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## **Statement of objects and reasons**

The unorganised sector of the economy in India is the largest sector in terms of employment of the workforce. It consists of agriculture and such related activities as forestry, livestock and fishing as well as non-agriculture. The workers may be broadly divided into self-employed and wage workers. Wage workers may be sub-divided into those: (a) working in the unorganised sector, and (b) working in the organised sector without any social security cover. Around 90 per cent of the workers in India are covered by neither any formal system of social security nor regulation of conditions of work. This Bill is intended to provide a measure of social security to the unorganised workers. This Bill proposes a model that will be inclusive in nature and provide for a clearly demarcated division of responsibilities between the Central and State governments. It mandates the Central and State governments to implement a National Social Security Scheme.

## **UNORGANISED WORKERS SOCIAL SECURITY BILL, 2007.**

### **A BILL**

*to provide for social security and welfare of unorganised workers and to provide for other matters connected therewith or incidental thereto.*

*BE it enacted by Parliament in the fifty-seventh year of the Republic of India as follows:-*

## **Chapter I**

### **PRELIMINARY**

#### **1. Short title, extent, commencement and application:**

- (1) This Act may be called Unorganised Workers' Social Security Act, 2007.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

## 2. Definitions:

For the purposes of this Act, unless the context otherwise requires, -

- a) **"Agriculture"** would include the following occupations:
  - (i) Farming, including the cultivation and tillage of soil, etc;
  - (ii) Dairy farming;
  - (iii) Production, cultivation, growing and harvesting of any horticultural commodity;
  - (iv) Raising of livestock, bee-keeping or poultry;
  - (v) Fishing and/ or fish farming;
  - (vi) Any practice performed on a farm as incidental to, or in conjunction with, the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products);
  - (vii) Growing fodder or thatching grass or for grazing cattle.
- b) **"Central Government"** means the Government of India;
- c) **"Competent Authority"** means an authority appointed by the appropriate Government under this Act.
- d) **"Employer"** means a natural or juridical person, or an association of such persons, by whom any unorganised worker is engaged or employed either directly or otherwise, for any remuneration;
- e) **"Home-based worker"** means a person involved in the production of goods or services for an employer in his/her own home or other premises of his/her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;
- f) **"Identity card"** means a card, document or certificate issued to a worker issued by the Prescribed authority;
- g) **"National Board"** means the National Social Security Board for unorganised workers;

- h) **“Prescribed”** means prescribed by rules under this Act by the Central Government or, as the case may be, the State Government;
- i) **“Registered Worker”** means an unorganised worker registered for social security under this Act;
- j) **“State Government”** means the Government of a State in the Indian Union;
- k) **“State Board”** means the (name of the State) State Social Security Board for unorganised workers;
- l) **“Self-employed worker”** means any person who is not employed by an employer, but directly engages himself/herself in any occupation in the unorganised sector, subject to a monthly earning of Rs. 6500/- or such limits as may be notified from time to time, or, subject to such ceiling on land cultivated as may be notified from time to time by the State government;
- m) **“Unorganised Sector”** consists of all unincorporated private enterprises owned by individuals or households engaged in the production and sale of goods and services and operated on a proprietary or a partnership basis and employing less than ten persons”.
- n) **“Unorganised worker”** means a self-employed worker or a wage worker in the unorganised sector and includes wage workers in the organised sector without any social security cover;
- o) **“Wage worker”** means a person employed for a remuneration in the unorganised sector or in the organised sector without any social security cover, directly by an employer or through any agency or contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether simultaneously or otherwise, whether in cash and/or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or as an outworker, or, workers employed by households including domestic workers, with a monthly wage of not more than Rs. 6500/- or such limits as may be notified from time to time, but does not include an unpaid family worker.

### 3. Rules of evidence:

In this Act, notwithstanding anything contained in the Indian Evidence Act, 1872, the burden of proof that compliance with the provisions of the Act and the Scheme has been effected shall be entirely on the employer and the units of the Board, wherever applicable.

***[Explanatory Note: This section facilitates shifting of the burden of proof from the workers to the employer. This is a departure from the normal practice and ordinary rules of evidence, which places the burden on the plaintiff.]***

## **Chapter II**

### **SOCIAL SECURITY BENEFITS**

#### **4. Framing of Schemes**

(1) By this Act, the Central Government shall formulate schemes to be called National Social Security Schemes for the unorganised workers or a segment thereof to provide for national minimum social security benefits comprising *interalia* of:

- (i) Health benefits;
- (ii) Life and disability cover;
- (iii) Old age protection;
- (iv) any other benefit as may be deemed fit.

(2) In addition to the national minimum, the Central Government may frame such schemes as it may deem necessary or finance such schemes of the State governments as it may find appropriate, subject to availability of finance by such means as mentioned in Section 5 and may include those listed under (3) below.

(3) The State Government may formulate such unorganised worker based schemes as it may find appropriate to: (a) strengthen the national minimum social security by way of its own contribution, and/or (b) design and implement additional social security benefits through its own schemes. These may include:

- a) Provident Fund schemes;
- b) Employment injury benefit scheme;
- c) Housing schemes;
- d) Educational schemes for children of workers;
- e) Skill upgradation of workers;
- f) Funeral assistance;
- g) Marriage of daughters;
- h) Old age homes; and
- i) Any other schemes to enhance the socio-economic security of the unorganised worker.

## **Chapter III**

### **NATIONAL SOCIAL SECURITY FUND FOR UNORGANISED WORKERS**

#### **5. Constitution of a National Fund**

The Central Government shall create a National Social Security Fund to which contributions shall accrue from the following sources:

- a) Grants and loans from the Central Government;
- b) Contributions from workers, employers and Governments as may be prescribed by the National Board for the specified scheme for national minimum social security

In addition to the above, contributions may also accrue from the following sources:

- c) Contributions from the national financial/developmental institutions; and
- d) Any voluntary contribution from individuals or institutions
- e) Cess for social security for unorganised sector workers

#### **6. Existing Welfare Boards:**

All eligible unorganised workers shall be entitled to register and obtain benefits under such schemes which are in existence and operated through the existing Welfare Boards. However, notwithstanding provisions contained under any other law, the Appropriate Government may merge any existing Welfare Board/Boards and Welfare Fund/Funds constituted under any other law into the Board and Fund constituted under this Act.

#### **7. Exemption from Income Tax**

All financial contributions made by individuals and institutions to the National Social Security Fund will be exempted from the payment of income tax under the Income Tax Act.

#### **8. Utilisation of the National Fund**

All contributions accruing to the National Board shall be credited to the Fund, which shall be applied for meeting the following:

- a) Expenses on social security schemes of the Central Government;
- b) Grants to the State Boards, including for the purposes of the functioning of the Workers' Facilitation Centres;
- c) Expenses on the administration of the scheme.
- d) Investment in permitted schemes;
- e) Any other item in connection with the administration of this Act.

## **Chapter IV**

### **NATIONAL SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS**

#### **9. Establishment and Incorporation**

(1) With effect from such date as the Central Government may notify, there shall be established for the purposes of this Act, a Board to be called the National Social Security Board for unorganised workers.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The office of the Board shall be at Delhi.

#### **10. Functions of the Board**

The National Board shall perform the following functions:

- a) Administration of this Act and formulation of policies and schemes at the national level, and shall have such powers as may be laid down to direct, co-ordinate, supervise, and monitor the functioning of State Boards.;
- b) Review the working including auditing of the State-level Social Security Boards every four years and make suitable recommendations to the Government(s) concerned for further improvement;
- c) Manage and maintain the National Social Security Fund and provide financial assistance to State Boards;
- d) Advise the Central Government on policy matters relating to social security, health and safety and welfare of unorganised workers;

- e) Assist in capacity building of the State Boards, and collect, compile and publish statistics relating to the unorganised sector and undertake such promotional activities as may be decided from time to time.
- f) Delegate such functions to the Executive Council as deemed necessary from time to time.

## **11. Composition of the Board**

(1) The National Board for unorganised workers shall be constituted by the Central Government. It shall consist of the representatives of the following organisations:

- a) State Boards for unorganised workers;
- b) Central Welfare Boards for unorganised sector workers administered by the Ministry of Labour and Employment;
- c) National level unions of unorganised sector workers;
- d) National level voluntary associations of unorganised sector workers including the self-employed, with an explicit social security scheme for its members; and
- e) National level organisations of employers in the unorganised sector (such as organisations of tiny and small-scale industries, farmers organisations) and government/public institutions with a stake in the welfare of the unorganised sector workers such as the All India Handicrafts Board, All India Handloom Board, Central Social Welfare Board, Department of Women and Child Development, and Department of Small Scale Industries.
- f) Chairperson shall nominate a representative each from (i) SC, (ii) ST, (iii) Minority, (iv) Women and (v) OBC.

(2) The Central Government shall decide the number and names of such organisations to be represented on the National Board.

(3) The Union Minister for Labour and Employment shall be the Chairperson.

(4) The National Board shall work through an Executive Council and shall give broad policy directions to it.

(5) The Board shall meet once a year within six months of the last day of the previous financial year.

## **12. Executive Council**

(1) The Board shall have an Executive Council with the Secretary to the Government of India, Ministry of Labour and Employment, as its Chairperson and Director General (Labour & Welfare) as its *ex-officio* Member-Secretary/ Chief Executive Officer. In addition, the Central Government shall nominate the members to the Executive Council as per the following:

- a) One representatives of the organisations of wage workers in the unorganised sector, who are members of the National Board;
- b) One representatives of organisations of self-employed workers in the unorganised sector, which are members of the National Board;
- c) One representatives of organisations of employers in the unorganised sector that are members of the National Board;
- d) One representative from any one of the Central Welfare Boards;
- e) One representative each of the Government of India from the Ministry of Agriculture, Finance, Health and Small Scale Industries;
- f) Three representatives of the State Boards;
- g) The Chairman may co-opt such professionals / experts as may be considered necessary.

(2) The tenure of the members shall be for a period of three years. The Executive Council shall meet as often as required but not less than once in every quarter.

***[a, b, c, and f may be based on the principle of rotation amongst the member organisations.]***

### **13. Secretariat of the Board**

The National Board shall have a secretariat with adequate professional and other staff which would also assist the Executive Council in its day to day functioning. The staff of the National Board shall be governed by such rules and regulations as may be framed from time to time. The annual budget of the National Board shall be prepared by the Secretariat and placed before the Executive Council for approval.

## **Chapter V**

## STATE SOCIAL SECURITY BOARDS FOR UNORGANISED WORKERS

### 14. Establishment of State Boards

(1) Each State shall have a State Board to implement the national minimum social security as well as design and implement State-level social security and welfare programmes for unorganised workers. The State governments shall constitute the State Boards within one year of the date of commencement of this Act. The State Boards shall have the following as its members:

- a) Workers Welfare Boards (both existing and newly designed) providing social security and welfare to the unorganised sector workers;
- b) Organisations which are registered as trade unions/co-operatives/charitable societies, engaged in the provision of social security for unorganised sector workers subject to such qualifying criteria as the State government may lay down;
- c) Departments or agencies of the State government acting as employers of the unorganised sector workers (e.g. public works department, forest department, or those employing *anganwadi* workers, *khadi* workers, etc.); and
- d) Representatives of organisations of self-employed unorganised sector workers;
- e) Representatives of employers' organisations in the unorganised sector;
- f) Representative of Central Government
- g) Representative each from (i) SC, (ii) ST, (iii) Minority, (iv) Women and (v) OBC.

(2) The State government shall decide the number and names of such organisations to be represented on the State Board.

(3) The Minister for Labour in the State concerned shall be the Chairperson of the State Board.

(4) The State Board shall work through an Executive Council and shall give broad policy directions to it..

(5) The State Board shall meet once a year within six months of the last day of the previous financial year.

## **15. State Fund**

(1) The State government shall create a State Social Security Fund to which contributions shall accrue from the following sources:

- (i) Grants and loans from National Board and the State government;
- (ii) Any tax or cess that the State government may impose on commodities and/or services in lieu of employers' contributions (which are either difficult to collect or appropriate employers in the unorganised Sector are not directly identifiable);
- (iii) Contribution toward additional social security scheme (if any) formulated by the State Board;
- (iv) Contributions from the national financial/developmental institutions; and
- (v) Any voluntary contribution from individuals or institutions;

(2) All financial contributions made by individuals and institutions to the State Social Security Fund will be exempted from the payment of income tax under the Income Tax Act.

(3) All contributions accruing to the State Boards shall be credited to the State Social Security Fund which shall be applied for meeting the following:

- a) Expenses on the implementation of the national minimum social security and additional social security schemes of the State Government;
- b) Grants to the Welfare Boards and the Workers' Facilitation Centres;
- c) Expenses on the administration of the State Board as per the annual budget approved by the Executive Council;
- d) Investment in permitted schemes;
- e) Any other item in connection with the administration of this Act.

## **16. Functions**

The State Boards will perform the following functions:

- a) Administer this Act at the State level including ensuring maintenance of individual accounts of the registered workers and records of receipt of contribution from individual employers;

- b) Implement the national minimum social security for unorganised workers through appropriate organisational arrangements, and stipulate norms for the evaluation of the work done by the Workers' Facilitation Centres;
- c) Collect the contribution from the registered worker and the employer and credit it to the account(s) as directed by the National Board;
- d) Implement social security schemes, in addition to the National Social Security Scheme, that the State Board may design in consultation with the State government;
- e) Provide financial assistance to other member organisations implementing social security programmes;
- f) Advise the State government on policy matters relating to social security, health and safety and welfare of workers;
- g) Create awareness among the unorganised workers about the need for social security registration and the existence of various social security schemes;
- h) Collect, compile and publish statistics, with the help of statistical organisations, regarding workers and their conditions of work, and employers who engage these workers at the *Panchayat*/Municipal, District, State levels with such details as gender and age, nature of occupation, level of earnings, etc.;
- i) Review the working of the Welfare Boards and other implementing agencies on the basis of annual reports and statements of audited accounts or specially commissioned reports and make suitable recommendations to the government(s) concerned for further improvement;
- j) Assist in capacity building of Workers Welfare Boards and Workers' Facilitation Centres;
- k) Initiate innovative approaches, through interaction across sectors and constituencies, for the enhancement of welfare, working conditions and productivity of unorganised workers; and
- l) Submit annual report to the National Board within four months from the last day of the previous financial year along with an audited statement of accounts.
- m) Settle the dues if any, of the registered worker under the scheme.

## **17. Executive Council**

(1) The State Board shall have an Executive Council with the Secretary of the State government concerned, Department of Labour, as Chairperson and an official designated by the State government as Chief Executive Officer, who shall be the ex-officio Member-Secretary. In addition, the State government shall nominate the members to the Executive Council as per the following:

- a) One representatives of the organisations of wage workers in the unorganised sector, that are members of the State Board;
- b) One representatives of organisations of self-employed workers in the unorganised sector, that are members of the State Board;
- c) One representatives of organisations of employers in the unorganised sector that are members of the State Board;
- d) One representative from the National Board nominated by it;
- e) One representative each from the Departments of Agriculture, Finance, Health and Small Scale Industries of the State government;
- f) Not more than three representatives of the State level Workers Welfare Boards or organisations providing social security to the unorganised sector workers that are members of the State Board;

The Chairman may co-opt such professionals / experts as may be considered necessary (2) The tenure of the members shall be for a period of three years. The Executive Council shall meet as often as required but not less than once in every quarter.

***[a, b, c, and f may be based on the principle of rotation amongst the member-organisations.]***

(3) Appropriate rules for appointment and removal from office of the chief executive shall be framed by the State government.

## **18. Secretariat of the Board**

The State Board shall have a secretariat with adequate professional and other staff which would also assist the Executive Council in its day to day functioning.. The staff of the State Board shall be governed by such rules and regulations as may be framed from time to time.

## **19. District Board**

A District level Board shall be constituted for the National Social Security Schemes. The District Board will have the Chairperson of District level Panchayat as the Chairperson and the District Labour Officer as its Convener and Nodal Officer. The District Board shall include:

- a) Two representatives of workers' organisations such as unions, associations or co-operatives in the unorganised sector;
- b) Two representatives of organisations working among the unorganised sector workers who do not have organisations of their own;
- c) Two representatives of employers' organisations in the unorganised sector;
- d) One representative of the Zillah Parishad and one from amongst the Nagar Palikas;
- e) A representative of the State Board; and
- f) A representative each from (i) SC, (ii) ST, (iii) Minority, (iv) Women and (v) OBC.

## **Chapter VI**

### **IMPLEMENTATION**

## **20. Eligibility for registration and social security benefits**

(1) Every unorganised worker shall be eligible for registration subject to the following conditions:

- a) He/she should have completed 18 years of age; and
- b) a self-declaration confirming that he/she is an unorganised worker.

(2) The procedure for registration, issuance of identity cards, issuance of unique identification social security number, portability of registration and cessation of registration under the Act shall be as prescribed by a competent Authority designated by the State Social Security Board..

(3) Every registered worker shall be eligible for national minimum social security benefits only if payments of such contributions, as and when prescribed, have been made..

## **21. Implementation Machinery**

(1) The member organisations of the State Boards shall be responsible for the delivery of mandatory social security benefits as decided by the State and National Boards.

(2) The State Boards may decide on such delivery mechanisms as may be feasible under local conditions. This may include :

- a) existing delivery mechanisms as Welfare Boards;
- b) tie-ups with local organisations like banks, post offices and insurance companies;
- c) setting up of district and sub district level mechanisms for identification and registration of workers, collection of contributions if any, and, delivery of benefits as maybe decided upon.

(3) In order to extend coverage and reach the unorganised workers in remote areas, the State Boards may designate any one or more of the following at the local level as Workers' Facilitation Centres (WFC) for purposes of facilitating registration of workers:

- a) Existing Worker Welfare Boards and their local offices;
- b) Local Panchayati Raj Institutions (PRI) or urban local bodies;
- c) Organisations of workers including trade unions, associations and co-operatives in the unorganised sector;
- d) Self-help Groups (SHGs); and
- e) Non-profit organisations working among the unorganised sector workers.
- f) Such other organizations as may be designated by the State Boards.

(4) The State Social Security Boards may prescribe one or more of the following functions to be performed by the Workers' Facilitation Centres:

- a) Disseminate information on available social security schemes for the workers;
- b) Facilitate the filling, processing and forwarding of application forms for registration of workers;

- c) Obtain registration from the District Committee and deliver the Identity Cards to the registered workers;
- d) Facilitate to enroll the registered workers in social security schemes;
- e) Act as an authorised intermediary in collecting contributions from the workers and employers to the social security schemes and remit them with the designated institutions;
- f) Ensure the delivery of social security benefits in co-operation with institutions designated to deliver such social security (insurance companies, post offices, Departments of the State/Central Government and other institutions concerned);
- g) Any other function as may be prescribed by the State Social Security Board.

(5) The Workers' Facilitation Centres shall be entitled to charge such fees as may be decided by the State Board for the performance of its functions. Wherever required, it may also receive personnel recruited or deputed by the State Board for purposes of administration.

## **22. Premium and Compensation/Benefits:**

(1) The National Board shall decide the amount and manner of payment of contribution by the workers to the National Social Security Schemes.

(2) In addition to the National Schemes, for schemes initiated by the State Boards, the State Board concerned shall decide the contributions of workers and employers.

## **Chapter VII**

### **DISPUTE RESOLUTION BODIES AND THEIR CONSTITUTION**

#### **23. Resolution of disputes**

The State government shall constitute at least one Dispute Resolution Council in each district for resolution of disputes relating to the non-observance of provisions of this Act, arising amongst the unorganised workers, employers, Workers' Facilitation Centres and State Boards.

#### **24. Reference of disputes**

- (1) Any unorganised worker or employer or organisation representing such worker or Workers' Facilitation Centres or State Boards may raise a dispute relating to the non-observance of provisions of this Act by filing a complaint before the Dispute Resolution Council in the manner prescribed by the State Government.
- (2) Upon reference of such dispute, the Dispute Resolution Council shall at the first instance proceed to arrive at a conciliated settlement to the satisfaction of all parties. Upon failure of such conciliation proceedings, the Dispute Resolution Council shall adjudicate on the matter as expeditiously as possible.
- (3) Where the dispute pertains to any matter covered by any other existing law, the Dispute Resolution Council shall forward the complaint to the appropriate authority created under the relevant Act for adjudication and such reference shall be treated as a valid complaint under such Act.
- (4) The Dispute Resolution Council shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (of 1908).

#### **25. Consequences of contravention of provisions of this Act**

Whoever contravenes any provisions of this Act or the rules made there under, other than those made punishable under any other law, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Rs. 5000/-, or with both, and in case of continuing contravention, with additional fine which may extend upto Rs. 100/- for every day during which such contravention continues. The Dispute Resolution Council shall be authorised to give the fine so collected either in whole or in part to the aggrieved party.

### **Chapter VIII**

#### **MISCELLANEOUS**

## **26. Accounts and Audit**

- (a) The National Board and the State Boards shall maintain proper accounts and other relevant records and prepare annual statements of accounts in such form as may be prescribed.
- (b) The National Board shall furnish to the Central Government, before such date as may be prescribed, the audited copy of the consolidated account of itself and the Funds together with the auditor's report.

## **27. Power to make Rules**

The Central and State governments shall have the power to make rules for the purposes of carrying out the objects of the Act.

## **28. Savings**

This law shall not affect the functioning of any other State or Central Acts providing for substantially similar or superior benefits to the unorganised workers.

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