellate officer under sub-section (5) shall be deemed to be orders passed under section 117by the Assessing Officer for the purpose of recovery of the said amount.	
123.4.	No appeal against the order of Assessment under section 117 or 119 or 120or 121 shall be entertained unless he has deposited with the Central Board/State Board, the amount due from him as assessed by the Assessing Officer under the relevant section, which is not disputed, in accordance with such procedure as may be prescribed.	
123.5.	If an assessee, at the time of filing an appeal under sub-section (1) has	

	disputed any amount, and – (a) subsequently during the course of appeal proceedings admits it as payable, or (b) The Appellate Officer is of the opinion that the assessee had no cogent evidence to dispute the amount, and had only disputed the amount to avoid or delay payment of the dues, The Appellate officer shall, determine from the assessee, by way of penalty such damages, not exceeding the amount which was disputed by the appellant, as may be stipulated: Provided that before levying such damages, the appellant shall be given an opportunity of being heard.	
123.6.	No – (a) Determination of dispute under sub-section (4) between a principal employer and the Board in respect of any contribution or any other dues; or (b) Appeal under clause (e), (h) or (k) of sub-section (3) shall be entertained by the appellate officer unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against: Provided that the Appellate Officer may, for reasons to be recorded in writing, reduce the amount to be deposited under this sub-section upto twenty-five percent of the amount claimed by the Board.	**ESIC 75(2B)** **ECA 30p**
123.7.	No civil Court shall have jurisdiction to decide or deal with any question or dispute under sub-sections (3) or (4) or to adjudicate on any liability which by or under this Code is to be decided by a medical board, or by a Tribunal or by the Appellate Officer.	**ESIC 75 (3)**
124.	**Certain Appeals not maintainable**	
124.1.	No appeal of any kind shall lie against an order of exemption issued under section 94or an order issued under section 137, 138, 139 and 140.	
124.2.	No appeal shall be maintainable against an order of search or seizure under section 91 or any directions or order of the authorized officer under section91.	
125.	**Appeals to the Tribunal. –**	**EPF 7I**
125.1.	Any person aggrieved by an order passed by the Appellate Officer under sub-sections (1), (2) or (3) of section 122 or an order assessing damages under sub-section (5)of section 123, may prefer an appeal to the Tribunal against such order.	
125.2.	If a person or the Board is not satisfied with the decision of the medical board under section 74, the person or the Board may appeal to the Tribunal against such decision.	
125.3.	Any person aggrieved by the decision or order of State Board taking any measures under section 93(5)) or issuing any directions to intermediate agency under section 93(6) may appeal to the Tribunal against such order or decision.	
125.4.	Any person aggrieved by the decision or order of - (a) Director General rejecting an application for grant of License as Intermediate Agency or Imposing certain conditions while granting license under section 88, or (b) Director General Cancelling or Suspending License under Section 89 or (c) Central Board superseding the governing board or board of directors or management of an intermediate agency under	

	section 93(2) (d) Central Board attaching assets of intermediate Agency or any other action under section 93(4) (e) Central Board taking any measures under section 93(5) (f) Central Board issuing any directions to intermediate agency under section 93(6) May appeal to the Principal Appellate Tribunal against such order or decision.	
125.5.	Every appeal under sub-section (1), (2), (3) or (4) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.	
125.6.	No appeal under sub-section (1), shall be entertained unless the aggrieved person has filed an appeal under section 122 and the same has been disposed of by the Appellate Officer.	
125.7.	No appeal under sub-section (1) shall be entertained unless the appellant has deposited with the State Board, the amount due from him as assessed by the - (a) Assessing Officer under section 117 or section 119 or section 120 or section 121(as modified by the order of Appeal), or (b) Appellate officer under sub-section (5) of section 123 in accordance with such procedure as may be prescribed: Provided that the Tribunal may, for reasons to be recorded in writing, reduce the amount to be deposited under this section upto twenty-five per cent. of the amount assessed by the Assessing Officer:	
125.8.	A Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary.	
125.9.	A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4) and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal: Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.	
125.10.	A Tribunal shall send a copy of every order passed under this section to the parties to the appeal.	
126.	**Appeal and reference to High Court**	**EPF 7R (NEW)**
126.1.	If any person is aggrieved by any decision or order of the Tribunal, and the matter involves substantial question of law, he may file an appeal to the High Court within a period of sixty days from the date of communication of the decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil procedure, 1908: Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was	**ESIC 82**

	prevented by sufficient cause from preferring the appeal in time.	
126.2.	No appeal shall lie against any decision or order made by the Tribunal with the consent of the parties.	
126.3.	The provisions of sections 5 and 12 of the Limitation Act, 1963 (36 of 1963) shall apply to appeals under this section.	
126.4.	A Tribunal may submit any question of law for the decision of the High Court and if does so shall decide the question pending before it in accordance with such decision.	**ESIC 81**
126.5.	Where the Board has presented an appeal against an order of the Tribunal, the Tribunal may, and if so directed by the High Court shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.	**ESIC 83**
127.	**Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers. –**	**EPF 7K** **ESIC 79**
127.1.	A person preferring an appeal to a Tribunal under this Code may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.	
127.2.	The Central Government or a State Government or any other authority under this Code may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before an Appellate Authority or Tribunal.	
128.	**Institution of proceedings, etc. —**	**ESIC 76**
128.1.	Subject to the provisions of this Code and any rules made by the State Government, all proceedings before the Appellate Officer or Tribunal (hereinafter referred to as the Court) shall be instituted before the respective Court appointed for the local area in which the member was working at the time the question or dispute arose.	
128.2.	If the Court is satisfied that any matter arising out of any proceedings pending before it can be more conveniently dealt with by any other Court in the same State, it may, subject to any rules made by the State Government in this behalf, order such matter to be transferred to such other Court for disposal and shall forthwith transmit to such other Court the records connected with that matter.	
128.3.	The State Government may transfer any matter pending before any Court in the State to any such Court in another State with the consent of the State Government of that State.	
128.4.	The Court to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.	

PART P
Appellate Tribunal

129.	**Social Security Appellate Tribunal**	
129.1.	The Central Government may, by notification in the Official Gazette, constitute one or more Appellate Tribunals to be known as the Social Security Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Code and every such Tribunal shall have jurisdiction in respect of assessee situated in such area as may be specified in the notification constituting the Tribunal.	
129.2.	The Appellate Tribunal at National Capital Region of Delhi shall be treated as Principal Appellate Tribunal.	
129.3.	The Principle Appellate Tribunal shall consist of three members to be appointed by the Central Government out of which one member shall be the Judicial Member and the other two members shall be the Administrative Members.	
129.4.	The other Tribunals shall consist of two members to be appointed by the Central Government of which one member shall be the Judicial Member and other member shall be the Administrative Member.	
129.5.	A person shall not be qualified for appointment as a Member (Judicial) of the Tribunal, unless he is,- (a) is, or has been, a Judge of a High Court; or (b) is, or has been, a District Judge for at least five years.	
129.6.	The Judicial Member of the Tribunals shall be appointed by the Central Government on the recommendations of the Select Committee consisting of such persons and in such manner as may be prescribed.	
129.7.	The qualifications, experience, the method and the manner of appointment of the Administrative Member shall be such as may be prescribed: Provided that no person below the rank of Joint Secretary to the Government of India or equivalent, having experience in administration of Social Security and Labour Laws, or a person not below the rank of Director to the Government of India or equivalent having not less than 5 years' experience in administration of Social Security and Labour Laws shall be qualified for appointment as the Administrative Member	
129.8.	A member of Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall not be eligible for re-appointment.	
129.9.	The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the member of the Appellate Tribunal shall be such as may be prescribed: Provided that neither the salary and allowances nor the other terms and conditions of service of the member of an Appellate Tribunal shall be varied to his disadvantage after his appointment.	
129.10.	No order of the Central Government appointing any person as the Member of the Tribunal shall be called in question in any manner, and no act or proceeding before an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of such Appellate Tribunal.	
130.	**Resignation and Removal**	
130.1.	The member of Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office: Provided that the member of the Appellate Tribunal shall, unless he is	

	permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.	
130.2.	A member of the Appellate Tribunal shall be removed from his office by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry in which such member of the Appellate Tribunal had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.	
130.3.	The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of a member of the Tribunal.	
130.4.	A vacancy caused to the office of the Member of the Tribunal shall be filled-up within a period of three months from the date on which such vacancy occurs. Provided that the process of filling up the vacancy due to arise on account of superannuation or expiry of term shall be initiated one year before the scheduled date of arising of such vacancy.	
131.	**Orders of Tribunals not to be invalid in certain circumstances**	
131.1.	No act or proceedings of the Tribunal shall be invalid merely by the reason of– (a) any vacancy in, or any defect in, the constitution of the Tribunal; or (b) any defect in the appointment of a person acting as a Member of the Tribunal; or (c) any irregularity in the procedure of the Tribunal not affecting the merits of the case.	
131.2.	If, for any reason, a vacancy occurs in the Tribunal, the Central Government shall appoint a person in accordance with the provisions of this Code, to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.	
132.	**Staff of the Tribunal. -**	
132.1.	The State Government shall determine the nature and categories of the officers and other employees required to assist an Appellate Tribunal in the discharge of its functions as it may think fit.	
132.2.	The State Board shall provide the Appellate Tribunal with such officers and other employees as determined by the State Government.	
132.3.	The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.	
132.4.	The salaries and all allowances and other conditions of service of the officers and other employees of a Tribunal shall be such as may be specified by the State Government.	
132.5.	Subject to conditions and restrictions as may be prescribed, the State Board (or Boards) shall bear the expenditure Salary, allowances and other Administrative expenditure for the functioning of the Tribunal.	
133.	**Procedure of Tribunals. –**	
133.1.	A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.	
133.2.	A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 118	

	and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).	
133.3.	When there is a difference of opinion during adjudication of any matter between the members of the Appellate Tribunal the matter shall be transferred to the Principal Appellate Tribunal to adjudicate the matter.	
133.4.	When there is a difference of opinion during adjudication of any matter between the Member of the Principal Appellate Tribunal, the decision by the majority shall prevail.	
133.5.	Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law except as provided in this code.	

PART Q
Compliance

134.	**Inspection system**	**13(3) NEW**
134.1.	The Commissioner may, by order, notify a system for inspection of entities, and the inspections shall be conducted in such manner as may be specified in the said order.	
134.2.	The Commissioner, while issuing order under this section shall not disclose the parameters and criteria fixed for the inspection system and may change it from time to time.	
135.	**Right to Coverage under the Code**	
135.1.	Subject to the provisions of this Code, every worker shall have the right for coverage under the Social Security System provided under this Code.	
135.2.	Any worker, - (a) Who has been denied coverage under the Social Security System provided under this Code by an employer, or (b) Whose employer or principal employer has failed to deposit the contribution for or on behalf of the worker, or (c) Who has been denied any benefit or compensation specified under this code by the employer, or (d) Who has not been provided any service or benefit he is entitled to or the service or benefit provided to him is deficient, may make a complaint to the Social Security Facilitator in such manner as may be specified in bylaws: Provided that any registered trade union or Registered organization or association of workers may also file a complaint on behalf of a worker or group of workers.	
135.3.	All complaints filed by persons or organizations authorised under subsection (2) shall, within one day of the making of the complaint, be acknowledged by a receipt, issued through such means as may be specified in bylaws, specifying the date, time, place, unique complaint number and particulars of receiver of complaint along with the time-frame in accordance with its Citizens Charter within which the complaint is likely to be redressed.	
135.4.	On receipt of a complaint, or suo-moto on receipt of any information, the Social Security Facilitator shall conduct an inquiry within a period of fifteen days to determine prima-facie whether the right of a worker to participate in the Schemes or availing the benefits under the schemes or the Code have been curtailed or denied.	
135.5.	For the purpose of conduct of inquiry under sub-section (4) the social security facilitator shall have the following powers- (i) require any entity or person to furnish such information as he may consider necessary. (ii) At any reasonable time and with such assistance, if any, as he may think fit, enter and search any entity or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the entity; (iii) Examine, with respect to any matter relevant to any of the purposes aforesaid, the entity, his agent or servant or any other person found in charge of the entity or any premises	

	connected therewith or whom the Facilitator has reasonable cause to believe to be or to have been, an employee in the entity; Make copies of, or take extracts from, any book, register or other document maintained in relation to the entity and, where he has reason to believe that any offence under this Code has been committed by an employer.	
135.6.	The Social Security Facilitator, on completion of the inquiry under sub-section (4) shall submit a report to the Commissioner, or such other officer of State Board authorized by him and furnish a copy of the report to the complainant.	
136.	**Actions on Report of Facilitator**	
136.1.	The Commissioner, or the competent authority required to take necessary action on the matter of complaint made under sub-section (2), on receipt of report under sub-section (6) of Section 135 shall undertake appropriate measures to settle the bona-fide grievance of the complainant, rectify the deficiencies, if any, and send a report to the Facilitator, of measures undertaken.	
136.2.	Where the member of a Scheme has not been provided with the service that he is entitled to, or is provided services that are deficient, the Commissioner shall, in addition to action under sub-section (1), pay to the member from the reserve fund constituted under section 23, such compensation as may be prescribed in the by-laws.	

PART R
Recovery of Dues

137.	Mode of Recovery	EPF 8
137.1.	Any amount due (a) from any entity, employer, principal employer, landlord, contractor, works contractor trustees of any exempted establishment or any other person under any provision of this Code, or (b) from the employer in relation to an exempted establishment in respect of any damages recoverable under section 121, or (c) from any entity in respect of any charges payable by any exempted establishment to the appropriate government under any provision of the Code or any Schemes or under any of the conditions specified under section 94, or (d) from any establishment in respect of accumulations required to be transferred under sub section 2 of section 148 or under sub-section (4) of section 96 if the amount is in arrear, be recovered in the manner specified in this section.	
137.2.	Where any amount is in arrear, the assessing officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears.	**EPF 8B(1)* ESIC 45C**
137.3.	The Assessing Officer may forward the certificate referred to in sub-section (2) to the Recovery Officer within whose jurisdiction the employer or person– (a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situated; or (b) resides or any movable or immovable property of the establishment or the employer or the person is situated.	**EPF 8C(1) ESIC 45D**
137.4.	The Assessing Officer may issue a certificate under sub-section (2), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.	**EPF 8B(2)**
137.5.	Any amount of due under Part E (including the damages, interest if any, payable under that part) from any person or entity may be recovered by the Central Government in the same manner as an arrear of land revenue.	
138.	**Powers of Recovery Officer**	
138.1.	The Recovery Officer, on receipt of a recovery certificate, shall proceed to recover the amount specified therein from the establishment, employer or the person, as the case may be, by one or more of the modes mentioned below:- (a) attachment and sale of the movable or immovable property of the establishment, the employer or the person as the case may be; (b) arrest of the employer or the person as the case may be, and his detention in prison; (c) appointing a receiver for the management of the movable or immovable properties of the establishment or, the employer or the person as the case may be: Provided that the recovery officer shall, before attaching the property of the employer or the person under clause (a), shall satisfy himself by reasons to be recorded in writing that the property of the	**EPF 8B(1)* ESIC 45C**

	establishment against whom the recovery is due is insufficient for recovery of the whole amount of arrears specified in the certificate. Provided further that sale of any property of the employer or person under clause (a) shall be effected only after the sale of properties of the establishment has been made and where such sale is insufficient for recovery of the whole of the amount of arrears specified in the certificate..	
138.2.	Where an establishment or the employer or the person has property within the jurisdiction of more than one Recovery Officers and the Recovery Officer to whom a certificate is sent by the Assessing Officer - (a) is not able to recover the entire amount by the sale of the property movable or immovable, within his jurisdiction; or (b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do, he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the establishment or the employer or the person has property or the employer or the person resides, and thereupon that Recovery Officer shall also proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the Assessing Officer.	**EPF 8C(2)** **ESIC 45D**
139.	**Validity of Recovery certificate, and amendment thereof.**	**EPF 8D**
139.1.	When the Assessing Officer issues a certificate to a Recovery Officer under section 137, it shall not be open to the employer or any person to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.	**ESIC 45E**
139.2.	Notwithstanding the issue of a certificate to a Recovery Officer, the Assessing Officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.	
139.3.	The Assessing Officer shall intimate to the Recovery Officer any orders withdrawing or canceling a certificate or any correction made by him under sub-section (2) or any amendment made under sub-section (7).	
139.4.	Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Assessing Officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.	**EPF 8E** **ESIC 45F**
139.5.	Where a certificate for the recovery of amount has been issued, the Assessing Officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.	
139.6.	Where the order giving rise to a demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Code, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Code, the Assessing Officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other	

	proceeding remains pending.	
139.7.	Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Code, the Assessing Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be.	
140.	**Other modes of Recovery**	**EPF 8F**
140.1.	Notwithstanding the issue of a certificate to the Recovery Officer under section 137, the Assessing Officer may recover the amount by any one or more of the modes provided in this section.	**ESIC 45G**
140.2.	If any amount is due from any person A to an employer or a person B who is in arrears, the Assessing Officer may require such person A to deduct from the said amount the arrears due from such employer or person B under this Code, and such person A shall comply with any such requisition and shall pay the sum so deducted to the credit of the State Board or the officer so authorised, as the case may be: Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908).	
140.3.	The Assessing Officer may, at any time or from time to time, by notice in writing, require any person A – (a) from whom money is due or may become due to the employer or, the establishment or the Person B as the case may be; or (b) who holds or may subsequently hold money for or on account of the employer or the establishment or the Person B as the case may be, to pay to the State Board either forthwith upon the money becoming due or being held or at or within the time specified in the notice not being before the money becomes due or is held so much of the money as is sufficient to pay the amount due from the employer or person B in respect of arrears or the whole of the money when it is equal to or less than that amount.	
140.4.	A notice under sub-section (3) may be issued to any person A who holds or may subsequently hold any money for or on account of the employer or person B jointly with any other person C and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.	
140.5.	A copy of the notice shall be forwarded to the employer or the person B at his last address known to the Assessing Officer and in the case of a joint account to all the joint holders at their last addresses known to the Assessing Officer.	
140.6.	Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.	
140.7.	Any claim respecting any property in relation to which a notice	

	under this section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.	
140.8.	Where a person A to whom a notice under this section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the employer or the person B or that he does not hold any money for or on account of the employer or the person B, then nothing contained in this sub-section shall be deemed to require such person A to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person A shall be personally liable to the Assessing Officer to extent of his own liability to the employer or the person B on the date of the notice, or to the extent of the employer's or person B's liability for any sum due under this Code, whichever is less.	
140.9.	The Assessing Officer may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.	
140.10.	The Assessing Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the employer or any other person to the extent of the amount so paid.	
140.11.	Any person A discharging any liability to the employer or the person B after the receipt of a notice under this sub-section shall be personally liable to the Assessing Officer to the extent of his own liability to the employer or person B so discharged or to the extent of the employer's or person B's liability for any sum due under this Code, whichever is less.	
140.12.	If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Assessing Officer he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 137 and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 138.	
140.13.	The Assessing Officer may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.	
140.14.	Any Assessing Officer not below the rank of Assistant Commissioner may, if so authorised by the State Board by general or special order, recover any arrears of amount due from an employer, or establishment or any other person by distraint and sale of his or its movable property in the manner laid down in the Third Schedule to the Income-Tax Act, 1961 (43 of 1961).	
141.	**Application of certain provisions of Income-tax Act.**	**EPF 8G**
141.1.	The provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax Certificate Proceedings rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to the arrears of the amount mentioned in section 137 of this Act instead of to the income-tax.: Provided that any reference in the said provisions and the rules to the "assessee" shall be construed as a reference to an employer as	**ESIC 45H**

	defined in this Code.	
141.2.	For the purpose of the Indian Income-tax Act, 1961 all funds under this Code shall be deemed to be a recognised provident fund within the meaning of Chapter I of that Act: Provided that nothing contained in the said Chapter shall operate to render ineffective any provision of the Scheme under which the Fund is established, which is repugnant to any of the provisions of that Chapter or of the rules made thereunder.	
142.	**Mode of Recovering Moneys in certain cases**	
142.1.	In case of any body corporate, institution, company, corporation or any other Organisation wherein the Fund has been invested by or on behalf the Boards or by any Trust permitted under Section 95 of the Code commits default in the payment of principal and/or interest and/or maturity proceeds and/or any other amount due or any part thereof which remains outstanding for more than 3 months from its due date, the Director General or Additional Director General or Joint Director General may conduct such enquiry as deems necessary for the purpose of determination of dues.	
142.2.	For the purpose of inquiry and determination of dues under sub-section (1), the provisions of sub-section (2) to Section 117 shall apply.	
142.3.	Any amount due as assessed under sub-section (1) may, if the amount is in arrear, be recovered in the manner specified in Section 137 by the Recovery Officer. Explanation :- Any reference to 'Assessee' in the Section-117 and 137 shall be construed as reference to the body corporate, institution, company, corporation or any other Organisation as mentioned in sub-section (1)."	

PART S
Control

143.	**Calling for and obtaining Information**	
143.1.	The appropriate government may at any time require the executive head of the Social Security Organisations— (a) to produce any record, correspondence, plan or other document in his possession or under his control; (b) to furnish any return, plan estimate, statement, account or statistics relating to the proceedings, duties or works of the Social Security Organisations; (c) to furnish or obtain and furnish any report.	**DMC 485**
143.2.	The appropriate Government or the National Council may depute any person in the service of the said Government or National Council to inspect or examine any department or office or any service or work undertaken by the Social Security Organisations or any property belonging to the Social Security Organisations and to report thereon.	**DMC 486**
143.3.	The Social Security Organisations and all officers and other employees of the Social Security Organisations shall be bound to afford the person so deputed under sub-section (2) access at all reasonable times to the premises and properties of the Social Security Organisations and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties.	
144.	**Powers of National Council**	
144.1.	Where the National Council has a reasonable ground to believe that the activities of the Central Board or State Board are being conducted in a manner detrimental to the interest of the subscriber, it may, at any time, by order in writing, direct any person specified in the order to investigate the affairs of such Central or State Board and to report thereon to the National Council.	
144.2.	If the National Council finds, after causing an inquiry to be made, that the Central Board or the State Board has violated, or is likely to violate, any provisions of this Code, or any rule or regulation made thereunder, the National Council may pass an order requiring such Central Board or the State Board to cease and desist from committing or causing such violation.	
144.3.	If at any time the National Council has reason to believe that the Central Board or the State Board is acting in a manner likely to be prejudicial to the interest of subscribers, it may, after giving the Central Board or the State Board, as the case may be, an opportunity of being heard, make a report thereon to the Central Government or state Government.	
145.	**Power to give directions**	**DMC 487**
145.1.	If, whether on receipt of a report or on receipt of any information of report obtained under section 143 or otherwise, the appropriate Government is of opinion— (a) that any duty imposed on the Social Security Organisation by or under this Code has not been performed or has been performed in an imperfect, insufficient or unsuitable manner, or (b) that adequate financial provision has not been made for the performance of any such duty, it may direct the Social Security Organisation concerned, within such period as it thinks fit, to make arrangements to its satisfaction for the proper performance of the duty, or as the case may be, to make financial provision, to its satisfaction for the performance of the duty and the Social Security Organisation concerned shall comply with such direction:	

	Provided that, unless in the opinion of the appropriate Government the immediate execution of such order is necessary, it shall before making any direction under this section give the Social Security Organisation concerned an opportunity of showing cause why such direction should not be made.	
145.2.	The National Council may, from time to time, give such directions to the Central Board or the State Board as it may think fit for the efficient administration of this Code and when any such direction is given, and the direction is not inconsistent with the Code, Rules or Regulations, the Central Board (or the State Board as the case may be) shall comply with such direction.	**EPF 20 UWSSA 11**
145.3.	The State Government may give the State Board all such directions as it considers necessary in respect of maintenance, operations, standards and services of Hospitals, Dispensaries, and other health institutions vested in the State Board or maintained wholly or partly by grants paid out of the Medical Benefit Scheme Fund and the State Board shall comply with all such directions.	**DMC 489**
146.	**Power to provide for enforcement of direction**	**DMC 488**
146.1.	If, within the period fixed by a direction made under sub-section (1) of section 144, any action the taking of which has been directed under that sub-section has not been duly taken, the appropriate Government may make arrangements for the taking of such action and may direct that all expenses connected therewith shall be defrayed out of such Fund as may be decided by the appropriate government.	
146.2.	Order of Precedence for the purpose of the provisions of this Part shall be:- A. National Council and thereafter Central Board and thereafter a State Board, and B. Central Government and thereafter a State Government	

Part T
Transitionary Provisions

147. Transfer of Assets and Liabilities under various Funds and Schemes

147.1. On the establishment of the Scheme Funds mentioned in Column A of table below in any particular State, the Schemes and Funds mentioned in Column B in the table shall cease to operate in that State.

Sl.	Upon establishment of Scheme fund under this code (Column A)	Scheme that shall cease (Column B)
1	Pension Fund	Employee Pension Scheme 1995 under the Employee Provident Fund and Miscellaneous Provisions Act 1952
2	Provident Fund	Employee Provident Fund Scheme 1952 under the Employee Provident Fund and Miscellaneous Provisions Act 1952
3	Group Insurance Fund	Employee Deposit Linked Insurance Scheme 1976 under the Employee Provident Fund and Miscellaneous Provisions Act 1952
4	Sickness Benefit Scheme Fund	Sickness Benefit Scheme under ESIC Act 1948
5	Maternity benefit Scheme Fund	Maternity benefit Act, 1961
6	Disablement benefit scheme Fund	Disablement benefit scheme under Employees State Insurance Act, 1948
7	Invalidity benefit Scheme Fund	Invalidity benefit Scheme under Employees State Insurance Act, 1948
8	Unemployment Benefit Scheme Fund	Unemployment Benefit Scheme under Employees State Insurance Act, 1948
9	Medical Benefit Scheme Fund	Medical Benefit Scheme under Employees State Insurance Act, 1948
10	Bidi workers Welfare Fund	Bidi workers Welfare Fund created under section 3 of Bidi Workers' Welfare Fund Act 1977
11	Audio-visual Workers Welfare Fund	Cine Workers Welfare Fund, Fund created under section 3 of the Cine Workers Welfare Fund Act 1981
12	Limestone, Dolomite Welfare Workers' Fund	Limestone and Dolomite Welfare Workers' Fund created under section 5 of Limestone and Dolomite Mines Labour Welfare Fund Act 1972
13	Mica Miners Welfare Fund	Mica Miners Welfare Fund created under section 3 of Mica Mines Labour Welfare Fund Act 1946

	14	Iron Ore Manganese ore chrome ore workers welfare fund	Iron Ore mine, Manganese ore mine and chrome ore mines labour welfare fund created under section 3 ofIron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare FundAct, 1976	
	15	Building and Other Construction Workers' welfare Fund	Building and Other Construction Workers' welfare fund created under section 24 of the Building and Other Construction workers'(Regulation of Employment and Conditions of Service) Act, 1996	
	16	Welfare fund for any class of workers	Welfare funds established by any state government for providing social security and other benefits to such class of workers, such as under The Bombay Labour Welfare Fund Act 1953	
147.2.	All assets of such Schemes or Funds ceased under sub-section (1), shall be divided in such a manner and proportion as may be stipulated, to determine the share of the State Board where the scheme has so ceased, and such share shall vest in and shall stand transferred to the said Scheme Fund mentioned in column A in the table under sub-section (1) of that State. Provided that the funds maintained at the State level shall be transferred to the State Board of the concerned state and shall vest in the concerned State Board, Explanation : The funds so transferred to state Boards shall be managed in the manner specified in Section 25.			
147.3.	All liabilities under the ceased scheme shall be enforceable against, the Scheme Fund to which the assets have been so transferred under sub-section (2)			
147.4.	The beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from such Scheme Fund to which the assets have been so transferred under sub-section (2).			
147.5.	Any dispute arising out of transfer of assets, liabilities and funds under this section to or from any State Board or Central Board shall be determined by the National Council.			
147.6.	The successor Boards shall be entitled to receive benefits arising out of the decisions taken by the predecessor organisations and the successor Boards shall be liable to bear the financial liabilities arising out of the decisions taken by the predecessor organisations.			
148.	**Special provisions relating to existing provident funds**			**EPF 15**
148.1.	Subject to the provisions of section 94, every employee who is a subscriber to any provident fund of an establishment to which this Code applies shall, pending the application of the Provident Fund Scheme to the establishment in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Code had not been passed.			
148.2.	On the application of Provident Fund Scheme to an establishment, the accumulations in any existing provident fund of the establishment, standing to the credit of the employees who become members of the Provident Fund			

	established under this code shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Provident Fund Scheme, be transferred to the provident fund established under this code, and shall be credited to the accounts of the employees entitled thereto in the Fund.	
149.	**Transfer of Assets, cash, balances, investments and Liabilities**	
149.1.	The provisions of this Section shall apply in relation to the apportionment of the assets and liabilities of the predecessor organisations (other than those related to Scheme Funds) immediately before the appointed day.	
149.2.	The apportionment of – (a) assets and liabilities, (b) land and all stores (c) articles and other goods belonging tothe predecessor organisations, would be governed by the regulations and also subject to financial adjustment as may be necessary to secure just, reasonable and equitable apportionment amongst the successor Boards. Explanation: The expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.	
149.3.	Any dispute regarding the amount of financial assets and liabilities shall be settled through mutual agreement, failing which by order by the National Council on the advice of the Comptroller and Auditor-General of India.	
149.4.	The total of the cash balances in all treasuries or accounts of the predecessor organisations and the credit balances of the predecessor organisations with Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the State Boards in such manner as may be stipulated: Provided that for the purposes of such division, there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the two State Boards in the books of the Central Board on the appointed day: Provided further that such portion of reserves of Administrative Fund of the predecessor organisations, as may be stipulated, shall be transferred to the Central Board, and only the balance shall be divided amongst the State Boards.	
149.5.	The securities held in respect of the investments made from Cash Balances, Investment Account or from any Fund in the predecessor organisations shall be apportioned to the concerned state Board in the same manner as apportionment of cash balances under sub-section (4): Provided that the investments of the predecessor organisations immediately before the appointed day in any special fund, the objects of which are confined to a local area, shall belong to the State Board in which that area is included on the appointed day.	
150.	**Transfer of other matters**	
150.1.	The right to recover arrears of any amount or contribution, shall belong to the successor Board in which the establishment is situated.	
150.2.	The liability of the predecessor organisations to refund any contribution or any other amount collected in excess shall be the liability of the successor State Board in whose territories the establishment is situated.	

150.3.	The right of the predecessor organisations to recover any loans or advances made before the appointed day to any local body, society, worker or other person in an area within a State shall belong to the successor Board having jurisdiction of that area.	
150.4.	The liability of the predecessor organisations in respect of the provident fund and pensions of the employees of the predecessor organisations on the appointed day shall, as from that day, be the liability of the State Board to which that employee is permanently allotted: Provided that the liability of the predecessor organisations in respect of pensioners of the predecessor organization shall be apportioned between the successor Boards in in such manner as may be stipulated.	
151.	**Managing of Contracts**	
151.1.	Where, before the appointed day, the predecessor organisation has made any contract in the exercise of its executive power for any purposes of the said organisation, that contract shall be deemed to have been made in the exercise of the executive power— (a) if the purposes of the contract are, on and from the appointed day, exclusive purposes of any of the State, then, of that State Board; or (b) in any other case, of the Central Board, and all rights and liabilities which have accrued, or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the predecessor organisation, be the rights or liabilities of the successor State Board or the Central Board, as the case may be: Provided that in any such case as is referred to in clause (b), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the successor State Boards or in default of such agreement, as the National Council may, by order, direct.	
151.2.	For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract— (a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and (b) any liability in respect of expenses incurred in or in connection with any such proceedings.	
151.3.	This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.	
152.	**Miscellaneous Provisions on transfer of assets and liabilities**	
152.1.	The benefit or burden of any asset or liability of the predecessor organisations not dealt with in the foregoing provisions of this Part shall pass to the Central Board in the first instance, subject to such financial adjustment as may be agreed upon between the State Boards or, in default of such agreement, as the National Council may, by order, direct.	
152.2.	Where, by virtue of any of the provisions of this Part, any of the successor Board becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the National Council is of opinion, on a reference made within a period of three years from the appointed day by either of the State Board, that it is just and equitable that (a) property or those benefits should be transferred to, or shared with, the other successor State Board, or (b) a contribution towards that liability should be made by the other	

	successor State Board, the said property or benefits shall be allocated in such manner between the two State Boards, or the other State Board shall make to the State Board subject to the liability such contribution in respect thereof, as the National Council may, after consultation with the two State Boards by order determine.	
153.	**Transfer of applications to Tribunals**	
153.1.	All applications which are pending before the – (a) Employee' Provident Fund Appellate Tribunal constituted under the Employee Provident Fund and Miscellaneous Provisions Act 1952 (b) Employees' insurance Court constituted under the Employees' State Insurance Act 1948 (c) High Court, against orders of Commissioner under section 30 of the Employee Compensation Act 1923 (d) Appropriate government or the appellate authority under section 7(7) of the Payment of Gratuity Act 1972 shall stand transferred to a Tribunal exercising jurisdiction in respect of establishments in relation to which such applications had been made as if such applications were appeals preferred to the Tribunal.	
154.	**Reorganisation of Employees of Employee Provident Fund Organisation, Employees' State Insurance Corporation and Director General Labour Welfare**	
154.1.	The Central Government, in consultation with the National Council, shall by notification, prepare a Scheme for reorganization and division of posts in various cadres existing in the predecessor organisations and creation of new cadres in the Central Board and State Boards.	
154.2.	The initial strength of the cadres created under sub-section (1) shall be determined be the Scheme framed in that sub-section	
154.3.	The Central Government, in consultation with the National Council shall by notification, prepare a scheme for allocation of existing employees of predecessor organization to the successor Boards, or National Council.	
154.4.	The successor Social Security Organisation in respect of every existing employee of the predecessor organizations shall be determined by the Central Board in accordance with the Scheme notified by the Central Government under sub-section (3)	
154.5.	Upon the commencement of the Code in any particular State, till such time successor social security organisation is determined in respect of employees of the predecessor organization working in that state under sub-section (4) – a. All employees of the predecessor organisation equivalent to Central Service Group "B", Group "C" and "Group "D", shall be deemed to be the employee of the corresponding State Board, where the concerned employee is posted as on the date of commencement: Provided that the employees posted in the Headquarters of aforesaid organisations shall be deemed to be the employees of the Central Board. b. All employees of predecessor organization equivalent to Central Service "Group A", shall be deemed to be the employee of the Central Board: Provided that if an employee is posted in a zonal or regional or State office of the aforesaid organization as on the date of	

	commencement, he shall be deemed to be on deputation to the concerned State Board, where he is posted: Provided further that the medical officer and officers and staff in the medical cadre of Employees' State Insurance Corporation shall be deemed to be the employee of the corresponding State Board where the concerned employee is posted as on the date of commencement All employees of ESIS shall be deemed to be the employees of the concerned state Board.	
154.6.	Every person who, immediately before the appointed day is holding or discharging duties of any post or office in connection with the affairs of the predecessor organisation in any area which on that day falls within any of the successor State Board shall continue to hold the same post or office in that successor State Board, and shall be deemed on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in, that successor State Board: Provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.	
155.	**Provisions relating to services and service conditions**	
155.1.	Nothing in this section or section 154 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State: Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the successor Board under section 154 shall not be varied to his disadvantage except with the previous approval of the Central Government.	
155.2.	All services prior to the appointed day rendered by a person— (a) if he is deemed to have been allocated to any Board under section 154, shall be deemed to have been rendered in connection with the affairs of that Board; (b) if he is deemed to have been allocated to the National Council shall be deemed to have been rendered in connection with the affairs of the National Council, for the purposes of the rules regulating his conditions of service.	

Part U
Offences and Penalties

156.	Punishment for certain offences	
156.1.	Whoever- (a) Contravenes any provision of any of the sections, sub-sections, clauses, provisos or other provisions of this Code mentioned in the second column of the Table in the Sixth Schedule; or (b) fails to comply with any order or direction lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisos or other provisions, shall for such offence,be punishable- (i). with fine which may extend to the amount, or with imprisonment for a term which may extend to the period, specified in that behalf in the fourth column of the said Table or with both; and (ii). in the case of a continuing contravention or failure, with an additional fine which may extend to the amount specified in the fifth column of that Table for every day during which such contravention or failure continues after conviction for the first such contravention or failure: Provided that wherever a penalty of imprisonment is specified in the sixth Schedule, the court trying the offence, is of opinion that lesser term of imprisonment than the minimum specified in the schedule or imposition of a fine in lieu of imprisonment would suffice, the said court may, for the reason to be recorded by it in writing, impose such lesser imprisonment or fine in lieu of imprisonment. Provided further that any person committing an offence of non-payment of contribution under section 20 or Administrative charges under section 38 shall not cease to be liable to any penalty merely by reason of the fact that he paid the contribution or Administrative charges before the levy of such penalty.	
156.2.	Whoever – (a) contravenes any provisions of any Scheme framed under section 24 ; or (b) fails to comply with any order or direction lawfully given to him or any requisition lawfully made upon him under any of the provisions of the said Schemes, (c) contravenes any provisions of the Rules or Regulations or by-laws framed under this code shall for such offence, be punishable – (i). with fine which may extend to such amount, not exceeding two e lakh rupees, as mentioned in the scheme, the rule, the Regulation or the guideline as the case may be; and (ii). in the case of a continuing contravention or failure, with an additional fine which may extend to such amount, not exceedingy two thousand rupees per day, as may specified in the said Scheme or rule for every day during which such contravention or failure continues after conviction for the first such contravention or failure.	**EPF 14(2)**
156.3.	Whoever, for the purpose of – (a) causing any increase in payment or benefit under this Code or Schemes framed under section 24 ; or (b) causing any payment or benefit to be made where no payment or benefit is authorised by or under this Code or Schemes; or	**PGA 9(1)**

	(c) avoiding any payment to be made by himself under this Code or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall for such offence, be punishable with imprisonment for a term which may extend to six months or with fine not exceeding two lakh rupees, or with both: Provided that in the case of second or subsequent offences, the punishment shall be imprisonment for a term which may extend to one year, and with a fine which may extend to ten lakh rupees: Provided further that where a member or beneficiary of a Scheme is convicted under this section, he shall not be entitled for any cash benefit under this Code for such period as may be stipulated.	
156.4.	Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Code or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector or willfully refuses to provide evidence or statements lawfully required to be given shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one lakh rupees, or with both. Explanation: Documents include documents and information in electronic form.	**MBA 22**
156.5.	Whoever, in any case in which a penalty is not expressly provided by this Code, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Code, shall be punishable with fine which may extend to one lakh rupees, and in case of a continuing failure or contravention, with an additional fine which may extend to two thousand rupees for every day until the continuation of such failure or contravention.	**MBA 21(2)**
156.6.	Whoever, having been convicted by a court of an offence punishable under this Code, commits the same offence shall be subject for every such subsequent offence to imprisonment for a term which may extend to five years, but which shall not be less than two years, and shall also be liable to a fine which may extend to fivelakh rupees, but shall not be less than two lakh rupees.	
156.7.	The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences mentioned as 'cognizable' in the sixth column of the Table in the sixth Schedule, as if it were a cognizable offence- (a) for the purposes of investigation of such offence; and (b) for the purposes of all matters other than- (i). The matters referred to in Section 42 of that Code; and (ii). arrest of a person, except on the complaint of, or upon information received from, such officer of the Social Security Organisations, not being below such rank as may be prescribed	
157.	**Offences by companies**	
157.1.	If the person committing an offence under this Code, is a company, every person who at the time the offence was committed was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed	

	without his knowledge or that he exercised all due diligence to prevent the commission of such offence.	
157.2.	Notwithstanding anything contained in sub-section (1) where an offence under this Code has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation – For the purposes of this section, - (a)"Company" means any body corporate and includes a firm, limited liability Partnerhip registered under Limited Liability Partnership Act, 2008and other association of individuals; and (b)"Director" in relation to a firm, means a partner in the firm.	
158.	**Cognizance and trial of offences –**	
158.1.	Subject to sub-section (3), no Court shall take cognizance of any offence punishable under this Code, except on a report in writing of the facts constituting such offence is made by an Inspector appointed under Section 113. Provided that no inspector shall make the complaint unless he has obtained previous sanction of such officer of Social Security Organizations as may be authorized by the Chief Executive by general or special order.	
158.2.	No court inferior to that of a Metropoliton Magistrate or a Judicial Magistrate of the first class shall try any offence under this Code.	
158.3.	In case of offences relating to Part H (Maternity Benefits), any aggrieved woman, an office bearer of a trade union registered under the Trade Union Act 1926 of which such woman is a member or a voluntary organization registered under Societies Registration Act, 1860 may also file a complaint in any court of competent jurisdiction: Provided that no complaint under this sub-section shall be filed after expiry of one year from the date on which the offence is alleged to have been committed.	**MBA 23**
159.	**Power of Commissioner to Compound Offences and make orders**	
159.1.	Notwithstanding anything contained in the Code of Criminal Procedure, 1973, if any person is charged with an offence, not being an offence punishable with imprisonment under this Code, the punishment may, on an application of the accused person either before or after the institution of the prosecution be compounded by Commissioner on such terms and conditions and on payment of such sums as may be prescribed: Provided that the sums prescribed shall not, in any case- (d) exceed the maximum amount of the fine, and (e) Be less than the minimum amount of fine (if applicable) which may be imposed for the offences so compounded: Provided further that no such offence shall be compounded unless the person has complied with the provisions of this Code or Scheme or any other condition lawfully imposed upon him under the Code or Schemes. Provided also that failure of compliance with the order of Compounding shall be an offence punishable with fine which shall be fifty percent of the maximum fine prescribed for the offence so compounded.	

159.2.	Nothing in sub-section (1) shall apply to an offence committed by any person, company or its officer within a period of five years from the date on which a similar offence committed by it or him was compounded under this section. Explanation.—For the purposes of this subsection, any second or subsequent offence committed after the expiry of a period of five years from the date on which the offence was previously compounded, shall be deemed to be a first offence;	
159.3.	Where a person is convicted of an offence of making default in the payment of any amount to the Board or in the transfer of accumulations required to be transferred by him under sub-section (4) of section 96, the court may, in addition to awarding any punishment, by order in writing require him within a period specified in the order which the court may, if it thinks fit and on application in that behalf may from time to time, extend, such specified period for the payment of the amount or transfer the accumulations, as the case may be, in respect of which the offence was committed.	
159.4.	Where an order is made under sub-section (3), the person shall not be liable under this Code in respect of the continuation of the offence during the period or extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may be, the order of the court has not been fully complied with, the person shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof under sub-section (6) of section 156 and shall also be liable to pay fine which may extend to five thousand rupees for every day after the expiry of the period specified in the order.	
159.5.	Where a person is convicted for any offence regarding failure to payment of Gratuity, Maternity Benefit or Employee Compensation or payment of any other amount to a worker or to the Board, and such Gratuity, Maternity Benefit or Employee Compensation or any other amount has not already been recovered, the court shall, in addition to any penalty or fine imposed, recover such Gratuity, Maternity Benefit or Employee Compensation or any other amount as if it were a fine and pay the same to the person entitled or the State Board, as the case may be.	**MBA 21(2) proviso**
160.	All the moneys received by way of penalties levied under this code and damages imposed under section 121shall be credited to the social security reserve fund established in accordance with the provisions of section 23.	**Pfrda 29**
161.	**Powers of Central Government to index fines**	
161.1.	The central government may, by notification increase, reduce or otherwise modify – (a) the fines specified in Section 156, or (b) the fines specified in the sixth Schedule, or (c) the maximum limit of the fines specified in section 156, by linking the fine increase or reduction to the change in Consumer Price Index: Provided that the increase or reduction of fines shall not be more that that is warranted by the change in Consumer Price Index.	
162.	**Community Service Order**	
162.1.	Subject to the provisions of sub section (2) and notwithstanding the provisions contained in sections 156 to 159 the court trying an offence under this code may in respect of an offender, instead of dealing with him in any other way, make in respect of the offence of which he is convicted, an order (in this Act referred to as a "community service order") under this section. Provided that nothing in this section shall be construed as preventing a court	

	which makes a community service order from making, in relation to the offence in respect of which the order is made, an order under any other enactment for— (a) the revocation of any license, (b) the imposition of any disqualification, (c) the forfeiture, confiscation, seizure, restitution or disposal of any property, or (d) The payment of compensation, costs or expenses. Provided that no community service order shall be made in respect of offences where the maximum imprisonment specified in the Code is more than two years.	
162.2.	A court shall not make a community service order unless- (a) it is satisfied, after considering the offender's circumstances and a report about him from such an authority as may be specified in the by-laws (including, if the court thinks it necessary, hearing evidence from that authority), that the offender is a suitable person to perform work under such an order and that arrangements can be made for him to perform such work, and (b) The offender has consented for community service.	
162.3.	A community service order shall require the offender to perform, in accordance with this Act, unpaid work for such number of hours as may be stipulated	
162.4.	Before making a community service order in respect of an offender the court shall explain to him the — (a) The effect of the order and, in particular, the requirements of section 163, (b) The consequences which may follow under section 164 if he fails to comply with the Community Service Order.	
162.5.	Where a court makes a community service order and there is in force in respect of the offender at the time of the making of that order another such order (whether made by the same or a different court) the court making the later order may direct in that order that the hours of work specified therein shall be concurrent with or additional to those specified in the earlier order.	
163.	**Requirements under community service order**	
163.1.	An offender in respect of whom a community service order is in force shall— (a) report to a relevant officer as directed from time to time (b) perform satisfactorily for the number of hours specified in the order such work at such times as he may be directed by or on behalf of the relevant officer to whom he is required to report under this subsection and (c) Notify the officer to whom he is required to report under this subsection of any change of address. Explanation: - The relevant officers for the purpose of this section shall be specified in the by-laws.	
163.2.	The work to be performed under a community service order shall be performed in the period of two years beginning on the date of the order but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it. Provided that where it appears to the Court on an application by the offender or on a report by the relevant officer, that it would be in the interests of justice, having regard to circumstances which have arisen since the order was made, to extend this period of two years, the court may, in relation to the order, extend that period.	

164.	**Consequences of failure to comply with the Community Service Order**	
164.1.	An offender in respect of whom a community service order is in force and the said offender has failed to comply with the requirements of section 163, the court may, having regard to circumstances which have arisen since the order was made, revoke the order and deal with the offender in the manner in which he could have been dealt with for that offence if the Community Service Order had not been made.	
164.2.	Where the Court proposes to exercise its powers under sub section (1), it shall summon the offender him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.	
164.3.	An offender who fails, without reasonable cause, to comply with a requirement of section 161 shall be guilty of an offence and, without prejudice to the continuance in force of the community service order, shall be liable to a fine not exceeding two lakh rupees but which shall not be less than fifty thousand rupees or with imprisonment which may extend to six months or with both.	

PART V
SUBORDINATE LEGISLATIONS

165.	**Powers of Central Government to make Rules**	
165.1.	The Central Government may, after consultation with the National Council and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.	
165.2.	In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:- (i) The administrative and financial powers of the National Council. (ii) The manner or rotation of states and union territories under section 3(3)(e), , 3(6)(e), 3(6)(f) (iii) The officers of central government who may be appointed as members of National Council under section 3(3)(f), or Central Board under section 3(6)(d), or state Board under section 3(9)(e) (iv) The officers of state government who may be appointed as members of State Board under section 3(9)(d) (v) The term of social security organizations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (vi) The method of nomination, terms and conditions of Chairman, vice-chairman and other members of Social Security Organisations (vii) The tenure, term, fee and allowances and other condition of service of the members of social security organisatios, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (viii) The manner of filling vacancies of social security organisatios, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (ix) the procedures and the quorum at meetings of the social security organisations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees; and the minimum number of meetings of those bodies to be held in a year; (x) the records to be kept of the transaction of business by the social security organisations, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees. (xi) the manner in which appointments and elections of members of the social security organisatios, the Committees, the Medical benefit Council, the Central Advisory Committee and the State Advisory Committees shall be made (xii) Matters that need to be submitted by the executive committee for the decision of the National Council (xiii) the powers and duties of the Medical Benefit Council (xiv) Matters that need to be submitted by the standing committee for the decision of the State Board (xv) The number of persons to be appointed as members from the categories specified in sub-section (2) of section 6 to the Central Advisory Committee (xvi) The powers and duties, method of recruitment, salary and allowances and condition of service of the Regulator, Director	

	General and Commissioner. (xvii) Matters for which the Central Board or the State Board may exercise powers of civil court under the Code of Civil Procedure 1908 (xviii) The form, manner, time, fee, documents required, particulars to be reported, security, for making application for registration of establishment (xix) Manner in which any amendment to registration particulars are to be informed to commissioner. (xx) Time and manner in which application for cancellation of registration is to be made. (xxi) Information to be contained in certificate of registration of establishment (xxii) Form and manner in which register of registered establishment shall be maintained. (xxiii) Manner of previous publication of schemes and supplementary schemes (xxiv) Collection charges that may be deducted by agency collecting cess. (xxv) The period within which duty of excise, or the cess shall be required to be paid (xxvi) the percentage of contribution that shall be payable as administrative charges (xxvii) items on which the administrative funds may be defrayed (xxviii) the rate of interest levied under section 39(1) (xxix) the maximum amount payable as gratuity (xxx) the manner, form and time for making application for payment of gratuity (xxxi) the manner and procedure for registration of agreements under section 75(1) (xxxii) the manner, form and authority for making application of renewal of exemption (xxxiii) conditions under which the social security organisations may hold property (xxxiv) conditions for investments of monies with the social security organisations (xxxv) terms and conditions on which loans may be raised by the social security organisations. (xxxvi) Conditions under which losses may be written off. (xxxvii) Powers and duties of Regulator and Director-General (xxxviii) The salary and allowances of Regulator, Social Security Advisor, Financial Advisor-cum-Chief Accounts Officer and Chief Vigilance Officer of National Council and the Director General, Investment Advisor, Financial Advisor-cum-Chief Accounts Officer, Chief Vigilance Officer of the Central Board. (xxxix) The maximum scale of pay for the purpose of section 109(3) and 110(3) (xl) Maximum scale of pay of which posts can be created under section 111(3) (xli) Conditions and restrictions in delegation of powers to Assessing Officers and appellate officers (xlii) Authorities that may determine damages under section 121 (xliii) Manner, time and fee for filing appeal under section 122 (xliv) Time period for disposal of appeal (xlv) Manner and procedure for deposit of amount assessed by Assessing Officer (xlvi) Manner, time and fee for filing appeal to tribunal under section	

	125(5) (xlvii) Manner and procedure for deposit of amount required for entertainment of appeal before tribunal (xlviii) Manner of constitution of selection committee for appointment of member of tribunal (xlix) The qualifications and experience of Administrative member (l) Method and manner of appointment of Administrative member (li) Salary, allowances, and terms of condition of service of members of tribunals (lii) Conditions and restrictions of meeting the expenses of tribunals (liii) The manner of certifying the certificate to recover any amount by the Recovery officer (liv) Penalties for breach or violation of rules (lv) Regulating the conditions, manner of operation and revocation of Community Service Orders specified in sections 162,163and 164. (lvi) regulating the performance of work under community service orders, (lvii) specifying the minimum and maximum hours of work to be done under community service order on any one day (lviii) make provision regarding the reckoning of time worked under community service orders (lix) provide for records to be kept of the work done under community service orders	
165.3.	The State Government may, after consultation with the State Board and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the following provisions- (i) Powers and duties of the Commissioner (ii)	
166.	Power to make regulations and by-laws	
166.1.	Subject to the provisions of this Code, the National Council may make regulations for any matter relating or incidental to regulating the social security Schemes and their implementation in India.	
166.2.	Without prejudice to the generality of the powers of National Council under sub-section (3), such regulations may provide for — (i) Manner in which an intermediate agency will perform their functions (ii) The multiple of wage ceiling as specified in section 2 (12) (iii) The manner of administration of social security funds other than scheme funds, state gratuity fund and administrative fund. (iv) The duties of medical benefit council (v) Advisory Committees that may be formed under section 6(3) (vi) Categories under which registration of workers shall be done, and eligibility criteria for each category (vii) The Minimum period under section 12(3)(c) (viii) Form of record or register of workers and manner in which record or register of registered worker shall be maintained (ix) Banks in which moneys accruing to State Social Security Funds or State Gratuity Fund can be paid (x) Manner in which the amount credited to worker's social security account shall be apportioned in schemes. (xi) Amount that can be retained by the State Board where the worker is	

	working, in case where the social security account of the worker is maintained by some other state under section 31(3). (xii) Manner of calculating the amount that shall be required to be transferred to the state board of destination states under section 31(4) (xiii) Manner of distribution of cess amount collected by central governments to the state boards (xiv) Form of certificate to be issued under section 42(5) and period within which it shall be issued (xv) the manner and time of payment of contributions deducted at source; (xvi) period within which person deducting contribution at source shall register (xvii) conditions under which amount can be withdrawn from state gratuity fund (xviii) duration of nursing break (xix) distance within which crèche need to be provided by the employer (xx) form of notice for claiming maternity benefit and employee compensation (xxi) Minimum interval between two medical examinations under section 67(1) (xxii) structure and discharge functions, powers and activities of organisations under section 84 (xxiii) duties and functions of intermediate agencies (xxiv) eligibility norms for grant of license to an intermediate agency (xxv) form and manner of making application for license of intermediate agency (xxvi) manner of cancellation of license of intermediate agency (xxvii) time within which an exempted establishment shall transfer account under section 95(2), or transfer the funds upon cancellation of exemption under section 96(4) (xxviii) manner in which administrative funds shall be shared (xxix) The procedure of conducting Social Audits, its formats and measurement indicators and methodologies. (xxx) powers of facilitator (xxxi) damages that may be levied under section 121 and 123(5) (xxxii) manner in which administrative funds of predecessor organisations shall be shared (xxxiii) manner in which assets and liabilities of predecessor organisations shall be shared (xxxiv) period in which a person convicted of an offence under this act shall not avail cash benefits. (xxxv) Penalties for breach or violation of regulations	
166.3.	Subject to the provisions of this Code, the Central Board may make by-laws for any matter relating or incidental to implementing the social security Schemes and specifying other procedural compliances required to implement provisions of this Code.	
166.4.	Without prejudice to the generality of the powers of Central Board under sub-section (3), such by-laws may provide for matters relating or incidental to— (i) Form of Registers, records, books of accounts and other documents required to be maintained by employers, establishments, contractors, works contactors, landlords, owner of a mine, producer of a film, self-employed units, person deducting contribution at source and intermediate agencies; and manner in which such records shall be	

	maintained. (ii) form and manner in which application for registration (for workers or establishments) shall be made (iii) form and manner in which application for cancellation, deactivation or reactivation (for workers or establishments, as applicable) shall be made (iv) Form of Registration card (in case of workers) and registration certificate (in case of establishments) (v) Maximum transaction fee that may be charged at facilitation centres (vi) Administrative, and financial and other support that shall be provided by the State-board to registration authorities (vii) form and manner in which application for transfer of social security account of a worker from one state to another shall be made (viii) manner and procedure for transfer of amount in social security fund account of a worker when his social security account is transferred from one state to another (ix) form, manner, periods, method of verification, and time of filing returns (or return-cum-challan) ; or any other matter relating or incidental to filing of returns (or return-cum-challan) (x) particulars that should be furnished in the returns, and documents to be submitted along with returns(or return-cum-challan); (xi) authorities to whom return (or return-cum-challan) is to be furnished. (xii) the manner and time of payment of contributions (or contributions deducted at source) and any other matter related thereto; (xiii) collection of contributions (or contributions deducted at source) and its method of accounting (xiv) the date by which evidence of contributions having been paid is to be received by the State Board; (xv) authorization to local bodies or intermediate agencies to receive contributions and returns on behalf of State Board (xvi) duties of intermediate agencies or local bodies so authorized with regards to collection of collection of returns and contributions and transmitting the same to the State Boards. (xvii) consequential actions in case of failure in performing duties by intermediate agency or local body. (xviii) Facilities, and standards of services that shall be provided in a crèche (xix) Proofs required to be produced for claiming maternity benefit (xx) Proof required for claiming leave with wages under section 56 (xxi) form, manner, and time of filing notice of accident, and authorities to whom it is to be filed (xxii) particulars to be contained in the report accompanying notice of accident (xxiii) form, manner, and time of filing return of accidents etc. and authorities to whom it is to be filed	

	(xxiv) particulars to be contained in the return of accidents (xxv) form of statement referred to in section 71(3) (xxvi) the constitution of medical board under section 74(1) (xxvii) form and manner of making complaint under section 135(2) (xxviii) mode and means of acknowledging of complaint made under section 135(3) (xxix) having regard to the convenience of establishments and the interests of employees, specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (5) of section 42 and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith. (xxx) for the purposes of giving credit in respect of contribution deducted, for the purposes of giving credit to a works contractor and also the assessment year for which such credit may be given. (xxxi) procedure to be followed by the authorised officer for obtaining ingress into such building or place to be searched where free ingress thereto is not available; (xxxii) procedure to be followed by the authorised officer for ensuring safe custody of any books, accounts, papers, receipts, vouchers, reports, or other documents seized under this section.	

The First Schedule
{see section 1(4) and 1(5)}
PART – I
Entities to whom the Code or certain provisions of the Code shall not apply

Description of Entities	Which provisions of Code shall not apply	Conditions to be fulfilled for the provisions not to apply	Restrictions
Any establishment of the Central Government or State Government including departments of Central Government or State Government as the case may be	The entire Code	Code shall not apply in respect of such employees who are entitled to the benefit of contributory Provident Fund, Old age pension and other social security benefits entitled to a regular central / state government servant (as the case may be) in accordance with any Scheme or rule framed by the Central Government or the State Government governing such benefits.	The Code will apply in respect of employees and workers who are not entitled to the government Social Security schemes, including contractual/ daily wage employees, as well as employees/ workers engaged through a contractor
Any institution belonging to or under control of Central Government or State Governments viz.- (a) Authorities (b) Boards (c) Public sector undertakings (d) Local bodies to whom Certificate of exclusion has been granted by the Commissioner after verification of fulfillment of conditions.	Such provisions of the Code as are specified in the certificate of exclusion	Code shall not apply in respect of such employees who are entitled to the benefit of contributory Provident Fund, Old age pension and other social security benefits that are similar or superior to that entitled to a worker or employee under the Code.	The Code will apply in respect of employees and workers who are not entitled to the Social Security schemes of the institution, including contractual/ daily wage employees, as well as employees/ workers engaged through a contractor

PART – II
Workers upon whom the Code or certain provisions of the Code shall not apply

Description of Workers	Which provisions of Code shall not apply	Conditions to be fulfilled for the provisions not to apply	Restrictions

The Second Schedule
{see section 32(1)}
Items on which Cess may be levied

Item	Maximum rate at which Cess may be levied	Cess will be levied on

Third Schedule

{See Section 24(6)}

Matters that may be provided for in a scheme

Any Scheme framed under Section 24(1) or 24(2)may provide for any of the following matters

(a) the application of the scheme to establishments or classes of establishments, employees or classes of employees, persons or classes of persons, specifying the mode of admission to the scheme.
(b) registration of the establishments or employers and person to whom the scheme applies;
(c) fixation of the rates of contribution or premium for the scheme;
(d) collection of contributions/ premium;
(e) Benefits that will accrue to an eligible member, and the time period for which the benefits shall accrue.
(f) Conditions for entitlement of benefits.
(g) Certifications and documentation required for claiming benefits
(h) dispensation of the benefits;
(i) Compulsory nature for certain class of persons to join
(j) Restrictions, if any, on a person availing benefits under the scheme over claiming any other compensation or benefits provided under this Code or any other scheme.
(k) Commutation of benefits, if applicable.
(l) investment of funds;
(m) accounting of the receipts, disbursements, and balances and their audit;
(n) annual reports; and
(o) other incidental and supplementary matters
(p) any other matter necessary for administration of the Scheme

THE FOURTH SCHEDULE
[See Section 2(136)]

PART I: LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT

S. No.	*Description of injury*	*% age of loss of earning capacity*
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100

PART II: LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

S. No.	***Description of injury***	***%age of loss of earning capacity***
	Amputation-Upper limbs (either arm)	
1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than 20.32 cm from tip of acromion	80
3.	Amputation from 20.32 cm from tip of acrimion to less than 11.43 cm below tip of olecranon	70
4.	Loss of a hand or of the thump and four fingers of one hand or amputation from 11.43 cm. below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20
11.	Guillotine amputation of the tip of the thumb without loss of bone	10
	Amputation-Lower limbs	
12.	Amputation of both feet resulting in end-bearing stumps	90
13.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
14.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
15.	Loss of all toes of both feet proximal to the proximal inter phalangeal joint	30
16.	Loss of all toes of both feet distal to the proximal inter phalangeal joint	20
17.	Amputation at hip	90
18.	Amputation below hip with stump not exceeding 12.70 cm. in length measured from tip of great trochanter	80
19.	Amputation below hip with stump exceeding 12.70 cm. in length	70

	measured from tip of great trochanter but not beyond middle thigh	
20.	Amputation below middle thigh to 8.89 cm. below knee	60
21.	Amputation below knee with stump exceeding 8.89 cm. but not exceeding 12.70 cm.	50
22.	Amputation below knee with stump exceeding 12.70 cm.	5
23.	Amputation of one foot resulting in end-bearing	50
24.	Amputation through one foot proximal to the metatarso-phalangeal joint	50
25.	Loss of all toes of one foot through metatarso-phalangeal joint	20
	Other injuries	
26.	Loss of one eye, without complications, the other being normal	40
27.	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal	30
28.	Partial loss of vision of one eye	10
	LOSS OF	
	A- Fingers of right or left hand *Index finger*	
29.	Whole	14
30.	Two phalanges	11
31.	One phalanx	9
32.	Guillotine amputation of tip without loss of bone	5
	Middle finger	
33.	Whole	12
34.	Two phalanges	9
35.	One phalanx	7
36.	Guillotine amputation of tip without loss of bone	4
	Ring or little finger	
37.	Whole	7
38.	Two phalanges	6
39.	One phalanx	5
40.	Guillotine amputation of tip without loss of bone	2
	B- Toes of right of left foot *Great toe*	
41.	Through metatarso-phalangeal joint	14
42.	Part, with some loss of bone	3
	Any other toe	
43.	Through metatarso-phalangeal joint	3
44.	Part, with some loss of bone	1
	Two toes of toes of one foot, excluding great toe	
45.	Through metatarso-phalangeal joint	5
46.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe	
47.	Through metatarso-phalangeal joint	6
48.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe	
49.	Through metatarso-phalangeal joint	9
50.	Part, with some loss of bone	3

Explanation: Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

THE FIFTH SCHEDULE
{See Section 62}
List of Occupational Diseases

Sl. No.	Occupational disease	Employment
1.	2	3
	PART A	
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) All work involving exposure to health or laboratory work; (b) All work involving exposure to veterinary work; (c) Work relating to handling animals, carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; (d) Other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air.	All work involving exposure to the risk concerned
3.	Diseases caused by lead or its toxic compounds.	All work involving exposure to the risk concerned
4.	Poisoning by nitrous fumes.	All work involving exposure to the risk concerned
5.	Poisoning by organophosphorus compounds.	All work involving exposure to the risk concerned
	PART B	
1.	Diseases caused by phosphorus or its toxic compounds.	All work involving exposure to the risk concerned
2.	Diseases caused by mercury or its toxic compounds.	All work involving exposure to the risk concerned
3.	Diseases caused by benzene or its toxic homologues.	All work involving exposure to the risk concerned
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds.	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds.	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations.	All work involving exposure to the risk concerned.
8.	Primary epithelomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	All work involving exposure to the risk concerned.

9.	Diseases caused by he toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.
10.	Diseases caused by carbon disulphide.	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations.	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds.	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items.	All work involving exposure to the risk concerned.
14.	Heating impairment caused by noise.	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the slats of such substances.	All work involving exposure to the risk concerned.
16.	Diseases caused by beryllium or its toxic compounds.	All work involving exposure to the risk concerned.
17.	Diseases caused by fluorine or its toxic compounds.	All work involving exposure to the risk concerned.
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process,	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds.	All work involving exposure to the risk concerned.
20.	Diseases caused by nitroglycerine or other itroacid esters.	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide.	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos.	All work involving exposure to the risk concerned.
24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter.	All work involving exposure to the risk concerned.
	PART C	
1.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraoosilicosis asbestosis) and silico-tuberculosis provided that silicosis is an essential factory in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2.	Bagassosis,	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax, hemp and sisal dust (Byssinosos)	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alvoelitis caused by the inhalation of organic dusts.	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals.	All work involving exposure to the risk concerned.

THE SIXTH SCHEDULE

[See Sub-section (1) of section 156]

PENALTIES

Entry no	Violation of Section, Subsection, Clause or Proviso			Subject	Fine and/or imprisonment which may be imposed	Daily fine which may be imposed	Whether offence if Cognizable?
Column 1	Column 2			Column 3	Column 4	Column 5	Column 6
	Section	Sub-section	proviso				
1.	11	(4)	First	A registered worker, applying for, or obtaining registration more than once	Fine which may extend upto ten thousand rupees	Nil	Non-congnizable
2.	11	(4), (5), (7), (10) or (15)		Failure to apply for registration of worker	Fine which may extend upto Twenty thousand rupees but which shall not be less than ten thousand only (per worker)	1000 rupees per worker per day	Non-congnizable
3.	11	(6)		Failure on the part of non employee to apply for registration within the stipulated period	Fine which may extend upto Ten thousand rupees	100 rupees per day	Non-congnizable
4.	11	(9)		Failure to conduct due-diligence of information submitted for registration	Fine which may extend upto Ten thousand rupees	Nil	Non-congnizable
5.	11	(11)		Failure to inform correct Registration Number (VIKAS) to employer/	Fine which may extend upto Ten thousand rupees	Nil	Non-congnizable
6.	11	(15)		Failure by employer to update registration particulars within the time prescribed	Fine which may extend upto Twenty thousand rupees but which shall not be less than ten thousand only (per worker)	1000 rupees per worker per day	
7.	11	(12)		Failure to verify registration of contractor, middleman, agency or placement agency	Fine which may extend upto One lakh rupees but which shall not be less than twenty thousand only	1000 rupees per day	Non-congnizable
8.	11	(13) (a)		Employing worker who is not registered beyond the stipulated period	Fine which may extend upto Twenty thousand rupees but which shall not be less than ten thousand only (per worker)	100 rupees per day	Non-congnizable
9.	11	(13) (b)		An unregistered Contractor taking up work	Fine which may extend upto One lakh rupees but which shall not be less than twenty thousand only	1000 rupees per day	Non-cognizable

10.	11	(14) (a) and (b)		Failure to update Registration particulars	Fine which may extend upto ten thousand rupees	10 rupees per day	Non-congnizable
11.	11	(14)	First	Failure to provide assistance to worker to update registration particulars	Fine which may extend upto Twenty thousand rupees	100 rupees per day	Non-congnizable
12.	(12)	(2)		Failure to apply for cancellation/ re-activation of Registration (worker) within the stipulated period	Fine which may extend upto ten thousand rupees	50 rupees per day	Non-congnizable
13.	(14)	(1)		Failure to apply for registration of establishment within the stipulated period	Fine which may extend upto Twenty thousand rupees	2000 rupees per day	Non-congnizable
14.	15	(1)		Failure to inform about change of particulars warranting amendment of Registration within the stipulated period	Fine which may extend upto Twenty thousand rupees	1000 rupees per day	Non-congnizable
15.	16	(2)		Failure to apply for cancellation of registration	Fine which may extend upto Twenty thousand rupees	100 rupees per day	Non-congnizable
16.	17	(3)		Employing workers without Registration of Establishment beyond the stipulated period	imprisonment for a term which may extend to three years but which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	2000 rupees per day	Cognizable
17.	20	(1)		Failure to pay contribution to Social Security Fund which an employer is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the contributio n payable per day	Cognizable
18.	20	(2)		Failure to pay contribution to Gratuity Fund which an employer is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the contributio n payable per day	Cognizable
19.	20	(3)		Failure to pay Contribution to Social Security Fund which a worker is liable to pay	Fine which may extend upto Twenty thousand rupees	0.2 percent of the contributio	Non congnizable

						n payable per day	
20.	21	(1)		Failure by an employer to deduct and pay the worker's contribution.	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the contributio n payable per day	Non-Cognizable
21.	21	(1)		Failure by an employer to pay worker's contribution which has been deducted by the employer from the employees' or workers' wages;	imprisonment for a term which may extend to five years which shall not be less than two years and a fine which may extend to twenty lakh rupees but shall not be less than five lakh rupees	0.2 percent of the contributio n payable per day	Cognizable
22.	21	(6)		deduction or attempt to deduct from the wages of an employee the whole or any part of the employer's contribution	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	2000 rupees per worker per day	Cognizable
23.	27	(3)		Receiving dual benefits that are prohibited under Section 27 (3)	imprisonment for a term which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	Nil	Non Cognizable
24.	32	(2) or (6)		Failure to pay Cess on Buildings and other constructions which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable
25.	33	(2) or (3)		Failure to pay Cess on Ore and Minerals which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable

26.	34	(2)		Failure to pay Cess on Bidis which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable
27.	35	(3)		Failure to pay Cess on Audio Visual production which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the cess payable per day	Cognizable
28.	37	(1), (2), (3) or (4)		Failure to furnish Returns or Return-cum-Challan	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
29.	37	(5) or (6)		Furnishing incorrect returns or furnishing false particulars in Returns	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	4000 rupees per day	Non-cognizable
30.	37	(7), (8) or (9)		Failure to maintain registers and records required under by-laws	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	4000 rupees per day	Non-cognizable
31.	37	(10)		Failure to furnish information	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
32.	38	(1) or (2)		Failure to pay Administrative Charges which a person is liable to pay	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the amount payable per day	Cognizable
33.	(39)	(1), (2)		Failure to pay Interest which a person is liable to	imprisonment for a term which may	0.2 percent	Cognizable

		or (3)		pay	extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	of the interest amount payable per day	
34.	(40)	(1)		Failure to repay benefits or payments improperly received	imprisonment for a term which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	100 rupees per day	Non-cognizable
35.	42	(1)		Failure to make Contribution Deduction at Source	imprisonment for a term which may extend to one years but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the amount deductible per day	Non-cognizable
36.	42	(5)		Misuse of Certificate Issued by Commissioner	imprisonment for a term which may extend to one years but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
37.	42	(9)		Failure to pay Contribution deducted at Source	imprisonment for a term which may extend to one years but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the amount payable per day	Cognizable
38.	43	(1)		Failure to ensure payment of contribution in respect of employees	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day per worker	Non-Cognizable
39.	43	(5)		Failure to pay contribution deducted from contractor	imprisonment for a term which may extend to three years which shall not be	0.2 percent of the	Cognizable

					less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	amount payable per day	
40.	43	(6)		Failure to maintain registers	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	4000 rupees per day	Non-cognizable
41.	43	(7)		Reduction of the wages or any privileges or benefits admissible to an employee	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	2000 rupees per worker per day	Non-cognizable
42.	44	(1)		Failure to discharge dues on transfer of establishment	imprisonment for a term which may extend to three years which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	0.2 percent of the amount payable per day	Cognizable
43.	45	(1)		Disclosure of particulars referred to in section 45(1) by an official of National Council, Central/State Board of Intermediary Agency except under the provisions of section 45(2)	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	nil	Non-cognizable
44.	46	(1) or (2)		Failure to pay full amount of Gratuity entitled to an employee	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	0.2 percent of the Gratuity amount payable per day	cognizable
45.	49	(1)		Fraudulent withdrawal of any amount from State Gratuity Fund, or not utilizing the withdrawn amount for settling the liability towards Gratuity	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than One lakh rupees	0.2 percent of the amount withdrawn per day	Cognizable
46.	53	(1)		Employment of a woman during the prohibited	imprisonment for a term which may	2000	cognizable

				period	extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	rupees per day	
47.	53	(2)		A woman taking up employment during prohibited period	Fine which may extend upto Ten thousand rupees	nil	Non-cognizable
48.	53	(3)		Requiring woman to undertake arduous work during prohibited period	imprisonment which may extend to six months, but which shall not be less than one month and fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per entitled woman per day	Non-cognizable
49.	53	(4)		Failure to allow nursing breaks	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	2000 rupees per entitle woman per day	Non-cognizable
50.	53	(6)		Making prohibited deductions from wage	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	2000 rupees per entitled woman per day	Non-cognizable
51.	53	(7)		Failure to provide crèche facility	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per per day	Non-cognizable
52.	53	(8)		Absence of any of the prescribed facility in the crèche	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable

53.	53	(9)		Failure to inform any woman employee	Fine which may extend upto One lakh but which shall not be less than Twenty thousand rupees	Nil	Non-cognizable
54.	56	(4)		Denial of leave to a woman when entitled	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per entitled woman per day	Non-cognizable
55.	59	(1)		Discharging, dismissing or otherwise punish a woman during or on account of such absence due to maternity	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per entitled woman per day	Non-cognizable
56.	59	(1)		Giving notice for discharge or dismissal that would expire during such absence	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per entitled woman per day	Non-cognizable
57.	61	(1)		Failure to pay compensation to employee	imprisonment for a term which may extend to three years but which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	0.2 percent of the compensati on payable per day	cognizable
58.	61	(6)		Claiming or obtaining compensation more than once for same accident	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	nil	Non-cognizable
59.	63	(6)		Failure to provide medical aid or reimburse medical expenditure	imprisonment for a term which may extend to one year but which shall not	nil	Non-cognizable

					be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees		
60.	63	(7)		Failure to pay funeral expenses	imprisonment which may extend to six months, but which shall not be less than one month and fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	nil	Non-cognizable
61.	65	(3)		Failure to maintain notice book	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
62.	71	(1)		Failure to give notice and/ or report of accident	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	2000 rupees per day	Non-cognizable
63.	71	(2)		Failure to furnish return of accidents	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
64.	71	(3)		Failure to furnish statement when required by Commissioner	fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees	2000 rupees per day	Non-cognizable
65.	78	(1)		Denial of medical leave	imprisonment which may extend to six months or fine which may extend to one lakh rupees but shall not be less than twenty thousand rupees, or both	nil	Non-cognizable
66.	78	(1)		Claiming or attempting to claim medical leave on false certification	Fine which may extend upto Twenty thousand rupees	nil	Non-cognizable
67.	78	(2)		Discharging, dismissing or otherwise punishing a person during the period of absence due to sickness	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per entitled person per day	Non-cognizable
68.	81	(1)		Failure to observe conditions during availing	Fine which may extend upto Ten	nil	Non-

				sickness benefit	thousand rupees		cognizable
69.	88	(3)		Failure to observe terms and condition of license	imprisonment for a term which may extend to two years but which shall not be less than six months and a fine which may extend to five lakh rupees but shall not be less than one lakh rupees	10000 rupees per day	Non-cognizable
70.	88	(4)		Commencing or conducting activities of intermediate agency without license	imprisonment for a term which may extend to three years but which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	10000 rupees per day	-cognizable
71.	(91)	(1)		Obstructing or preventing authorized officer to enter or search premises, or to seize records	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
72.	93	(3)		Removal, altering, destroying, or other rendering unusable any records in violation of order	imprisonment for a term which may extend to three years but which shall not be less than one year and a fine which may extend to ten lakh rupees but shall not be less than two lakh rupees	nil	cognizable
73.	93	(4)		Failure to appear before authorized officer when required to do so or to answer any question put to him, or, Failure to sign any notes of examination	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
74.	92	(1)		Failure to preserve and/or produce records	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees	2000 rupees per day	Non-cognizable

					but shall not be less than fifty thousand rupees		
75.	92	(2)		Failure to furnish information	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
76.	94	(1)		Default in condition of exemption	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
77.	95	(1)(a)		Failure to establish Board of Trustees in accordance with the provisions in section 95	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
78.	95	(1)(c)(i)		Failure to maintain details accounts records of exempted funds	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	10000 rupees per day	Non-cognizable
79.	95	(1)(c)(ii)		Failure to submit returns in respect of exempted funds / schemes	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
80.	95	(1)(c)(iii)		Failure to invest scheme funds in accordance with the directions of central government	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine	2000 rupees per day	Non-cognizable

					which may extend to two lakh rupees but shall not be less than fifty thousand rupees		
81.	95	(1)(c)(iv)		Failure to transfer scheme fund account of any employee	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
82.	95	(1)(c)(v)		Failure to perform any other duty specified in the Scheme for which exemption is granted	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
83.	95	(2)(a)		Failure to maintain details accounts records of exempted employees	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	10000 rupees per day	Non-cognizable
84.	95	(2)(a)		Failure to submit returns in respect of exempted employees	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
85.	95	(2)(a)		Failure to invest scheme funds in accordance with the directions of central government	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
86.	95	(2)(a)		Obstructing or preventing inspections, or failure to provide reasonable facilities for inspection	imprisonment for a term which may extend to one year but which shall not	2000 rupees per	Non-cognizable

					be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	day	
87.	95	(2)(b)		Reduce the quantum of benefits	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
88.	95	(2)(c)		Failure to transfer funds of an employee	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
89.	95	(3)		Failure to pay contribution	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	0.2 percent of the contributio n payable per day	Non-cognizable
90.	96	(4)		Failure to transfer and/or credit fund on cancellation of exemption	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable
91.	98	(1) , (2)		Failure to transfer accounts	imprisonment for a term which may extend to one year but which shall not be less than three months and a fine which may extend to two lakh rupees but shall not be less than fifty thousand rupees	2000 rupees per day	Non-cognizable

Explanation.- The entries in the third column of the table above headed “subject” are not intended as definitions of the offences specified in the provisions mentioned in the column or even as abstracts of those provisions, but are inserted merely as a reference to the subject thereof.
CHECK 41(11) / 41(12)