

# Labour Law & Industrial Relations - II

## Module-wise Question Bank

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## Module - 1: Social Security (Code on Social Security, 2020)

### Q. Object and Salient Features of The Code on Social Security, 2020

- **The Code on Social Security, 2020** consolidates and rationalizes existing social security laws in India to extend social security benefits to all workers, including those in the unorganized sector, gig workers, and platform workers.
- **Object of The Code:**
  1. Universalization of Social Security: To ensure social security coverage for all employees, including those in organized, unorganized, and self-employed sectors.
  2. Simplification and Consolidation: To simplify, amalgamate, and rationalize existing labour laws into a single framework for better governance and implementation.
  3. Ease of Doing Business: To reduce the compliance burden for employers by providing a unified regulatory framework for social security.
  4. Inclusivity: To extend social security benefits to emerging categories of workers, such as gig workers and platform workers, along with traditional employees.
  5. Improved Governance: To enhance transparency, efficiency, and accountability in the delivery of social security benefits.
- **Salient Features of The Code on Social Security, 2020:**
  1. **Consolidation of Existing Laws:**
    - Combines nine central labour laws:
      - i. Employees' Compensation Act, 1923
      - ii. Employees' State Insurance Act, 1948
      - iii. Employees' Provident Fund and Miscellaneous Provisions Act, 1952
      - iv. Maternity Benefit Act, 1961
      - v. Payment of Gratuity Act, 1972
      - vi. Cine Workers Welfare Fund Act, 1981
      - vii. Building and Other Construction Workers Welfare Cess Act, 1996
      - viii. Unorganized Workers' Social Security Act, 2008
      - ix. Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.
  2. **Expanded Coverage:**
    - Covers all types of workers, including:
      - i. Organized sector workers.
      - ii. Unorganized sector workers.
      - iii. Gig and platform workers.
      - iv. Self-employed workers.

### 3. Social Security Benefits:

- Provides a range of benefits, such as:
  - i. Provident Fund (PF)
  - ii. Employees' State Insurance (ESI)
  - iii. Maternity Benefit
  - iv. Gratuity
  - v. Compensation for work-related injuries or death.
- 4. **Gig and Platform Workers:** Introduces provisions for social security for gig and platform workers through a Social Security Fund, which is financed by contributions from the Central and State Governments, aggregators, and others.
- 5. **National and State-Level Boards:** Establishes National Social Security Boards and State Social Security Boards to formulate schemes and monitor the implementation of benefits for unorganized, gig, and platform workers.
- 6. **Wider Definition of Employees:** Expands the definition of "employee" to include workers hired through contractors, fixed-term employees, and part-time workers.
- 7. **Gratuity for Fixed-Term Employees:** Allows fixed-term employees to claim gratuity without needing to complete five years of service.
- 8. **Portability of Benefits:** Ensures portability of social security benefits, such as PF and ESI, across states and jobs.
- 9. **Digital Registration:** Mandates electronic registration for workers, enabling easy tracking and access to benefits.
- 10. **Uniform Definitions:** Provides uniform definitions for key terms like "employee," "wages," and "establishment," ensuring consistency across provisions.
- 11. **Compliance Simplicity:** Reduces the compliance burden on employers by unifying reporting and record-keeping requirements.
- 12. **Provisions for Voluntary Coverage:** Allows certain establishments and individuals to voluntarily opt for coverage under specific schemes.
- **Key Definitions:**
  1. **Employee:** Includes any person employed on wages, whether directly or through a contractor, to do any skilled, unskilled, manual, operational, supervisory, technical, or clerical work.
  2. **Gig Worker:** A person who works outside the traditional employer-employee relationship and earns income from short-term assignments or projects (e.g., food delivery personnel).
  3. **Platform Worker:** A person who uses an online platform to provide services or goods to consumers (e.g., app-based ride-sharing drivers).

4. **Wages:** Defined as all remuneration capable of being expressed in monetary terms, excluding certain specified allowances like house rent, overtime, and gratuity.
5. **Social Security:** Defined as measures of support for workers and their dependents, such as provident fund, insurance, maternity benefits, and healthcare.
6. **Unorganized Worker:** A worker not covered under the organized sector, such as agricultural labourers, home-based workers, and street vendors.
7. **Aggregator:** A digital intermediary that connects customers with individuals or service providers (e.g., e-commerce platforms).

### Q. Social Security Organizations under The Code on Social Security, 2020?

- **The Code on Social Security, 2020** establishes several social security organizations to ensure effective implementation, governance, and delivery of social security benefits. These organizations are responsible for managing funds, framing schemes, and ensuring compliance with the provisions of the Code.
- **Key Social Security Organizations are as follows:**
  1. **Employees' Provident Fund Organisation (EPFO):**
    - **Purpose:** Administers the Employees' Provident Fund (EPF), Employees' Pension Scheme (EPS), and Employees' Deposit Linked Insurance (EDLI) Scheme.
    - **Responsibilities:**
      - i. Collection and management of contributions from employers and employees.
      - ii. Maintenance of individual accounts for provident fund and pension benefits.
      - iii. Disbursement of benefits such as pensions, lump sums, and insurance claims.
    - **Target Group:** Employees in establishments covered under the Code.
  2. **Employees' State Insurance Corporation (ESIC):**
    - **Purpose:** Administers the Employees' State Insurance (ESI) scheme, providing medical care and social security to insured persons and their families.
    - **Responsibilities:**
      - i. Provision of benefits such as medical care, sickness benefits, maternity benefits, disablement benefits, and dependents' benefits.
      - ii. Management of the ESI fund, including contributions from employers and employees.

- iii. Establishment and maintenance of hospitals, dispensaries, and clinics for insured persons.

- **Target Group:** Employees earning wages within the prescribed limit and working in establishments covered under ESI.

### 3. National Social Security Board:

- **Purpose:** Focuses on formulating and implementing social security schemes for unorganized workers, gig workers, and platform workers.
- **Responsibilities:**
  - i. Advising the Central Government on suitable schemes.
  - ii. Monitoring the implementation of social security measures.
  - iii. Addressing issues related to unorganized workers' welfare.
- **Composition:**
  - i. Representatives from Central and State Governments, employers, workers, and experts.

### 4. State Social Security Boards:

- **Purpose:** Similar to the National Social Security Board but operates at the state level to cater to local needs.
- **Responsibilities:**
  - i. Recommending schemes and policies for unorganized workers.
  - ii. Coordinating with the National Board for seamless implementation.
- **Target Group:** Unorganized workers within the state.

### 5. Building and Other Construction Workers' Welfare Boards

- **Purpose:** Provides welfare measures for construction workers, ensuring their social security and safety.
- **Responsibilities:**
  - i. Collection and management of the Building and Other Construction Workers' Welfare Fund.
  - ii. Implementation of welfare schemes, such as healthcare, education, housing, and pension for construction workers.
  - iii. Ensuring compliance with safety standards at construction sites.
- **Target Group:** Workers in the construction and allied industries.

### 6. Social Security Fund:

- **Purpose:** A centralized fund to finance social security schemes for unorganized workers, gig workers, and platform workers.
- **Responsibilities:**
  - i. Financing benefits and schemes for the targeted groups.

- ii. Receiving contributions from aggregators, Central and State Governments, and other sources.
- **Target Group:** Workers not covered under EPF or ESI, including self-employed individuals and gig/platform workers.
- **Significance of Social Security Organizations:**
  1. **Implementation of Schemes:** These organizations ensure that benefits such as medical care, pensions, insurance, and maternity support reach the intended beneficiaries.
  2. **Coverage of All Sectors:** They cater to workers across organized, unorganized, and gig/platform sectors, ensuring inclusivity in social security.
  3. **Accountability and Transparency:** Centralized management and monitoring of funds ensure proper utilization and accountability.
  4. **Local and National Coordination:** State-level boards work in harmony with national boards to address specific regional needs while aligning with overarching national policies.

**Q. Explain the reason for Registration and Cancellation of an Establishment under Chapter 1:**

- Registration of an Establishment: The Code requires every establishment to which the Code applies to be registered with the appropriate authority.
  - **The main reasons for registration are:**
    - i. **Legal Compliance:** Registration ensures that the establishment complies with the provisions of the Code and is recognized under the social security laws.
    - ii. **Extension of Benefits:** It allows employees in the establishment to receive various social security benefits under schemes such as provident fund, insurance, and pension.
    - iii. **Centralized Record:** It creates a formal record of establishments for administrative purposes, enabling the government to monitor and enforce social security measures effectively.
  - Establishments already registered under other central labour laws do not need to register again, as that registration is deemed sufficient for compliance with this Code.
- **Cancellation of Registration:** An establishment may cancel its registration in certain situations:
  - i. **Closure of Business:** If the establishment is in the process of closing down its business activities, it can apply for cancellation.
  - ii. **Inapplicability of Certain Chapters:** If specific chapters of the Code no longer apply to the business due to changes in the establishment's structure or activities (e.g., reduction in the

number of employees), the establishment may seek cancellation of its registration.

- Cancellation ensures that establishments no longer carrying out activities that fall under the Code's purview are not required to maintain compliance, reducing unnecessary administrative burdens.

### **Q. Schemes described under Section 15 of Chapter 3 of The Code on Social Security, 2020?**

- Section 15 of Chapter 3 of The Code on Social Security, 2020 outlines the key social security schemes to be framed by the Central Government for employees, particularly focusing on their long-term welfare.
  - **These schemes primarily address the following:**
    - i. **Employees' Provident Fund Scheme**
      - **Purpose:** This scheme is designed to establish provident funds for employees or for any class of employees covered under the Code.
      - **Key Features:**
        - It requires employers and employees to contribute a fixed percentage of wages towards the provident fund.
        - The provident fund is a retirement benefit scheme aimed at providing financial security to employees after they retire or leave employment.
        - Employees can withdraw from the fund under certain conditions like retirement, resignation, or in case of specific emergencies (e.g., medical needs, education, etc.).
    - ii. **Employees' Pension Scheme**
      - **Purpose:** This scheme provides for pensions aimed at long-term financial security post-retirement.
      - **Key Features:**
        - It includes provisions for superannuation pension (on reaching retirement age), retiring pension (early retirement), invalidity pension (in case of disability), and family pension (in case of death of the employee).
        - The scheme ensures that employees receive regular income after retiring from work, making it a key social security provision.
    - iii. **Employees' Deposit-Linked Insurance Scheme**
      - **Purpose:** This scheme provides for life insurance benefits to employees.

- **Key Features:**

- Under this scheme, an insurance amount is paid to the nominee or legal heirs in case of the employee's death while in service.
- The scheme is linked to the employee's deposits, and employers contribute to this fund to ensure financial protection for the families of deceased employees.

**Q. Explain Holding of Property under Chapter 4?**

- Under Section 27 of the Code on Social Security, 2020, the Employees' State Insurance Corporation (ESIC) is endowed with specific powers concerning the management of property and financial resources to fulfil its mandate of providing social security benefits.
- **Key Provisions of Section 27:**
  - i. **Acquisition and Management of Property:**
    - ESIC is authorized to acquire and hold both movable and immovable properties.
    - It can sell or transfer any such property that has vested in or been acquired by it.
    - These actions are subject to conditions prescribed by the Central Government and must align with the purposes for which ESIC is established.
  - ii. **Investment of Funds:**
    - ESIC may invest funds not immediately required for its expenses.
    - Such investments, including reinvestments or realizations, are to be made following conditions set by the Central Government.
  - iii. **Raising and Managing Loans:**
    - With prior sanction from the Central Government, ESIC can raise loans.
    - It is also responsible for taking measures to discharge these loans under terms prescribed by the government.
  - iv. **Establishment of Benefit Funds for Employees:**
    - ESIC has the discretion to establish provident or other benefit funds for its officers and staff or specific classes thereof, as it deems appropriate.

**Q. Maternity Benefits under The Code on Social Security, 2020**

- The Code on Social Security, 2020 consolidates various social security laws, including the Maternity Benefit Act, 1961, into a unified code. Chapter VI of the Code specifically deals with Maternity Benefits, outlining the rights and entitlements of women employees during and after pregnancy.



- **Key Provisions of Maternity Benefits under the Code:**

1. **Eligibility for Maternity Benefit (Section 60):**

- a) **Applicability:** The provisions apply to every woman employed in any establishment to which the Code applies.
- b) **Continuous Service:** A woman must have worked for at least 80 days in the 12 months immediately preceding the date of her expected delivery to be eligible for maternity benefits.

2. **Duration of Maternity Leave (Section 61):**

- a) **Basic Maternity Leave:** Eligible women are entitled to 26 weeks of maternity leave.
  - i. **Prenatal Leave:** Up to 8 weeks can be availed before the expected date of delivery.
  - ii. **Postnatal Leave:** The remaining period is availed after childbirth.
- b) **For Women with Two or More Surviving Children:** The maternity leave entitlement is 12 weeks.
  - i. **Prenatal Leave:** Up to 6 weeks before delivery.
  - ii. **Postnatal Leave:** Remaining period after childbirth.

3. **Maternity Benefit Amount (Section 62):**

- a) **Payment:** Women are entitled to receive maternity benefit at the rate of their average daily wage for the period of their actual absence.
- b) **Calculation of Wages:** Average daily wage is calculated based on the wages payable to the woman on the days she has worked during the period of three calendar months immediately preceding the date of her absence.

4. **Additional Leaves and Benefits:**

- a) **Leave for Miscarriage or Medical Termination of Pregnancy (Section 63):** Entitled to 6 weeks of paid leave immediately following the day of miscarriage or medical termination.
- b) **Leave for Tubectomy Operation (Section 64):** Entitled to 2 weeks of paid leave following the date of the operation.
- c) **Illness Arising Out of Pregnancy, Delivery, or Premature Birth (Section 65):** Additional leave of up to one month with wages at the rate of maternity benefit.

5. **Nursing Breaks (Section 66):**

- a) **Entitlement:** After returning to work following maternity leave, a woman is entitled to two nursing breaks in the course of her daily work until the child attains the age of 15 months.
- b) **Duration of Breaks:** The duration of each nursing break is as prescribed by the Central Government.

6. **Prohibition of Dismissal During Absence (Section 68):**

- a) **Job Security:** Employers are prohibited from dismissing or discharging a woman during her absence due to maternity, except for gross misconduct.
- b) **Protection of Benefits:** A woman cannot be deprived of maternity benefits or medical bonus even if the employer terminates her employment during the period of her pregnancy.

**7. Prohibition of Employment During Certain Periods (Section 69):**

- a) **Post-Delivery:** No employer shall knowingly employ a woman during the six weeks immediately following the day of her delivery, miscarriage, or medical termination of pregnancy.
- b) **Pregnant Women:** A pregnant woman shall not be required to do any work of an arduous nature or that which involves long hours of standing or which is likely to interfere with her pregnancy or cause complications.

**8. Maternity Benefit for Adoptive and Commissioning Mothers (Section 70):**

- a) **Adoptive Mothers:** A woman who legally adopts a child below the age of three months is entitled to 12 weeks of maternity leave from the date the child is handed over to her.
- b) **Commissioning Mothers:** A commissioning mother (who uses a surrogate to bear a child) is entitled to 12 weeks of maternity leave from the date the child is handed over to her.

**9. Creche Facility (Section 71):**

- a) **Requirement:** Establishments with 50 or more employees are required to provide a crèche facility within the prescribed distance.
- b) **Visitation:** The mother is allowed four visits a day to the crèche, including the interval for rest allowed to her.

**10. Notice of Claim (Section 72):**

- a) **Procedure:** A woman must give notice in writing to her employer stating her maternity leave period and expected date of delivery.
- b) **Medical Certificate:** The employer may require the woman to produce a medical certificate confirming the pregnancy.

**11. Forfeiture of Maternity Benefit (Section 73)**

- a) **Misconduct:** If a woman works in any establishment during the period for which she receives maternity benefit, she may forfeit her claim to the maternity benefit for that period.
- b) **False Claims:** Any woman who makes a false statement or representation to obtain maternity benefit may be punished under the Code.

- **Significance of Maternity Provisions:**

1. **Promotes Maternal and Child Health:** By providing adequate leave and benefits, the Code ensures that mothers can care for themselves and their newborns.
2. **Encourages Women's Participation in the Workforce:** Protecting the rights of pregnant women and new mothers helps retain women in the workforce.
3. **Compliance and Enforcement:** Employers are obligated to adhere to these provisions, and non-compliance may result in penalties.

**Q. Nursing Breaks under Chapter VI of The Code on Social Security, 2020?**

- **Section 66 of the Code on Social Security, 2020, under Chapter VI:** Maternity Benefit, provides provisions for nursing breaks for women employees who return to work after childbirth.
- **Key Provisions of Section 66:**
  - i. **Eligibility:** Applicable to any woman who has delivered a child and has returned to duty after her maternity leave.
  - ii. **Entitlement:** In addition to the regular interval for rest during her daily work hours, the woman is entitled to two nursing breaks.
  - iii. **Duration:** The duration of each break is to be prescribed by the Central Government in the relevant rules under the Code.
  - iv. **Validity Period:** The entitlement to nursing breaks continues until the child attains the age of fifteen months.
- **Objective of the Provision:**
  - i. **Promotes Maternal Health:** Nursing breaks ensure that mothers have adequate time to care for and nurse their infants, promoting the well-being of both the mother and child.
  - ii. **Encourages Work-Life Balance:** By providing nursing breaks, the law helps working mothers balance their professional responsibilities with their maternal duties.
  - iii. **Supports Child Development:** Facilitates proper breastfeeding and care during the early months of the child's life, which is critical for their health and development.
- **Significance:**
  - i. This provision reflects the Code's emphasis on ensuring social security for working women, particularly during the critical phase of maternity and childcare.
  - ii. It aligns with international labour standards, such as those outlined by the International Labour Organization (ILO), promoting workplace support for nursing mothers.

**Q. Explain Gratuity under The Code on Social Security, 2020:**

- **Under Chapter V of the Code on Social Security, 2020, Gratuity** is a statutory benefit provided to employees as a token of appreciation for their continuous service. This chapter outlines the conditions for eligibility, calculation, and payment of gratuity, ensuring financial security for employees upon cessation of employment.
- **Key Provisions:**
  1. **Eligibility for Gratuity (Section 53):**
    - An employee becomes eligible for gratuity upon termination of employment after rendering continuous service for not less than five years, under circumstances such as:
      - i. Superannuation
      - ii. Retirement or resignation
      - iii. Death or disablement due to accident or disease
      - iv. Expiration of fixed-term employment.
    - Notably, the five-year continuous service requirement is waived in cases of death, disablement, or expiration of fixed-term employment.
  2. **Definition of Continuous Service (Section 54):** The term "continuous service" is defined to include periods of actual work, authorized leave, lay-off, strike, or lock-out, ensuring that employees are not penalized for such interruptions.
  3. **Nomination (Section 55):** Employees are required to nominate one or more persons to receive gratuity in the event of their death. This nomination can be modified at any time, providing flexibility to the employee.
  4. **Calculation of Gratuity (Section 56):** Gratuity is calculated based on the last drawn wages and the length of continuous service. The formula typically used is  $\text{Gratuity} = (\text{Last Drawn Salary} \times \text{Number of Years of Service} \times 15) / 26$ 
    - Here, "15" represents the number of days' salary for each completed year of service, and "26" denotes the number of working days in a month.
  5. **Compulsory Insurance (Section 57):** Employers are mandated to obtain insurance for their liability towards gratuity payments, ensuring that employees receive their due benefits even if the employer faces financial difficulties.
  6. **Competent Authority (Section 58):** The Code designates a competent authority to oversee the administration and enforcement of gratuity provisions, addressing disputes and ensuring compliance.
- **Significance:** The gratuity provisions under the Code on Social Security, 2020, aim to provide a structured and secure mechanism for employees to receive financial benefits upon the termination of their employment. By defining clear

eligibility criteria, calculation methods, and ensuring compulsory insurance, the Code safeguards employees' rights and promotes financial stability.

**Q. Explain State Board, Regional Board and Local Committee?**

- Under The Code on Social Security, 2020, State Boards, Regional Boards, and Local Committees are crucial administrative bodies established to implement and manage social security schemes, especially for unorganised workers and others entitled to social security benefits.
- **These boards and committees are designed to decentralize the administration and ensure effective delivery of social security benefits at various levels.**
  1. **State Board (Section 12):** The State Board plays a central role in managing and implementing social security schemes at the state level, particularly for unorganised workers, gig workers, and platform workers.
    - **Key Features of the State Board:**
      - i. **Constitution:** The State Government, after consultation with the Central Government, can constitute a State Board of Trustees (referred to as the State Board) by issuing a notification.
      - ii. **Members:** The State Board consists of representatives from the state government, employers, employees, and other stakeholders. It typically includes:
        - Representatives from the State Government,
        - Representatives from employers,
        - Representatives from employees or unorganised workers.
    - **Functions:**
      - i. **Administration of Social Security Schemes:** The primary function of the State Board is to administer the social security schemes applicable in the state. These schemes may include provident fund, pension, insurance, maternity benefits, health benefits, etc., depending on the nature of the workforce (organised or unorganised).
      - ii. **Implementation of Schemes:** The State Board ensures that schemes formulated by the Central Government are effectively implemented at the state level. It manages the day-to-day administration of these schemes and monitors compliance by employers.
      - iii. **Advisory Role:** The State Board also advises the State Government on matters related to the welfare of unorganised workers and gig/platform workers.

- **Powers:** The State Board can issue orders, and if necessary, delegate its powers to local or regional bodies to ensure the effective management of social security provisions at different levels.

**2. Regional Boards (Section 12(2)):** Regional Boards are smaller administrative bodies constituted by the Employees' State Insurance Corporation (ESIC) to manage social security schemes in specific regions within a state. These boards allow for a more localised administration of social security benefits.

- **Key Features of Regional Boards:**

- i. **Constitution:** The Employees' State Insurance Corporation (ESIC) may constitute Regional Boards by issuing orders and notifications.

- ii. **Purpose:**

- Regional Boards are formed to handle the implementation of social security schemes in specific regions within a state. This decentralised structure ensures that social security measures reach workers in different areas efficiently.

- **Functions:**

- i. **Administration of Regional Benefits:** The Regional Boards are responsible for the administration of social security benefits, such as provident funds, pensions, and health insurance, for the workers in the designated region.

- ii. **Monitoring and Compliance:** They also monitor compliance with social security laws by employers within their region and ensure that workers receive the benefits they are entitled to.

- iii. **Reporting:** Regional Boards report to the State Board or the Central Government, depending on the specific scheme they are managing.

**3. Local Committees (Section 12(2)):** Local Committees are administrative bodies that operate at an even more local level than Regional Boards. They are established to facilitate the direct and efficient administration of social security schemes at the grassroots level.

- **Key Features of Local Committees:**

- i. **Constitution:** The Employees' State Insurance Corporation (ESIC), or in some cases, the State Government, may constitute Local Committees by order, depending on the need for more localised governance.

- ii. **Purpose:** Local Committees ensure that social security schemes and benefits reach workers at the local or district level. These committees bridge the gap between regional administration and individual workers, especially in rural or less accessible areas.
- **Functions:**
  - i. **Implementation of Local Schemes:** Local Committees are responsible for implementing social security schemes at the district or local level. They ensure that workers are registered under relevant schemes and are able to access benefits like pensions, health insurance, and maternity leave.
  - ii. **Conflict Resolution:** These committees may also play a role in resolving local disputes related to social security schemes, such as issues with contributions, coverage, or benefits.
  - iii. **Awareness Campaigns:** Local Committees can also conduct awareness programs to educate workers about their social security rights and the schemes available to them.
- **Reporting:** Local Committees report to Regional Boards or State Boards, depending on the hierarchy established for specific social security schemes.
- **Summary of Roles and Responsibilities:**
  - 1. **State Board:**
    - Administers social security schemes at the state level.
    - Oversees the implementation of schemes like provident fund, insurance, and pensions.
    - Advises the state government on social security issues.
  - 2. **Regional Boards:**
    - Operate at the regional level within a state.
    - Responsible for managing and monitoring social security schemes in specific regions.
    - Report to the State Board or central authorities.
  - 3. **Local Committees:**
    - Function at the local or district level.
    - Implement social security schemes at the grassroots level.
    - Help with worker registration, resolving disputes, and educating workers.

**Q. Define Inter-State Migrant Workers, Medical Practitioner and Organised Sector?**



- Under The Code on Social Security, 2020, Inter-State Migrant Workers, Medical Practitioner, and Organised Sector are defined to ensure clarity in the application of social security laws to different categories of workers and professionals.
- **Below are the definitions provided by the Code:**
  1. **Inter-State Migrant Worker (Section 2, Sub-section 41)**
    - **Definition: An inter-state migrant worker is defined as:**
      - i. Any person who is recruited by an employer or contractor in one state for employment in an establishment situated in another state.
      - ii. The worker moves from their home state to another state for work and is engaged in a job that may be temporary or seasonal in nature.
    - **Key Points:**
      - i. These workers are often employed in sectors such as construction, agriculture, manufacturing, and domestic work.
      - ii. The Code extends certain social security benefits to these workers to protect their rights, given their vulnerability due to the temporary nature of their employment and the fact that they work far from their home state.
    - **Example:** A worker recruited from Bihar to work in a construction site in Maharashtra would be considered an inter-state migrant worker under the Code.
  2. **Medical Practitioner (Section 2, Sub-section 46)**
    - **Definition: A medical practitioner is defined as:**
      - i. A person who possesses any recognized medical qualification as defined in the Indian Medical Council Act, 1956.
      - ii. The individual must be registered with a State Medical Council to practice medicine.
    - **Key Points:**
      - i. Medical practitioners are involved in providing healthcare services, particularly in the context of administering social security schemes related to health and maternity benefits.
      - ii. The inclusion of medical practitioners in the Code is essential for ensuring the delivery of health services to employees and workers under various social security schemes such as the Employees' State Insurance (ESI) scheme.



- **Example:** A doctor registered with the Maharashtra Medical Council and qualified under the Indian Medical Council Act is considered a medical practitioner under the Code.

### 3. Organised Sector (Section 2, Sub-section 64)

- **Definition:** The organised sector is defined as:
  - i. An establishment or sector that is covered by the laws relating to social security benefits, such as provident funds, insurance, pensions, and maternity benefits.
  - ii. These establishments typically include those that have formal employment contracts and adhere to regulations such as The Employees' Provident Fund Act, 1952, The Employees' State Insurance Act, 1948, and other similar laws.
- **Key Points:**
  - i. The organised sector includes businesses, industries, and establishments where employees have access to formal benefits such as provident funds, medical insurance, pensions, etc.
  - ii. Workers in the organised sector have legal protection under various social security laws, and their employers are obligated to contribute to these benefits.
- **Example:** A large company in the manufacturing or IT sector that provides formal employment contracts and offers benefits like provident funds and health insurance would be part of the organised sector.

### Q. Explain Transfer of Accounts under Chapter 3?

• **Section 22 - Transfer of Accounts:** Where an employee, employed in an establishment to which this Chapter applies, relinquishes his employment therefrom and obtains employment in any other establishment to which this Chapter applies or not; or employed in an establishment to which this Chapter does not apply, relinquishes his employment therefrom and obtains employment in an establishment to which this Chapter applies, then, his accumulated amount in provident fund account or pension account, as the case may be, shall be transferred or dealt with in the manner as may be specified in the Provident Fund Scheme or the Pension Scheme, as the case may be.

- **Key Features of Transfer of Accounts:**

1. **Transferability of Provident Fund and Pension Accounts:**

- When an employee changes their employment from one establishment to another, they are allowed to transfer their

provident fund and pension accounts from the previous employer to the new employer.

- This ensures that the employee's provident fund contributions and pension benefits are carried forward to their new employment, preventing the loss of accumulated benefits.

**2. Seamless Transition:**

- The transfer of accounts allows for a seamless transition of provident fund balances and pension scheme benefits without requiring the employee to withdraw or settle their accounts upon changing jobs.
- This provision is designed to ensure the continuity of social security benefits, even when employees move across different jobs and employers.

**3. Centralized System for Transfer:**

- The process of transferring accounts is managed through a centralized system established under the Employees' Provident Fund Organisation (EPFO). The system allows employees to initiate the transfer online or through their new employer.
- This centralized system ensures that employees' contributions and entitlements are tracked, and the balance is transferred securely between employers.

**4. Applicability:**

- This provision applies to employees who are part of the schemes under the Employees' Provident Fund or Employees' Pension Scheme.
- It is particularly relevant for employees in sectors with a high turnover or where workers frequently change jobs.

**5. Request by Employee:**

- The employee must typically apply for the transfer of their account when they switch jobs. This can be done either online through the EPFO's Universal Account Number (UAN) portal or by submitting the relevant forms to their new employer or the EPFO office.

**6. Tracking of Contributions:**

- The Universal Account Number (UAN) plays a significant role in the transfer process. Since each employee is assigned a unique UAN, it allows the EPFO to track the employee's contributions across different employers and facilitates easy transfer of funds.
- The UAN ensures that all contributions, whether from past or present employers, are linked to the same account.

**7. Transfer of Employees' Deposit-Linked Insurance (EDLI) Scheme:**

- In addition to the provident fund and pension scheme, the employee's benefits under the Employees' Deposit-Linked Insurance (EDLI) Scheme are also transferred when they switch jobs. This ensures continued insurance coverage without interruption.

#### **8. Prevention of Withdrawal:**

- The provision discourages employees from withdrawing their provident fund amounts when they change jobs. Instead, it encourages the transfer of accounts, ensuring long-term financial security for the employee and maximizing the benefits they receive at the time of retirement.

- **Significance of Transfer of Accounts:**

1. **Ensuring Continuity of Benefits:** The transfer of accounts ensures that employees' social security benefits are not interrupted or lost when they change jobs, allowing them to continue accumulating provident fund and pension entitlements throughout their career.
2. **Long-Term Financial Security:** By facilitating the transfer rather than withdrawal of funds, the provision promotes the accumulation of savings over a long period, contributing to better financial security for employees in their retirement years.
3. **Simplification of the Process:** The use of centralized systems like the UAN simplifies the process for employees, enabling them to transfer their accounts with minimal administrative burden. It also helps employers and the EPFO manage employee data more efficiently.
4. **Encouragement of Formal Employment:** The ease of transferring accounts promotes formal employment and encourages workers to remain within the organized sector, ensuring that they continue to benefit from social security schemes like EPF and pension.

### **Q. Explain Competent Authority under Chapter 5?**

- **Section 58: Competent Authority:**

1. The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification.
2. Where more than one competent authority has been appointed for any area, the appropriate Government may, by general or special order, regulate the distribution of business among them.
3. Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the

matter under reference to assist him in holding the inquiry relating thereto.

- **Key Features of Competent Authority:**

1. **Appointment by the Government:** The appropriate government (either the Central or the State Government, depending on the context) has the power to appoint a Competent Authority through notification. This authority can be a person or a designated body responsible for carrying out specific functions under the Code.
2. **Powers and Duties of the Competent Authority:** The Competent Authority is endowed with several responsibilities, including:
  - i. **Inspection of Establishments:** The Competent Authority is empowered to conduct inspections of establishments to ensure that they are complying with the ESI Act, such as verifying whether the employer is properly registering employees, paying contributions, and maintaining necessary records.
  - ii. **Investigation and Enforcement:** The Competent Authority can investigate matters related to non-compliance with the provisions of the ESI scheme. If any violations are found, the authority has the power to enforce corrective measures or initiate legal proceedings.
  - iii. **Recovery of Dues:** If an employer fails to pay the required contributions to the ESI scheme, the Competent Authority has the authority to initiate proceedings for the recovery of dues, which may involve issuing orders to recover the outstanding amounts along with penalties.
  - iv. **Penalties and Legal Actions:** The Competent Authority can impose penalties on employers who violate the provisions of the Code, such as failing to make ESI contributions or not registering eligible employees. The authority also has the power to file complaints and initiate prosecution against employers or establishments that continue to defy the provisions related to ESI.
  - v. **Dispute Resolution:** In case of disputes between employees and employers regarding ESI contributions or benefits, the Competent Authority can act to resolve disputes by reviewing evidence and making decisions in accordance with the Code.
  - vi. **Reporting:** The Competent Authority is responsible for reporting findings and taking necessary actions as per the Code. These actions can include preparing reports on compliance or recommending further legal actions if serious violations are found.

- **Role and Importance of the Competent Authority:**

1. **Ensuring Compliance:** The Competent Authority is a vital element in ensuring that employers adhere to the provisions of the Employees' State Insurance Scheme. By conducting inspections, investigating violations, and enforcing penalties, the authority ensures that employers fulfil their legal obligations toward employees.
2. **Protecting Employees' Rights:** By overseeing the registration of employees and the proper payment of contributions to the ESI scheme, the Competent Authority ensures that workers are protected under the social security system and can access benefits such as healthcare, medical leave, disability compensation, and maternity benefits.
3. **Dispute Resolution:** The Competent Authority helps in resolving disputes between employers and employees, particularly around ESI contributions, eligibility for benefits, and recovery of unpaid dues, ensuring that employees do not lose out on their entitlements.
4. **Legal Enforcement:** The Competent Authority has the power to enforce legal actions against non-compliant employers, ensuring that there are consequences for failing to follow the provisions of the Code. This deters employers from avoiding their obligations.

**Q. Explain Employees' State Insurance Corporation (ESIC) under Chapter 4?**

- Chapter IV of the Code on Social Security, 2020 outlines the framework for the Employees' State Insurance Corporation (ESIC), detailing its constitution, functions, powers, and the benefits it administers.

- **Below is an overview of the key features and relevant sections:**

1. **Constitution of Employees' State Insurance Corporation (Section 24)**

- **Establishment:** The ESIC is established as a statutory body under the Code to oversee and administer the Employees' State Insurance (ESI) scheme.
- **Principal Officers:** The Central Government appoints a Director General and a Financial Commissioner as the principal officers of the Corporation.

2. **Employees' State Insurance Fund (Section 25)**

- **Creation of Fund:** An Employees' State Insurance Fund is constituted into which all contributions, recoveries, and other moneys are paid.
- **Purpose:** The fund is utilized for providing benefits to insured persons and their dependents, covering administrative expenses, and promoting measures for health and welfare.

3. **Purposes for Which the Fund May Be Expended (Section 26)**

- **Utilization:** The fund is expended on benefits provided under the ESI scheme, payment of administrative expenses, and for purposes authorized by the Code.

#### 4. All Employees to Be Insured (Section 28)

- **Mandatory Insurance:** Every employee in an establishment to which this Chapter applies shall be insured in such manner as prescribed by the Central Government.

#### 5. Contributions (Section 29)

- **Composition:** The contribution payable under this Chapter in respect of an employee comprises contributions from both the employer and the employee.
- **Rates:** The Central Government prescribes the rates of contributions.
- **Payment:** Contributions are payable for each wage period and fall due on the last day of the wage period.

#### 6. Benefits (Section 32)

- **Types of Benefits:**
  - i. **Sickness Benefit:** Periodical payments to insured persons during certified sickness.
  - ii. **Maternity Benefit:** Payments to insured women in cases of confinement, miscarriage, or related sickness.
  - iii. **Disablement Benefit:** Payments to insured persons suffering from disablement due to employment injury.
  - iv. **Dependents' Benefit:** Payments to dependents of an insured person who dies as a result of an employment injury.
  - v. **Medical Benefit:** Medical treatment and attendance for insured persons and their families.
  - vi. **Funeral Expenses:** Payment towards the funeral expenses of a deceased insured person.

#### 7. Medical Benefit (Section 39): Provision of Medical Treatment: Insured persons and their families are entitled to medical treatment and attendance.

- **Scope:** The medical benefit includes outpatient treatment, specialist consultation, hospitalization, and other necessary medical services.

#### 8. Provision of Medical Treatment by State Government or by Corporation (Section 40)

- **State Government's Role:** The State Government is responsible for providing reasonable medical, surgical, and obstetric treatment to insured persons and their families.

- Corporation's Role: The Corporation may establish and maintain hospitals, dispensaries, and other medical services for the benefit of insured persons and their families.

#### **9. General Provisions as to Benefits (Section 41)**

- Conditions: This section outlines general provisions regarding entitlement, commutation, and overlapping of benefits.
- Restrictions: It specifies conditions under which benefits may not be payable, such as when an insured person is working or on leave with wages.

#### **10. Matters to Be Decided by Employees' Insurance Court (Section 49)**

- Jurisdiction: The Employees' Insurance Court has the authority to decide matters such as disputes regarding contributions, benefits, and other issues arising under this Chapter.
- Exclusivity: No civil court has jurisdiction to decide or deal with any question or dispute as specified in this section.

### **Q. Schemes described under Section 15 of Chapter 3 of The Code on Social Security, 2020?**

- **Section 15 of Chapter III in the Code on Social Security, 2020** empowers the Central Government to frame and modify various schemes aimed at providing social security benefits to employees and other specified groups.
- **The key provisions are as follows:**
  - 1. Employees' Provident Fund Scheme:**
    - The Central Government may establish a scheme known as the Employees' Provident Fund Scheme, applicable to employees or specific classes of employees.
    - This scheme mandates the creation of provident funds for employees in designated establishments.
  - 2. Employees' Pension Scheme:**
    - A scheme called the Employees' Pension Scheme can be framed to provide:
      - i. Superannuation pension, retiring pension, or permanent total disablement pension to employees of applicable establishments.
      - ii. Widow or widower's pension, children pension, or orphan pension payable to the beneficiaries of such employees.
      - iii. Nominee pension.
  - 3. Employees' Deposit Linked Insurance Scheme:**
    - This scheme offers life insurance benefits to employees of specified establishments.
  - 4. Schemes for Self-Employed Workers and Other Classes:**



- The government may frame schemes to provide social security benefits to self-employed workers or any other class of persons.

#### 5. Modification of Existing Schemes:

- The government holds the authority to modify any of the aforementioned schemes by adding, amending, or varying provisions, either prospectively or retrospectively.
- Additionally, these schemes may specify that their provisions take effect either prospectively or retrospectively from a date mentioned within the scheme itself.
- These provisions enable the Central Government to establish and adjust social security schemes to meet the evolving needs of the workforce, ensuring comprehensive coverage and benefits.

#### Q. Insured Person:

- In the context of the Code on Social Security, 2020, an **"Insured Person"** refers to an individual who is covered under the **Employees' State Insurance (ESI) scheme**. This scheme provides various social security benefits, including **medical care, sickness benefits, maternity benefits, and compensation for employment-related injuries**.
- **Definition:** While the Code on Social Security, 2020, does not explicitly define **"Insured Person,"** it builds upon the framework established by the Employees' State Insurance Act, 1948. Under the ESI Act, an "Insured Person" is an employee who is registered under the ESI scheme and for whom contributions are being made to the **Employees' State Insurance Corporation (ESIC)**.
- **Eligibility Criteria: To be considered an "Insured Person" under the ESI scheme:**
  1. **Employment Status:** The individual must be employed in a factory or establishment to which the ESI Act applies.
  2. **Wage Limit:** The employee's monthly wages should not exceed the wage limit specified by the government for ESI coverage. As of the latest update, this wage limit is ₹21,000 per month.
  3. **Contribution:** Both the employer and the employee must contribute to the ESI fund. The employer's contribution is 3.25% of the wages, while the employee contributes 0.75%.
- **Benefits for Insured Persons: An "Insured Person" under the ESI scheme is entitled to several benefits, including:**
  1. **Medical Benefit:** Comprehensive medical care for the insured person and their dependents.
  2. **Sickness Benefit:** Cash compensation during periods of certified sickness.



3. **Maternity Benefit:** Paid leave and medical care for insured women during pregnancy and childbirth.
4. **Disablement Benefit:** Compensation for temporary or permanent disablement due to employment injury.
5. **Dependents' Benefit:** Financial support to dependents in case of the insured person's death due to employment injury.

## Module - 2: Employee's Compensation (Code on Social Security, 2020)

### Q. Concept – Employee, Employer, Dependent, Disablement and its kinds.

- **Employee:**

1. **Definition:** An employee is any person employed on wages in an establishment, directly or through a contractor, for any kind of work, whether skilled, unskilled, manual, supervisory, technical, or clerical.
2. **Key Features:**
  - i. **Inclusivity:**
    - Covers full-time, part-time, fixed-term, and contract workers.
    - Includes employees hired through contractors.
  - ii. **Exclusions:** Specific categories of workers as notified by the Central Government may be excluded.
  - iii. **Entitlements:** Employees are entitled to social security benefits such as provident fund, gratuity, maternity benefits, and compensation for injuries or death arising out of employment.
3. **Examples:**
  - i. A factory worker operating machinery.
  - ii. A software developer employed in an IT firm.
  - iii. A security guard hired through a contractor.

- **Employer:**

1. **Definition:** An employer is the person or entity who employs individuals and is responsible for their wages, welfare, and working conditions.
2. **Key Features:**
  - i. **Types of Employers:**
    - **Direct employer:** The person who hires the employee directly.
    - **Principal employer:** The person or organization under whom contractor's work.
  - ii. **Responsibilities:**
    - Timely payment of wages.
    - Ensuring a safe working environment.
    - Payment of social security contributions (e.g., EPF, ESI).
    - Liability for compensation in case of work-related injuries or deaths.
  - iii. **Legal Obligations:**
    - Compliance with the Code's provisions.

- Providing accurate documentation and maintaining employee records.

3. **Examples:**

- i. The owner of a construction company.
- ii. A principal employer overseeing contract workers.
- iii. A startup founder employing a small team.

• **Dependent:**

1. **Definition:** A dependent refers to a family member or relative of an employee who is financially reliant on the employee for their livelihood.

2. **Key Features:**

i. **Eligibility:**

- Spouse of the employee.
- Minor or disabled children of the employee.
- Widowed mother or dependent father.
- In certain cases, dependent siblings or extended family members.

- ii. **Rights:** Dependents are entitled to compensation in case of the employee's death or permanent disablement due to employment injury or occupational disease.

3. **Examples:**

- i. The widow of a deceased employee receiving dependents' benefits.
- ii. Children of a disabled employee entitled to financial support.

• **Disablement:**

1. **Definition:** Disablement refers to an employee's physical or mental incapacity to work due to an injury or occupational disease.

2. **Kinds of Disablement:**

i. **Temporary Disablement:**

- **Definition:** An incapacity that prevents the employee from working for a temporary period but does not permanently impair their earning capacity.
- **Example:** A fracture that keeps an employee out of work for a few months.
- **Benefits:** Compensation is provided for the duration of the disability, based on the loss of earning capacity.

ii. **Permanent Disablement:**

- **Definition:** An incapacity that permanently impairs the employee's ability to earn.

- **Categories:**

a. **Partial Permanent Disablement:**

- The employee loses the ability to perform a part of their work permanently.
- Example: Loss of a finger or partial vision.

**b. Total Permanent Disablement:**

- The employee is unable to perform any work permanently.
- Example: Complete loss of both limbs or eyesight.

- **Benefits:**

- a. Compensation is calculated as a percentage of the employee's wages and the extent of disability.

**3. Compensation for Disablement:**

- i. Governed by the Code on Social Security, 2020.
- ii. The employer or their insurance must provide compensation as per the schedule specified in the Code.

**Q. Employers' Liability for Compensation – Conditions & Exceptions.**

- Under Section 74 of the Code on Social Security, 2020, employers are obligated to compensate employees for personal injuries resulting from accidents or occupational diseases that occur during employment. This section outlines the conditions under which employers are liable and specifies exceptions to this liability.
- **Employer's Liability for Compensation:**
  - 1. **General Liability:** Employers must compensate employees for personal injuries caused by accidents or occupational diseases listed in the Third Schedule, provided these arise out of and in the course of employment.
  - 2. **Exceptions to Liability:**
    - i. **Employers are not liable in the following situations:**
      - Injuries not resulting in total or partial disablement for more than three days.
      - Injuries not leading to death or permanent total disablement caused by accidents directly attributable to:
        - a. The employee being under the influence of alcohol or drugs at the time of the accident.
        - b. The employee's wilful disobedience to explicit safety orders or rules.
        - c. The employee's wilful removal or disregard of safety guards or devices provided for their protection.
- **Presumptions Regarding Accidents and Occupational Diseases:** An accident or occupational disease is presumed to arise out of and in the course

of employment even if the employee was acting in contravention of laws, orders, or without instructions, provided:

1. The act would have been considered as arising out of employment if done in accordance with laws or instructions.
  2. The act was performed for the employer's trade or business purposes.
- **Occupational Diseases:** If an employee contracts a disease specified in the Third Schedule while employed in an occupation listed in the Second Schedule, and has been in service for at least six months, the disease is deemed an injury by accident arising out of employment, unless proven otherwise.
  - **Commuting Accidents:** Accidents occurring while an employee is commuting between their residence and workplace are considered to have arisen out of and in the course of employment if a direct connection between the circumstances, time, place, and employment is established.
  - **Modifications by Government:** The Central or State Government may, after due notification, modify or add to the employments and occupational diseases listed in the Second and Third Schedules, respectively.
  - **Limitations on Compensation:** Compensation is not payable unless the accident or disease is directly attributable to a specific injury arising out of and in the course of employment, except as provided in the aforementioned subsections.
  - **Legal Proceedings:** An employee cannot claim compensation under this section if they have filed a civil suit for damages regarding the same accident or disease. Conversely, if compensation has been claimed or an agreement for compensation has been made under this section, a civil suit for damages is not maintainable.

### Q. Social Security and Cess in Respect of Building and Other Construction Workers?

- **Chapter VIII of the Code on Social Security, 2020** focuses on the social security measures and cess related to building and other construction workers. This chapter consolidates provisions from previous legislations to ensure the welfare and protection of workers in the construction sector.
- **Key Provisions:**
  1. **Levy and Collection of Cess (Section 100):**
    - i. A cess is levied on the cost of construction incurred by employers, aimed at funding welfare schemes for construction workers.
    - ii. The rate of cess and its collection procedures are prescribed by the Central Government.

2. **Interest on Delayed Payment (Section 101):** Employers who fail to pay the cess within the specified time are liable to pay interest on the delayed amount, as prescribed.
  3. **Exemption from Cess (Section 102):** The Central Government holds the authority to exempt certain employers or classes of employers from paying the cess, under specified conditions.
  4. **Self-Assessment of Cess (Section 103):** Employers are required to assess the cess payable and submit it along with the necessary returns, ensuring transparency and accountability.
  5. **Penalties for Non-Payment (Section 104):** Non-payment of cess within the specified time attracts penalties, which may include fines or other punitive measures as prescribed.
  6. **Appeals (Section 105):** Employers aggrieved by any order regarding cess assessment or penalties can appeal to the designated appellate authority within the prescribed time frame.
  7. **Registration of Building Workers (Section 106):**
    - i. Construction workers are required to register as beneficiaries to avail welfare benefits.
    - ii. The registration process, eligibility criteria, and benefits are outlined in the Code.
  8. **Cessation as a Beneficiary (Section 107):** Conditions under which a worker ceases to be a beneficiary, such as non-renewal of registration or non-compliance with prescribed conditions, are specified.
  9. **Building and Other Construction Workers' Welfare Fund (Section 108):**
    - i. A welfare fund is established to finance various schemes for the benefit of construction workers.
    - ii. The fund comprises the collected cess, grants, loans, and other sources as decided by the government.
    - iii. Utilization of the fund includes meeting administrative expenses, salaries, and implementing welfare schemes.
- **Significance:** These provisions aim to provide a structured framework for the welfare of building and construction workers, ensuring their access to social security benefits. The levy of cess on construction activities serves as a dedicated source of funding for various welfare schemes, promoting the well-being and safety of workers in this sector.

**Q. Explain Building and Other Construction Working Welfare Fund and its Application (Section 108)?**

- **Section 108 of Chapter VIII of the Code on Social Security, 2020**, which directly addresses the **Building and Other Construction Workers' Welfare Fund** and its Applications:

**1. Constitution of the Welfare Fund**

- A Building and Other Construction Workers' Welfare Fund is established by the Building Workers' Welfare Board.
- **The following are credited to this fund:**
  - i. **Cess:** The amount of cess levied under Section 100(1).
  - ii. **Grants and Loans:** Financial support provided by the Central Government to the Welfare Board.
  - iii. **Other Sources:** Any additional sums received from sources as decided by the Central Government.

**2. Application of the Welfare Fund:**

- The Welfare Fund is utilized to meet the following expenses:
  - i. **Board's Functions:** Expenses incurred in discharging the functions of the Building Workers' Welfare Board under Section 7(6), which include formulating welfare schemes, monitoring implementation, and ensuring compliance with the Code.
  - ii. **Salaries and Allowances:** Payments made to members, officers, and employees of the Welfare Board, including salaries, allowances, and other remunerations.
  - iii. **Welfare Objectives:** Expenses authorized by the Code for purposes such as social security, education, healthcare, housing, and other welfare benefits for construction workers.

**3. Limit on Administrative Expenses:**

- The Welfare Board is restricted from spending more than 5% of its total expenses during a financial year on:
  - i. Salaries, allowances, and remuneration for its members, officers, and employees.
  - ii. General administrative expenses.

**Q. Define Gig workers, Platform workers and Unorganised Workers?**

**1. Gig Workers (Section 2, Sub-section 35)**

1. Definition: A gig worker is defined as a person who works or participates in a work arrangement and earns from such activities outside the traditional employer-employee relationship.
2. Examples: Freelancers, part-time workers, or temporary workers who perform specific tasks but are not classified as employees of an organization. For example, someone providing services as a freelance graphic designer or a contract-based software developer.

**2. Platform Workers (Section 2, Sub-section 61)**

1. Definition: A platform worker is a person who is engaged in or undertakes platform work, meaning a work arrangement where

organizations or individuals use an online platform to access other organizations or individuals for providing specific services or solving specific problems, in exchange for payment.

2. Examples: Workers associated with digital platforms like Uber, Zomato, Swiggy, Amazon, or any other online platform that connects workers (such as drivers or delivery personnel) with customers through a digital app or platform.

### **3. Unorganised Workers (Section 2, Sub-section 86)**

1. Definition: An unorganised worker is defined as:
  - i. A home-based worker, self-employed worker, or a wage worker in the unorganised sector.
2. It also includes workers in the organised sector who are not covered by the Industrial Disputes Act, 1947, or Chapters III to VII of The Code on Social Security, 2020.

#### **3. Examples:**

- i. Home-based workers: Individuals who work from home or any place other than an employer's premises, often producing goods or providing services (e.g., handicraft workers, sewing workers).
- ii. Self-employed workers: Individuals who are not employed by an employer but engage in their own business or work (e.g., street vendors, rickshaw drivers, small shop owners).
- iii. Wage workers: Those working for wages but not in the formal, organized sector (e.g., agricultural labourers, construction workers, domestic workers).

#### **• Summary of Differences:**

- i. Gig Workers: Engage in short-term or freelance work outside a traditional employee-employer relationship.
- ii. Platform Workers: Work through digital or online platforms where jobs are facilitated between workers and clients.
- iii. Unorganised Workers: Workers in sectors without formal employer-employee structures, typically in self-employment or informal employment.

### **Q. Social Security for Unorganised Workers, Gig Workers, and Platform Workers under The Code on Social Security, 2020?**

- **Chapter IX (Section 109 – 114) of the Code on Social Security, 2020** is a transformative step in extending social security benefits to workers outside traditional employment. This chapter specifically focuses on the inclusion of unorganised workers, gig workers, and platform workers, addressing their unique needs through innovative schemes and institutional frameworks.

#### **1. Framing of Schemes for Unorganised Workers (Section 109)**



- i. **Objective:** To provide tailored social security schemes for workers in the unorganised sector, who are often excluded from formal social security systems.
  - ii. **Scope:**
    - **The schemes may include:**
      - a. **Life and Disability Cover:**
        - Financial assistance in case of death or disability caused by workplace accidents or other unforeseen events.
        - Example: Insurance schemes like Pradhan Mantri Jeevan Jyoti Bima Yojana.
      - b. **Health and Maternity Benefits:**
        - Access to healthcare facilities and financial support during maternity.
        - Example: Health insurance or subsidized medical services.
      - c. **Old Age Protection:**
        - Pension schemes or savings plans to ensure financial security after retirement.
        - Example: Atal Pension Yojana.
      - d. **Other Benefits:** Any other welfare measures deemed necessary by the government.
    - **Implementation:** The Central Government is tasked with designing and implementing these schemes, either independently or in collaboration with State Governments.
2. **Funding of State Government Schemes (Section 110):**
- i. **Objective:** To enable State Governments to develop and implement social security schemes tailored to their regional workforce.
  - ii. **Funding Mechanism:**
    - **Sources of Funding:**
      - a. Contributions from beneficiaries (workers).
      - b. Contributions from employers.
      - c. Grants or funding from the Central or State Government.
  - iii. **Purpose:** Funding can be utilized for region-specific schemes, ensuring that unorganised workers in diverse economic activities are adequately covered.
  - iv. **Significance:** This provision empowers State Governments to address local challenges while aligning with national objectives.
3. **Record Keeping (Section 111):**

- i. **Importance:** Maintaining accurate records of unorganised workers, gig workers, and platform workers is crucial for efficient implementation of social security schemes.
  - ii. **Responsibilities:**
    - a. **Employers:** Employers engaging workers in the unorganised sector must maintain detailed records of their employees.
    - b. **Self-Employed Individuals:** Workers engaged in self-employment are also required to register themselves, ensuring their inclusion in social security schemes.
    - c. **Government Oversight:** Appropriate authorities are tasked with monitoring and maintaining these records to avoid discrepancies.
  - iii. **Challenges:** Informality in the unorganised sector makes accurate record-keeping difficult, requiring innovative and accessible digital solutions.
4. **Helpline and Facilitation Centres (Section 112):**
  - i. **Objective:** To ensure that unorganised workers, gig workers, and platform workers can access social security schemes without barriers.
  - ii. **Services Offered:**
    - a. **Helplines:** Toll-free numbers for workers to get information about schemes, eligibility criteria, and registration processes.
    - b. **Facilitation Centres:**
      - **Physical or digital centers providing:**
        - Assistance with registration.
        - Grievance redressal mechanisms.
        - Information dissemination about benefits and rights.
  - iii. **Significance:** These centers bridge the gap between workers and the administration, ensuring smoother implementation of schemes.
5. **Registration of Workers (Section 113):**
  - i. **Purpose:** To create a database of unorganised workers, gig workers, and platform workers for better inclusion in social security schemes.
  - ii. **Process:**
    - a. **Eligibility:** Workers must provide proof of employment or self-employment and meet other eligibility criteria.

- b. **Procedure:** Registration may be done digitally or through facilitation centers, ensuring ease of access.
  - c. **Advantages of Registration:**
    - Workers gain access to benefits such as health insurance, pension schemes, and accident cover.
    - The government can track and monitor the implementation of schemes more effectively.
  - iii. **Challenges:** Reaching remote and marginalized workers for registration remains a logistical challenge.
- 6. **Schemes for Gig Workers and Platform Workers (Section 114):**
  - i. **Objective:** To provide social security benefits to gig and platform workers who are part of the emerging digital economy.
  - ii. **Scope of Schemes:**
    - a. **Life and Disability Cover:** Financial support in case of accidents or permanent disability.
    - b. **Accident Insurance:** Coverage for injuries sustained during work, such as delivery riders or drivers in app-based services.
    - c. **Health and Maternity Benefits:** Subsidized healthcare services and maternity leave benefits.
    - d. **Old Age Protection:** Pension plans or retirement savings schemes.
    - e. **Other Benefits:** Skill development programs or financial literacy initiatives.
  - iii. **Aggregator Contribution:**
    - **Aggregators employing gig and platform workers are required to contribute to these schemes:** Contribution rate: 1% to 2% of their annual turnover, capped at 5% of the total amount paid to workers.
    - **Example:** Ride-sharing platforms like Uber or food delivery services like Swiggy must contribute towards social security funds.

**Q. Explain Registration of Unorganised Workers, Gig workers and Platform Workers**

- **Section 113 - Registration of Unorganised Workers, Gig Workers, and Platform Workers:**
  - 1. This section establishes the foundation for the registration of workers in these categories to ensure they receive social security benefits.

2. **Sub-section (1):**
    - i. Unorganised workers, gig workers, and platform workers are required to register themselves to avail social security schemes.
    - ii. Registration is to be done in a manner prescribed by the Central Government.
  3. **Sub-section (2):**
    - i. The Central Government may specify the eligibility criteria for registration.
    - ii. **Some of the typical requirements for workers to register include:**
      - Age Limit: Workers must be above the minimum age and below the maximum age as specified.
      - Work History: Workers must have been engaged in their respective types of work (unorganised, gig, or platform) for a specified period, which will be defined by the appropriate authority.
      - Self-declaration: Workers may be required to provide a self-declaration form confirming their occupation and category of work.
      - Documents: Proof of identity (e.g., Aadhar card) and proof of work (e.g., employment contract or proof of gig-based work) may be necessary.
  4. **Sub-section (3):**
    - i. The registration process will also involve creating a database of these workers, enabling better administration of social security benefits. The details collected during registration are stored in a centralized database for efficient monitoring and distribution of benefits.
  5. **Sub-section (4):**
    - i. Workers registered under existing laws (for example, if they are already receiving benefits under other schemes) may not need to re-register under this Code. Their previous registration will be deemed valid for the purposes of this Code.
- **Key Worker Categories:**
    1. **The Code specifically defines and acknowledges the following worker categories for registration:**
      - **Unorganised Workers:**
        - a. These are individuals working outside the formal or organized sector and include wage workers, self-employed individuals, and others who do not fall under regular employer-employee contracts.

- b. Example: Agricultural labourers, street vendors, domestic workers, and others who work without formal contracts or structured benefits.
- **Gig Workers:**
  - a. These workers participate in temporary, flexible jobs, often through digital platforms or intermediaries, but do not have a traditional employer-employee relationship.
  - b. Example: Freelancers, drivers for ride-hailing services, delivery personnel.
- **Platform Workers:**
  - a. These workers perform jobs or services arranged via online platforms that act as intermediaries between workers and clients. Platform workers often rely on apps or digital platforms to secure jobs.
  - b. Example: Delivery agents working for food or e-commerce platforms like Zomato, Swiggy, or Amazon.
- **Purpose of Registration**
  - 1. **The primary goal of registration is to extend social security benefits, such as:**
    - **Health and Maternity Benefits:** Access to healthcare services, maternity leave, and medical benefits.
    - **Accident and Disability Cover:** Workers are provided with insurance in case of accidents or disability.
    - **Pension and Old-age Benefits:** Workers can access pension schemes, securing income after retirement.
    - **Skill Development:** Registered workers can participate in government-led skill development programs aimed at improving their employability.
    - **Other Social Security Measures:** These include financial assistance in times of crisis, access to housing schemes, and more.
- **Benefits of Registration:**
  - **Access to Government Schemes:** Registered workers are entitled to benefits under various schemes laid out by the Central and State governments.
  - **Protection of Rights:** Registration gives workers a legal identity and ensures they are covered under labour and social security laws.

- **Formalization:** It brings unorganized, gig, and platform workers under a formal system, ensuring they receive the same protections as workers in the organized sector.
- **Technology-Enabled Registration:**
  1. The Code envisions the use of technology and digital platforms for the registration process. This will allow workers to register online, making the process more accessible and efficient. It also encourages the use of mobile apps and portals for easy access.
- **Role of the National and State Social Security Boards:**
  1. The National Social Security Board for Unorganised Workers (Section 6) and the State Unorganised Workers' Social Security Boards (Section 7) are responsible for overseeing the registration process and ensuring that workers in the unorganised, gig, and platform sectors are duly registered and can access their benefits.
  2. These boards will also help in monitoring and reviewing the implementation of social security schemes for these workers.

**Q. Authorities, Assessment, Compliance and Recovery under The Code on Social Security, 2020?**

- **Chapter XI (Section 122 – 132) of the Code on Social Security, 2020** outlines the **framework for authorities, assessment, compliance, and recovery mechanisms** to ensure effective implementation and enforcement of social security provisions.
  1. **Appointment of Inspector-cum-Facilitators and Their Powers (Section 122):**
    - i. The Central Government, for Chapters III and IV, and the appropriate Government for other provisions, may appoint Inspector-cum-Facilitators.
    - ii. These officials are responsible for ensuring compliance with the Code and have the authority to conduct inspections, examine records, and advise employers and employees on compliance matters.
  2. **Maintenance of Records, Registers, Returns, etc. (Section 123):**
    - i. Employers are mandated to maintain accurate records, registers, and submit returns as prescribed.
    - ii. This ensures transparency and facilitates monitoring of compliance with social security obligations.
  3. **Employer Not to Reduce Wages, etc. (Section 124):**
    - i. Employers are prohibited from reducing wages or altering employment terms to offset their liabilities under the Code.
    - ii. This provision safeguards employees from potential exploitation.

4. **Assessment and Determination of Dues from Employer (Section 125):**
  - i. Authorized officers are empowered to assess and determine the amounts due from employers under the Code.
  - ii. They can conduct inquiries and resolve disputes regarding applicability and dues.
5. **Appeal Against Order of Authorized Officer Relating to Chapter IV (Section 126):** Employers or employees aggrieved by an order under Chapter IV can appeal to the prescribed appellate authority within a specified timeframe.
6. **Interest on Amount Due (Section 127):** Employers failing to pay dues within the stipulated time are liable to pay interest on the outstanding amount, as prescribed.
7. **Power to Recover Damages (Section 128):** In cases of default, authorities may impose damages on employers, in addition to the interest, to deter non-compliance.
8. **Recovery of Amount Due (Section 129):** Amounts due from employers can be recovered as arrears of land revenue or through other prescribed modes.
9. **Validity of Certificate and Amendment Thereof (Section 130):** Certificates issued for recovery remain valid until the dues are fully recovered or the certificate is amended or withdrawn.
10. **Other Modes of Recovery (Section 131):** Authorities may employ alternative recovery methods, such as attachment and sale of movable or immovable property, to realize dues.
11. **Application of Certain Provisions of Income-tax Act (Section 132):** Provisions related to recovery under the Income-tax Act, 1961, are applicable for recovering dues under this Code, ensuring consistency in enforcement mechanisms.

**Q. Explain Enhance Punishment in Certain Cases after Previous Conviction under The Code on Social Security, 2020?**

- **Section 134 of the Code on Social Security, 2020** addresses **enhanced penalties for repeat offenders of the Code's provisions**. This section aims to deter habitual violations by imposing stricter punishments on those with prior convictions.
- **Key Provisions:**
  1. **Enhanced Punishment for Repeat Offenders:**
    - i. Individuals previously convicted of an offence under this Code who commit the same offence again are subject to:
      - Imprisonment for up to two years.
      - A fine of up to two lakh rupees.

- ii. This escalation in penalties serves as a deterrent against repeated non-compliance.
- 2. **Stricter Penalties for Specific Offences:**
  - i. For second or subsequent offences where an employer fails to pay contributions, charges, cess, maternity benefits, gratuity, or compensation as mandated by the Code, the penalties are more severe:
    - Imprisonment ranging from a minimum of two years to a maximum of three years.
    - A fine of three lakh rupees.
  - ii. This provision underscores the importance of timely and full payment of dues to employees.
- **Implications:**
  - 1. **Deterrence:** By imposing harsher penalties on repeat offenders, the Code seeks to discourage habitual violations and promote adherence to social security norms.
  - 2. **Employee Protection:** Ensuring that employers meet their financial obligations towards employees is crucial for safeguarding workers' rights and welfare.
  - 3. **Legal Enforcement:** The provision empowers authorities to take stringent action against non-compliant employers, thereby strengthening the enforcement of social security laws.

### Q. Offences and Penalties under The Code on Social Security, 2020?

- **Chapter XII of the Code on Social Security, 2020** delineates the **framework for offences and penalties to ensure compliance with social security provisions**. This chapter outlines specific violations, corresponding penalties, and mechanisms for enforcement.
  - 1. **Penalty for Failure to Pay Contributions, etc. (Section 133):**
    - i. Employers who fail to pay due contributions, charges, cess, maternity benefits, gratuity, or compensation are subject to:
      - Imprisonment up to six months.
      - A fine up to ₹50,000.
    - ii. This provision emphasizes the importance of timely and full payment of dues to employees.
  - 2. **Enhanced Punishment in Certain Cases After Previous Conviction (Section 134):**
    - i. Repeat offenders face stricter penalties:
      - Imprisonment up to two years.
      - A fine up to ₹2,00,000.
    - ii. For subsequent offences involving non-payment of dues, penalties include:



- Imprisonment ranging from two to three years.
  - A fine of ₹3,00,000.
- iii. This escalation serves as a deterrent against habitual violations.
- 3. **Offences by Companies (Section 135):**
  - i. If a company commits an offence under the Code, individuals in charge at the time are deemed guilty unless they prove:
    - The offence occurred without their knowledge.
    - They exercised due diligence to prevent it.
  - ii. This provision ensures accountability within corporate structures.
- 4. **Cognizance of Offences (Section 136):**
  - i. Courts can take cognizance of offences under the Code only upon a complaint made by:
    - An authorized officer.
    - An aggrieved person.
  - ii. This ensures that frivolous or malicious prosecutions are minimized.
- 5. **Prior Opportunity Before Prosecution (Section 137):**
  - i. Before initiating prosecution, employers are given an opportunity to comply with the provisions of the Code.
  - ii. This encourages voluntary compliance and rectification of defaults.
- 6. **Compounding of Offences (Section 138):**
  - i. Certain offences punishable with imprisonment up to one year or with fine are compoundable:
    - For offences punishable with fine, compounding is allowed for a sum of 50% of the maximum fine.
    - For offences punishable with imprisonment, compounding is allowed for a sum of 75% of the maximum fine.
  - ii. This provision facilitates resolution without prolonged litigation.
- 7. **Offences by Employees (Section 139):**
  - i. Employees who make false statements or representations to obtain benefits under the Code are liable to:
    - Imprisonment up to six months.
    - A fine up to ₹10,000.
  - ii. This ensures integrity in claiming benefits.

### **Q. Employment Information and Monitoring under The Code on Social Security, 2020?**

- **Chapter XIII (Section 139 – 140) of the Code on Social Security, 2020** focuses on facilitating employment information, monitoring job opportunities, and strengthening the labour market by ensuring employers report vacancies

to designated authorities. This chapter highlights the government's initiative to create transparency in job availability and workforce planning.

- **Key Provisions:**

1. **Reporting of Vacancies to Career Centres (Section 139):**

- i. **Objective:** To create a centralized database of job vacancies, enabling better workforce management and enhancing employment opportunities.
- ii. **Requirement for Employers:**
  - **Mandatory Notification:** Employers are required to notify the designated career centres about any vacancies in their establishments.
  - **Coverage:**
    - a. Applies to all public sector establishments.
    - b. Private establishments as notified by the government.
- iii. **Exemptions:**
  - Certain vacancies may be exempt from reporting, as determined by the appropriate government.
  - Examples: Internal promotions, casual or daily wage employment.
- iv. **Role of Career Centres:**
  - Career centres act as a bridge between job seekers and employers by:
    - a. Collecting data on job opportunities.
    - b. Facilitating job placement by matching job seekers to vacancies.
    - c. Supporting workforce development through skills training and guidance.
- v. **Significance:**
  - Improves accessibility to employment opportunities, especially for marginalized and rural populations.
  - Strengthens labour market intelligence by providing real-time data on job openings.

2. **Exclusions from Reporting Obligations (Section 140):**

- i. **Applicability:** The appropriate government has the authority to exempt specific establishments or categories of vacancies from the reporting requirements.
- ii. **Examples of Exemptions:**
  - **Vacancies in Micro Enterprises:** Small businesses with limited resources may be excluded from mandatory reporting.

- **Casual or Temporary Employment:** Positions intended for short-term engagements may be exempt.
  - **Specific Sectors:** Establishments operating in highly informal or seasonal sectors may be excluded.
- iii. **Purpose:** To reduce the compliance burden on small or informal businesses while ensuring critical job data from larger establishments is captured.
- **Significance of Employment Information and Monitoring:**
  1. **Transparency in Job Availability:** Mandatory reporting of vacancies ensures job seekers have access to accurate and updated information about employment opportunities.
  2. **Policy Formulation:** The data collected helps the government design evidence-based policies for skill development, labour market interventions, and unemployment mitigation.
  3. **Workforce Management:** Career centres act as hubs for collecting and disseminating employment data, making it easier for employers to find skilled workers and for job seekers to find suitable employment.
  4. **Support for Marginalized Groups:** Through centralized monitoring, the government can focus on ensuring equitable access to job opportunities for underrepresented groups.
  5. **Reduction in Unemployment:** A transparent and well-maintained employment data system reduces information gaps in the labour market, connecting employers and job seekers effectively.

## Module - 3: The Occupational Safety, Health, and Working Conditions Code, 2020

### Q. Concept and Definitions of Employer and Employee?

- The OSH Code, 2020, consolidates and updates existing labour laws to ensure workplace safety, health, and welfare standards across various sectors.
- **Below are key definitions relevant to this question:**
  1. **Employer:**
    - i. **Concept:** The term "employer" encompasses any person or entity responsible for employing workers, ensuring their safety, and providing suitable working conditions in an establishment. The Code emphasizes the employer's role in maintaining compliance with occupational safety standards and worker welfare.
    - ii. **Definition of Employer (Section 2(1)(u)):**
      - **An Employer is defined as:**
        - a. Any person responsible for workers:
          - Directly or through contractors, in exchange for remuneration or wages.
        - b. Specific inclusions:
          - Factories: The owner or occupier, or the person named as the manager.
          - Mines: The owner, agent, or manager responsible under the Mines Act.
          - Local Authorities: The Chief Executive Officer (or equivalent authority).
          - Any person managing or supervising workers in an establishment.
        - c. Scope:
          - The term broadly includes contractors or legal representatives acting in an employer's stead.
          - Ensures that those responsible for workplace safety are legally accountable.
  2. **Employee:**
    - i. **Concept:** An employee is an individual engaged in work for wages under the supervision or control of an employer. The Code highlights their rights to safe working conditions, fair wages, and social security benefits.
    - ii. **Definition of Employee (Section 2(1)(l)):**
      - **An Employee refers to:**
        - a. A person employed for wages:

- Includes skilled, semi-skilled, or unskilled labour.
- Covers manual, operational, supervisory, clerical, or technical work.
- b. Exclusions:
  - Members of the Armed Forces.
  - Employees in managerial or administrative roles earning above the prescribed wage threshold.
- c. Inclusive Nature:
  - Ensures coverage for a wide range of workers across industries.
  - Recognizes diverse categories of employees to ensure fair treatment.

### **Q. Duties of Employer and Employee under The Occupational Safety, Health, and Working Conditions Code, 2020?**

- The OSH Code, 2020, outlines specific duties for both employers and employees to ensure a safe and healthy working environment. These duties emphasize accountability, collaboration, and compliance with workplace safety standards.
  1. **Duties of Employers (Section 6)**
    - a) **General Responsibilities:**
      - i. **Safe Workplaces:** Ensure workplaces are free from hazards likely to cause injury, illness, or occupational diseases.
      - ii. **Compliance:** Adhere to safety, health, and welfare standards prescribed under the Code.
    - b) **Specific Duties:**
      - i. **Workplace Safety Measures:**
        - a. Provide and maintain safe plant systems and work processes.
        - b. Implement measures to prevent risks from handling, storage, and transport of hazardous substances.
      - ii. **Training and Supervision:**
        - a. Conduct safety training for employees, especially for those handling hazardous equipment or materials.
        - b. Supervise and monitor adherence to safety protocols.
      - iii. **Health and Hygiene:**

- a. Ensure availability of clean drinking water, proper sanitation, ventilation, and lighting.
    - b. Conduct free annual health check-ups for workers above a certain age, as prescribed.
  - iv. **Emergency Preparedness:**
    - a. Equip workplaces with emergency exits, firefighting equipment, and first-aid facilities.
    - b. Develop and communicate evacuation plans.
  - v. **Welfare Provisions:** Provide creche facilities, canteens, and other welfare measures as prescribed.
  - vi. **Notification of Accidents:** Inform authorities about accidents, occupational diseases, or hazardous occurrences.
  - vii. **Special Provisions for Women:** Ensure safe working conditions for women, particularly in hazardous occupations or during night shifts.
  - viii. **Employment Terms:**
    - a. Issue letters of appointment to all employees.
    - b. Maintain accurate records of employees and their working hours.
  - c) **Accountability for Contractors:** Employers are responsible for ensuring contractors comply with safety and welfare standards for contract labour.
- 2. **Duties of Employees (Section 13):**
  - a) **General Responsibilities:**
    - i. **Self-Safety:**
      - a. Take reasonable care of their own safety and health.
      - b. Avoid actions that could endanger others in the workplace.
    - ii. **Compliance with Safety Norms:**
      - a. Follow safety instructions and protocols issued by the employer.
      - b. Participate in training programs to stay updated on workplace safety measures.
    - iii. **Reporting Hazards:** Inform employers or supervisors about unsafe conditions or practices in the workplace.
    - iv. **Prohibition Against Tampering:** Avoid wilful damage, removal, or misuse of safety equipment, protective devices, or welfare amenities provided by the employer.
    - v. **Cooperation:** Work collaboratively with the employer to maintain a safe and healthy workplace.

**Q. Occupational Safety, Health, and Working Conditions: Provisions Under Chapter V (Section 23)?**

- **Chapter V of The Occupational Safety, Health, and Working Conditions Code, 2020**, specifies the employer's responsibility to ensure the health, safety, and welfare of employees. The provisions aim to create a safe and conducive work environment by prescribing specific standards for workplaces.

1. **Employer's Responsibility for Health, Safety, and Working Conditions (Section 23(1)):**

a) **The employer is mandated to:**

- i. Maintain prescribed health, safety, and working conditions for employees in the establishment.
- ii. Comply with standards established by the Central Government for various aspects of workplace safety and hygiene.

2. **Specific Provisions for Workplace Health, Safety, and Hygiene (Section 23(2)):**

- a) The Central Government prescribes specific standards for ensuring employee welfare.

b) These include:

i. **Cleanliness and Hygiene**

- a. Regular cleaning and maintenance of the workplace.
- b. Prevention of accumulation of dirt, waste, or hazardous substances.

ii. **Ventilation, Temperature, and Humidity**

- a. Adequate ventilation and temperature control to ensure employee comfort.
- b. Measures to maintain optimal humidity levels in the workplace.

iii. **Environment Free from Harmful Substances**

- a. Control of dust, noxious gases, fumes, and other air pollutants to prevent health hazards.

iv. **Humidification and Cooling Standards**

- a. Use of artificial humidification and air-cooling systems to ensure appropriate working conditions in enclosed spaces.

v. **Potable Drinking Water**

- a. Provision of clean and safe drinking water accessible to all employees always.

vi. **Prevention of Overcrowding**

- a. Adequate workspace per employee to prevent overcrowding.
  - b. Maintenance of sufficient space for movement and productivity.
- vii. **Adequate Lighting**
  - a. Proper lighting systems to ensure visibility in work areas, minimizing accidents and eye strain.
- viii. **Sanitation Facilities**
  - a. Separate and sufficient latrines and urinals for male, female, and transgender employees.
  - b. Maintenance of hygiene and regular cleaning of sanitation facilities.
- ix. **Waste and Effluent Management**
  - a. Effective systems for the collection, treatment, and disposal of industrial waste and effluents.
- x. **Additional Arrangements**
  - a. Any other arrangements the Central Government deems necessary for specific industries or workplaces.

**Q. Maintenance of Registers, Records, and Returns under The Occupational Safety, Health, and Working Conditions Code, 2020:**

- **Chapter VIII of the OSH Code, 2020**, focuses on the **employer's obligation to maintain workplace records, registers, and returns to ensure transparency and compliance with labour standards**. These requirements provide a framework for monitoring worker welfare and workplace safety.
  - 1. **Obligations of Employers (Section 33):**
    - a) **Maintenance of Registers:**
      - i. Employers must maintain registers in a prescribed form, either electronically or in physical format, including:
        - a. **Details of Workers:** Records of work performed by each employee.
        - b. **Work Hours:** Normal working hours in a day.
        - c. **Weekly Rest:** Information on the day of rest allowed within every seven-day work cycle.
        - d. **Wages and Receipts:** Details of wages paid and receipts issued for them.
        - e. **Leave and Attendance:** Records of leave, leave wages, overtime work, attendance, and dangerous occurrences (e.g., workplace accidents).
        - f. **Adolescent Employment:** Records related to the employment of adolescents (if applicable).



- b) **Display of Notices:**
    - i. Employers are required to display notices in a visible manner at the workplace, as prescribed by the appropriate Government.
    - ii. These notices may include details about working hours, wages, holidays, safety instructions, and employee rights.
  - c) **Issuance of Wage Slips:**
    - i. **Wage slips must be issued to workers:**
      - a. **Format:** Electronically or in physical form.
      - b. **Frequency:** As prescribed by the appropriate Government.
  - d) **Filing of Returns:**
    - i. Employers must file returns with the Inspector-cum-Facilitator:
      - a. **Mode:** Electronically or in physical form.
      - b. **Frequency:** At intervals and in formats prescribed by the appropriate Government.
2. **Importance of Maintenance of Registers, Records, and Returns:**
- a) **Ensures Transparency:** Accurate records allow authorities to verify compliance with labour laws and workplace safety standards.
  - b) **Facilitates Worker Welfare:** Maintains accountability for workers' wages, leave entitlements, and other benefits.
  - c) **Supports Legal Compliance:** Provides evidence of compliance with labour laws during inspections or disputes.
  - d) **Simplifies Monitoring:** Enables Inspector-cum-Facilitators to efficiently oversee workplace conditions and identify issues.
  - e) **Digital Adaptability:** Provisions for electronic record-keeping and wage slips align with modern workplace practices, enhancing efficiency.
3. **Consequences of Non-Compliance:** Failure to maintain registers, records, or returns, or to issue wage slips, may result in penalties under the OSH Code. Employers are encouraged to follow the prescribed guidelines to avoid legal issues and promote a compliant workplace.

Q. Special Provision Relating to Employment of Women under The Occupational Safety, Health, and Working Conditions Code, 2020?

- Chapter X of the OSH Code, 2020, addresses the employment of women in establishments. These provisions aim to balance inclusivity and empowerment of women in the workforce while ensuring their health, safety, and dignity.
  - 1. **Right to Equal Employment (Section 43):**
    - a) **Inclusivity:**

- i. Women have the right to be employed in all types of establishments and for all types of work covered under this Code.
- b) **Work Hours:**
  - i. Women may be employed during non-traditional hours (before 6 a.m. and after 7 p.m.), provided:
    - a. **Consent:** The employer must obtain prior consent from the woman employee.
    - b. **Safety Conditions:** The employer must ensure safety measures, holidays, and compliance with prescribed working hours as directed by the appropriate Government.
- 2. Prohibition in Hazardous Employment (Section 44)
  - a) Restriction for Health and Safety:
    - i. The appropriate Government may prohibit or restrict the employment of women in establishments or processes deemed hazardous to their health and safety.
    - ii. This includes:
      - a. Specific industries or operations considered unsafe.
      - b. Classifications based on hazardous or dangerous processes (e.g., exposure to toxic chemicals, mining, or heavy machinery).
  - b) Requirement for Safeguards:
    - i. Before employing women in hazardous operations, employers are mandated to:
      - a. Implement adequate safeguards.
      - b. Comply with the conditions prescribed by the Government to ensure the safety of women employees.

**Q. Significance of Special Provision Relating to Employment of Women under The Occupational Safety, Health, and Working Conditions Code, 2020?**

- **Significance of the Provisions:**
  - 1. **Promotes Gender Equality:** These provisions aim to create equal opportunities for women in all sectors, including those previously restricted to men.
  - 2. **Ensures Safety and Welfare:** Safeguards are emphasized to protect women's health and ensure safe working conditions, particularly during night shifts or in hazardous environments.
  - 3. **Encourages Inclusivity:** Employers are encouraged to make workplaces safer and more inclusive, fostering diversity.

4. **Balances Work and Safety:** By allowing employment during night hours with consent, the Code recognizes the evolving nature of work while safeguarding workers' rights.

**Q. Employer's Responsibilities and Government's Role in Special Provision Relating to Employment of Women under The Occupational Safety, Health, and Working Conditions Code, 2020?**

- **Employer's Responsibilities:**
  1. **Consent and Safety:**
    - a) Ensure prior consent for employment outside traditional hours.
    - b) Implement prescribed safety measures, such as secure transport and adequate lighting.
  2. **Workplace Modifications:**
    - a) Make necessary adjustments to accommodate women in hazardous operations, as per government guidelines.
  3. **Monitoring and Compliance:**
    - a) Regularly update safety protocols and ensure adherence to the conditions laid down by the Government.
- **Government's Role:**
  1. **Prescribing Conditions:**
    - a) Frame rules regarding safety measures, working hours, holidays, and other welfare provisions.
  2. **Identifying Hazards:**
    - a) Specify hazardous industries and operations where women's employment may be restricted unless adequate safeguards are in place.
  3. **Monitoring Compliance:**
    - a) Conduct inspections to ensure that employers follow safety and welfare standards.

## Module - 4: The Occupational Safety, Health, and Working Conditions Code, 2020

### Q. Contract Labour under The Occupational Safety, Health, and Working Conditions Code, 2020?

- Chapter XI, Part I of the OSH Code, 2020, provides a detailed framework for regulating the employment of contract labour. It ensures that contract workers receive fair treatment, adequate welfare facilities, and wages, while also holding contractors and principal employers accountable for compliance.
  1. **Applicability and Non-Applicability (Section 45):**
    - a) **Applicability:**
      - i. **This part applies to:**
        - a. Establishments employing 50 or more contract labour on any day in the preceding 12 months.
        - b. Manpower supply contractors who have employed 50 or more contract labour.
      - b) **Non-Applicability:**
        - i. **This part does not apply to:**
          - a. Work of an intermittent or casual nature.
        - ii. **Intermittent Nature:**
          - a. Work performed for less than 120 days in the preceding 12 months.
          - b. Seasonal work performed for less than 60 days in a year.
      - c) **Government Decision:** The appropriate Government decides whether work is intermittent or casual after consulting the National or State Advisory Boards.
    2. **Licensing of Contractors (Sections 46-51):**
      - a) **Requirement of Licence (Section 47):**
        - i. **No contractor can:**
          - a. Supply or engage contract labour, or
          - b. Undertake contract work,
          - c. Without a licence issued by the designated authority under Section 119.
        - ii. **Licences specify:**
          - a. The number of contract workers to be engaged.
          - b. Security deposits required for compliance.
        - iii. **Work-Specific Licence:**
          - a. Issued to contractors who do not meet the full licensing requirements for a specific work order.
          - b. Renewable within a prescribed period.

- iv. **Validity and Renewal (Section 48):**
    - a. Licences are valid for five years and can be amended for increasing contract labour, subject to additional security deposits.
  - v. **Prohibition on Charges (Section 49):**
    - a. Contractors cannot charge any fee or commission to workers directly or indirectly.
  - vi. **Revocation and Suspension (Section 51):**
    - a. Licences can be suspended or revoked for:
      - b. Misrepresentation or suppression of facts.
      - c. Violation of licence conditions or rules.
  - vii. **Appeals Against Orders (Section 52):**
    - a. Aggrieved parties can appeal licensing-related orders within 30 days to the designated appellate authority.
3. **Welfare and Wages (Sections 53-55):**
- a) **Welfare Facilities (Section 53):**
    - i. Principal employers must provide welfare amenities specified in Sections 23 and 24, such as canteens, restrooms, and first-aid facilities, to contract labour.
  - b) **Responsibility for Wages (Section 55):**
    - i. Contractors are responsible for timely wage payments via bank transfer or electronic modes.
    - ii. **In case of default by the contractor:**
      - a. The principal employer must pay the wages and recover the amount from the contractor or their security deposit.
  - c) **Experience Certificates (Section 56):**
    - i. Contractors must issue experience certificates to contract workers upon request, detailing the nature of their work.
4. **Prohibition on Core Activities (Section 57):**
- a) **Prohibition:**
    - i. Employment of contract labour is prohibited in core activities of an establishment, except under specific conditions:
      - a. Work is normally performed through contractors.
      - b. Activities do not require full-time workers.
      - c. A sudden increase in workload requires additional contract labour temporarily.
  - b) **Core Activity Determination:**

- i. The appropriate Government appoints a designated authority to determine whether an activity is a core activity.
- ii. Aggrieved parties can appeal the classification of an activity.

5. **Special Provisions (Sections 58):**

- a) **Exemptions in Emergencies:** The Government may exempt establishments or contractors from the Code's provisions during emergencies, subject to conditions and restrictions.

**Q. Inter-State Migrant Workers and Specific Types of Workers under The Occupational Safety, Health, and Working Conditions Code, 2020:**

- The OSH Code, 2020, addresses the conditions and rights of workers engaged in specific industries, such as **audio-visual workers, inter-State migrant workers, mine workers, beedi and cigar workers, and construction workers**. Each category has tailored provisions to ensure their safety, welfare, and fair treatment.

1. **Inter-State Migrant Workers:**

- a) **Definition:** Workers who migrate from one State to another for employment, either through contractors or direct hiring by employers.
- b) **Key Provisions:**
  - i. **Registration:** Contractors and employers must register inter-State migrant workers with the appropriate authority.
  - ii. **Entitlements:**
    - a. Workers are entitled to displacement and travel allowances.
    - b. Social security benefits, such as provident fund and health insurance.
  - iii. **Welfare Measures:** Accommodation, medical facilities, and suitable working conditions must be ensured.
  - iv. **Toll-Free Helplines:** Dedicated grievance mechanisms through toll-free helplines.

2. **Audio-Visual Workers (Chapter XI, Part III, Section 66):**

- a) **Scope:** Workers involved in the production of films, TV shows, advertisements, and digital media.
- b) **Key Provisions:**
  - i. **Employment Agreement:**
    - a. No audio-visual worker can be employed without a written agreement.
  - ii. **The agreement must specify:**

- a. Nature of assignment.
    - b. Wages and benefits, including provident fund (if applicable).
    - c. Working conditions, safety, and welfare measures.
    - d. Dispute resolution mechanisms.
    - e. The agreement must be registered with the competent authority.
  - iii. **Liability:** If a contractor fails to meet wage or welfare obligations, the producer of the program is held accountable.
  - iv. **Dispute Resolution:** Unresolved disputes can be escalated to the Industrial Tribunal for adjudication.
3. **Mine Workers (Chapter XI, Part IV, Sections 67–73):**
- a) **Key Provisions:**
    - i. **Management:** Every mine must have a manager with prescribed qualifications responsible for overall operations.
    - ii. **Safety Standards:** Employers must ensure:
      - a. Safe working conditions, particularly in hazardous zones.
      - b. Rescue and recovery services.
    - iii. **Age Restrictions:**
      - a. No person below 18 years of age can work in a mine.
      - b. Apprentices and trainees (16–18 years) may work under supervision, subject to approval.
    - iv. **Exemptions:** Certain mines (e.g., those for prospecting purposes) may be exempt from the Code's provisions.
    - v. **Emergency Protocols:** In emergencies, managers may permit workers to perform duties outside normal hours to ensure safety.
4. **Beedi and Cigar Workers (Chapter XI, Part V, Sections 74–77):**
- a) **Key Provisions:**
    - i. **Licensing:**
      - a. Industrial premises used for the production of beedi, or cigars must obtain a license from the authority under Section 119.
      - b. The license is valid for five years and is renewable.
    - ii. **Suitability of Premises:** Authorities assess the premises' suitability for worker welfare and compliance.

- iii. **Home-Based Work:** Workers can make beedi or cigars at home if raw materials are supplied by the employer or contractor.
  - iv. **Exemptions:** Manufacturing by families in private dwelling houses is exempt if it involves only family members.
5. **Construction Workers:** Although not explicitly covered in the referenced sections, the OSH Code provides general safety and welfare measures for workers engaged in construction activities, such as:
- a) **Safe Equipment Use:** Employers must ensure that machinery and tools are well-maintained and safe for use.
  - b) **Welfare Amenities:** First aid, drinking water, restrooms, and creche facilities are mandatory.
  - c) **Hazard Prevention:** Measures to prevent accidents, including proper scaffolding and fall protection.

### Q. Factories and Plantations under The Occupational Safety, Health, and Working Conditions Code, 2020?

- Factories and Plantations are covered under distinct parts of the OSH Code, 2020, with provisions to ensure safe, healthy, and fair working conditions for workers. The provisions outline responsibilities of employers and the government to maintain high standards of safety, welfare, and health.

#### 1. **Factories (Part VII, Sections 79–91):**

##### **Key Provisions:**

- a) **Approval, Licensing, and Registration of Factories (Section 79):**
  - i. **Employers must seek approval for:**
    - a. Site selection.
    - b. Construction or expansion of factories.
    - c. Licensing and renewal.
  - ii. **Deemed Approval:**
    - a. If no response is received within 30 days of application, the approval is considered granted.
  - iii. **Appeals:**
    - a. Denied applicants can appeal to the Central or State Government.
- b) **Liability for Common Facilities (Section 80):**
  - i. In multi-occupier premises, both owners and occupiers are jointly responsible for:
    - a. Safety and fire protection.
    - b. Hygiene and ventilation.
    - c. Emergency preparedness.



- d. Canteens, restrooms, and creches.
  - c) **Dangerous Operations (Section 82):**  
**Governments can:**
    - i. Declare specific processes or industries as dangerous.
    - ii. Restrict employment of pregnant women in such operations.
    - iii. Mandate medical exams for workers in hazardous jobs.
    - iv. Enforce welfare amenities and protective equipment.
  - d) **Hazardous Process Factories (Sections 84–85):**  
**Factories involving hazardous processes must:**
    - i. Disclose information about risks and safety measures to workers and the public.
    - ii. Prepare on-site emergency plans and disaster management strategies.
    - iii. Conduct periodic medical exams and maintain health records of workers.
  - e) **Worker Rights and Safety (Sections 88–89):**
    - i. **Chemical and Toxic Exposure:** Limits for exposure must be prescribed and displayed.
    - ii. **Right to Warn:** Workers can report imminent danger, requiring employers to take immediate action.
2. **Plantations (Part VIII, Sections 92–93):**  
**Key Provisions:**
- a) **Welfare Facilities (Section 92):**  
**Employers must provide:**
    - i. **Housing:** Accommodation with potable drinking water, kitchens, and toilets for workers and their families.
    - ii. **Creches:**
      - a. Required if 50 or more workers are employed, including contract workers.
      - b. Shared creche facilities are allowed under government or NGO schemes.
    - iii. **Education:** Mandatory for workers' children aged 6 to 12 if there are over 25 such children.
    - iv. **Health Facilities:** Either on-site health services or coverage under the Employees' State Insurance Act, 1948.
    - v. **Recreation:** Facilities for worker well-being.
  - b) **Safety Provisions (Section 93):**  
**Employers must ensure:**
    - i. **Chemical Safety:**
      - a. Proper handling, storage, and transport of insecticides, pesticides, and toxic substances.

- b. Training for workers handling hazardous materials.
- ii. **Protective Measures:** Facilities for washing and bathing, along with protective clothing and equipment.
- iii. **Health Monitoring:**
  - a. Periodic medical examinations of workers exposed to hazardous chemicals.
  - b. Maintenance of accessible health records.
- iv. **Precautionary Notices:** Display permissible concentrations of chemicals and precautionary warnings.

Q. Offences and Penalties under The Occupational Safety, Health, and Working Conditions Code, 2020:

- The OSH Code, 2020, under Chapter XII (Sections 94 to 114), provides a detailed framework for dealing with offences and penalties related to violations of its provisions. The aim is to ensure compliance with workplace safety, health, and welfare standards while deterring non-compliance through appropriate punishments.
- **Key Provisions on Offences and Penalties:**
  - 1. **General Penalty for Contraventions (Section 94):**
    - a) **Applicability:** For contravention of any provisions, rules, regulations, or orders under the Code.
    - b) **Penalty:**
      - i. Minimum: ₹2,00,000.
      - ii. Maximum: ₹3,00,000.
      - iii. Continuing Offence: An additional penalty of ₹2,000 per day until the contravention stops.
  - 2. **Obstruction to Inspectors or Authorities (Section 95):**
    - a) **Offence:** Wilfully obstructing an Inspector-cum-Facilitator or authorized officer, refusing entry, failing to produce documents, or not complying with requisitions.
    - b) **Penalty:**
      - i. **Imprisonment:** Up to 3 months.
      - ii. **Fine:** Up to ₹1,00,000.
      - iii. Both imprisonment and fine.
    - c) **Repeat Offence:**
      - i. **Imprisonment:** Up to 6 months.
      - ii. **Fine:** ₹1,00,000–₹2,00,000.
  - 3. **Non-Maintenance of Records or Non-Filing of Returns (Section 96):**
    - a) **Offence:** Failing to maintain prescribed registers or records or not filing required returns.
    - b) **Penalty:**

- i. **First Offence:** ₹50,000–₹1,00,000.
  - ii. **Repeat Offence:** ₹50,000–₹2,00,000.
- 4. **Contraventions Relating to Employment Conditions (Section 97):**
  - a) **Offence:** Violating provisions regarding employment, including:
    - i. Employment restrictions for specific categories (e.g., women, contract labour, audio-visual workers).
  - b) **Penalty:**
    - i. **First Offence:** ₹50,000–₹1,00,000.
    - ii. **Repeat Offence:**
      - a. **Imprisonment:** Up to 3 months.
      - b. **Fine:** Up to ₹2,00,000.
      - c. Both imprisonment and fine.
- 5. **Falsification of Records or False Information (Section 98):**
  - a) **Offence:** Producing false records, documents, or statements, falsifying plans, or submitting counterfeit documents.
  - b) **Penalty:**
    - i. **Imprisonment:** Up to 3 months.
    - ii. **Fine:** Up to ₹1,00,000.
    - iii. Both imprisonment and fine.
  - c) **Repeat Offence:**
    - i. **Imprisonment:** Up to 6 months.
    - ii. **Fine:** ₹1,00,000–₹2,00,000.
    - iii. Both imprisonment and fine.
- 6. **Penalty for Omission to Furnish Plans, Notices, or Documents (Section 99):**
  - a) **Offence:** Failure to furnish plans, notices, returns, or registers as prescribed.
  - b) **Penalty:** ₹1,00,000–₹2,00,000.
- 7. **Disclosure of Confidential Information (Section 100):**
  - a) **Offence:** Unauthorized disclosure of confidential information by Inspectors or authorized personnel.
  - b) **Penalty:**
    - i. **Imprisonment:** Up to 3 months.
    - ii. **Fine:** Up to ₹1,00,000.
    - iii. Both imprisonment and fine.
- 8. **Contraventions in Hazardous Processes or Safety Provisions (Sections 102–103):**
  - a) **Section 102:** Relates to non-compliance with hazardous process safety measures.
    - i. **Penalty:**
      - a. **Imprisonment:** Up to 2 years.
      - b. **Fine:** Up to ₹5,00,000.

- c. **Continuing Offence:** ₹25,000 per day.
  - b) **Section 103:** Relates to contraventions causing accidents or injuries.
    - i. **Penalty:**
      - a. **Death:**
        - **Imprisonment:** Up to 2 years.
        - **Fine:** ₹5,00,000+ (50% to victim or heirs).
      - b. **Serious Injury:**
        - **Imprisonment:** Up to 1 year.
        - **Fine:** ₹2,00,000–₹4,00,000.
9. **Offences by Employees (Section 106):**
- a) **Offence:** Non-compliance by employees with duties imposed by the Code.
  - b) **Penalty:**
    - i. **Fine:** Up to ₹10,000.
10. **Offences by Companies (Section 109):**
- a) **Offence:** Violations by a company, holding individuals like directors or managers responsible.
  - b) **Penalty:** Provisions similar to individual offences, with liability shared between the company and responsible individuals.
11. **Powers of Inspectors and Authorities (Sections 110–111):**
- a) Inspectors can issue notices for compliance before initiating prosecution.
  - b) Penalties imposed by officers can be challenged through an appeals process.
12. **Composition of Offences (Section 114):** Certain offences can be compounded before or after prosecution.
- a) **Penalty:**
    - i. 50% of the maximum penalty for general offences.
    - ii. 75% of the maximum fine for specific offences.
  - b) **Repeat Offenders:** Provisions for compounding do not apply for second or subsequent offences within 3 years.

### **Q. Social Security Fund under The Occupational Safety, Health, and Working Conditions Code, 2020:**

- The Social Security Fund, established under Chapter XIII, Section 115, of the OSH Code, 2020, is aimed at ensuring the welfare of unorganised workers.
- **Provisions of the Social Security Fund (Section 115):**
  - 1. **Establishment of the Fund:** The appropriate Government (Central or State) is mandated to establish a Social Security Fund specifically for the welfare of unorganised workers.
  - 2. **Sources of Funding:** The fund will be credited with:

- a) **Composition Amounts:** Funds received from the composition of offences as per Section 114(4).
- b) **Penalties Collected:** Penalties imposed under Section 111(6).
- c) **Other Sources:** Additional funding may come from sources prescribed by the appropriate Government, such as:
  - Contributions from stakeholders.
  - Donations from corporations or private entities.
  - Other specified revenue streams.

**3. Administration of the Fund:**

- a) The appropriate Government will administer the fund.
- b) **It may prescribe specific rules for the:**
  - Management.
  - Utilisation.
  - Disbursement of the funds.
- c) **Usage of the Fund:**
  - The fund is to be utilised exclusively for the welfare of unorganised workers.
- d) **The usage may include:**
  - Transfer of funds to any other welfare fund established under existing laws for unorganised workers.
  - Direct support to workers in terms of benefits like healthcare, insurance, housing, or skill development.
- e) **Definition of Unorganised Workers:**
  - For clarity, the term "unorganised worker" carries the same definition as under Section 2(m) of the Unorganised Workers Social Security Act, 2008:
    - "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 under the Industrial Disputes Act or any other welfare provisions."