

**Bill No. 248 of 2022**

THE CODE ON SOCIAL SECURITY (AMENDMENT) BILL, 2022

By

DR. KRISHNAPAL SINGH YADAV, M.P.

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*further to amend the Code on Social Security Act, 2020.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Code on Social Security (Amendment) Act, 2022.

Short title and  
commencement.

5 (2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

36 of 2020.

2. In section 2 of the Code on Social Security Act, 2020 (hereinafter referred as the principal Act) Code,—

Amendment of  
Section 2.

(i) in sub-section (20), the following proviso shall be inserted, namely—

“Provided that the contractor shall include the agencies engaged by any establishment in the name of concessionaire or Licensee;”;

(ii) for sub-section (78), the following sub-section shall be substituted, namely—

“(78) "social security" means the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to healthcare and to provide income security including sickness benefits, unemployment benefits, old age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit, survivors' benefits and all other benefits as provided under the relevant provisions of this Code or under any other law for the time being in force;” and

(iii) in sub-section (86) for the words "self-employed worker", the words, gig workers, platform workers, freelance workers, agricultural workers, self-employed workers shall be substituted.

Amendment of  
section 53.

**3.** In section 53 of the Code,—

(a) in sub-section (1), for the words "five years", the words "two years" shall be substituted;

(b) in the first proviso for the words "three years", the words "two years" shall be substituted; and

(c) in the second proviso, for the words "five years", the words "two years" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

The Social Security Code, 2020 (the Code) has been enacted to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors. The Code has vital provisions with respect to social security benefits to workers including gig workers. India's obligation to provide a comprehensive social security cover for the workers may be traced to several provisions enshrined in the Constitution of India which include *inter alia* securing equal pay for equal work for both men and women; directions pertaining to the State's responsibility for making effective provisions for assistance in cases of unemployment, old age, sickness and disablement; for securing just and humane conditions of work.

Further, to make the Code more inclusive and inline to various conventions and treaties, this amendment seeks to amend various provisions of the Code. Not only that, the standing committee also suggested some changes to the Code to make it more inclusive this amendment is necessary. Thus, the definition of 'contractor' does not include terms like 'concessionaire or licensee' which are largely used in Railways, Airports and other Infrastructural Sectors because the definition of 'contractor' is inline with the existing definition in the Contract Labour (Regulation & Abolition) Act, 1970 which had worked well over the years and retained in the code to maintain uniformity and this had been done in consultation with stakeholders. Thus, a proviso has been added to include 'concessionaire or licensee' under the ambit of the code.

In addition to it, the definition of 'Social Security' under the code is restrictive and do not include the nine components contained in the International Labour Organisation (ILO) Convention on Social Security (Minimum Standards) 1952. Keeping in mind the objective of the code, as the whole fulcrum of the code revolves around the definition of 'social security'. It is thus absolutely necessary to make the definition inclusive and encompasses in it all the necessary requirements. Thus, this amendment seeks to make the definition more inclusive and inline to the mandate of ILO.

Moreover, the definition of 'unorganised worker' also require as it stated earlier in 'the unorganised workers social security act 2008' and the standing committee also recommend to make the definition more comprehensive and to include gig and platform worker in its ambit. Thus, this amendment encompass gig workers, platform workers, freelance workers, agricultural workers in the definition of unorganised worker.

Also, the code prescribe the minimum service of five years for the benefit of gratuity. However, keeping in view the nature of India's Labour market where most employees are employed for a short duration period only, it becomes difficult to avail any gratuity benefits as five years of continuous employment is required as per the extant provisions. This has become an incentive to employers to terminate employees before five years are over. Gratuity amount should therefore be made payable after completion of two years of service only. Thus, this amendment changes the five years mandate to two years.

Hence this Bill.

NEW DELHI;

KRISHNAPAL SINGH YADAV

November 23, 2022.

ANNEXURE

EXTRACT FROM THE CODE ON SOCIAL SECURITY BILL, 2020.

(36 OF 2020)

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Other All-India  
Services.

2. In this Code, unless the context otherwise requires,—

(20) "contractor", in relation to an establishment means a person, who —  
(i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment through contract labour; or (ii) supplies contract labour for any work of the establishment as mere human resource, and includes a sub-contractor;

(78) "social security" means the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to healthcare and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code.

(86) "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act, 1947 or Chapters III to VII of this Code;

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Payment of  
gratuity.

53. (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

(a) on his superannuation; or

(b) on his retirement or resignation; or

(c) on his death or disablement due to accident or disease; or

(d) on termination of his contract period under fixed term employment; or

(e) on happening of any such event as may be notified by the Central Government:

Provided that in case of working journalist as defined in clause of section 2 of the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years:

Provided further that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed term employment or happening of any such event as may be notified by the Central Government:

Provided also that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the competent authority as may be notified by the appropriate Government who shall

invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed by the appropriate Government, until such minor attains majority.

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*(Dr. Krishnapal Singh Yadav, M.P.)*