

## **Code on Social Security, 2020: Key Insights from Mehta & Mehta Webinar**

The Code on Social Security, 2020 (“Social Security Code”) marks a significant milestone in India’s labour law reforms by consolidating and modernising the legal framework governing social security benefits for employees, workers, and the unorganised sector. In a recent knowledge-sharing webinar organised by Mehta & Mehta as part of the New Labour Codes 2025–26 Series, subject matter experts deliberated on the legislative intent, structural reforms, and practical compliance challenges arising under the Code.

The session witnessed active participation from HR professionals, Company Secretaries, legal practitioners, and industry representatives, reflecting the wide-ranging impact of the Social Security Code across traditional employment models as well as emerging gig and platform-based work arrangements.

### **Background and Rationale of the Code on Social Security**

The Social Security Code consolidates and replaces nine major central labour legislations, including:

- ⇒ The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952
- ⇒ The Employees’ State Insurance Act, 1948
- ⇒ The Payment of Gratuity Act, 1972
- ⇒ The Maternity Benefit Act, 1961
- ⇒ The Employees’ Compensation Act, 1923
- ⇒ The Building and Other Construction Workers’ Welfare Cess Act, 1996
- ⇒ The Unorganised Workers’ Social Security Act, 2008

As highlighted during the webinar, the earlier regime was characterised by fragmented laws, inconsistent definitions, and limited coverage, resulting in compliance complexity and exclusion of a large segment of the workforce from formal social security protection. The Code seeks to address these challenges by introducing uniform definitions, digitised compliance mechanisms, and an inclusive welfare-oriented framework.

### **Applicability and Legislative Status**

A recurring issue discussed during the session was the applicability of the Social Security Code. Since labour is a subject under the Concurrent List of the Constitution, the Code becomes operational only upon notification of rules by the Central and respective State Governments.

Until such notification:

- ⇒ Existing social security laws continue to apply
- ⇒ Employers must comply with current registration, contribution, and return filing requirements

⇒ Multi-State establishments must closely monitor State-wise developments

The panel emphasised that the transition phase does not dilute existing obligations and advised employers against deferring statutory compliances.

## **Key Structural Changes under the Code**

### **Consolidation and Simplification**

The Code replaces multiple standalone welfare legislations with a single integrated framework, significantly reducing procedural overlap. The move towards web-based registrations, electronic records, and digitised inspections was highlighted as a key reform aimed at enhancing ease of compliance and transparency.

### **Expanded Coverage of Workers**

One of the most transformative aspects of the Social Security Code is its expanded coverage. The Code expressly recognises:

- ⇒ Gig workers
- ⇒ Platform workers
- ⇒ Unorganised workers
- ⇒ Self-employed persons
- ⇒ Inter-State migrant workers

The panel noted that nearly 90% of India's workforce operates in the unorganised sector, and the Code represents a paradigm shift towards inclusive social security.

### **Gig Workers, Platform Workers and Aggregators**

A significant portion of the webinar focused on the newly introduced social security framework for gig and platform workers. The Code mandates the Central and State Governments to frame welfare schemes funded through contributions from aggregators.

Key clarifications included:

- ⇒ Aggregators are required to contribute between 1% and 2% of their annual turnover, subject to a cap of 5% of the amount payable to gig and platform workers
- ⇒ The framework is welfare-based and does not establish a traditional employer–employee relationship
- ⇒ Detailed implementation mechanisms are awaited through subordinate legislation

Participants observed that these provisions will have far-reaching implications for digital platforms, e-commerce operators, ride-sharing services, and food delivery businesses.

### **Wages, Contributions and the 50% Rule**

Several practical queries were raised regarding the definition of “wages” and contribution calculations. The panel reiterated that industry terms such as CTC or gross salary have no statutory relevance, and the Code mandates that wages must constitute at least 50% of total remuneration.

Accordingly:

- ⇒ Allowances exceeding the 50% threshold are deemed to be wages
- ⇒ Employers must revisit salary structures to mitigate compliance and litigation risks
- ⇒ The revised definition directly impacts PF, ESI, gratuity, and bonus calculations

This aspect was identified as one of the most compliance-sensitive areas under the Code.

### **Contract Labour and Principal Employer Responsibility**

The webinar addressed concerns relating to engagement of contract labour and outsourcing arrangements. While contractors are recognised as employers under the Code, it was clarified that the principal employer continues to bear ultimate responsibility in the event of default.

Best practices highlighted included:

- ⇒ Ensuring timely deposit of statutory contributions by contractors
- ⇒ Verifying compliance documents prior to releasing payments
- ⇒ Incorporating strong compliance and indemnity clauses in service agreements

### **Maternity Benefits and Welfare Provisions**

The Social Security Code retains and strengthens maternity-related benefits while providing operational flexibility. Key aspects discussed included:

- ⇒ Mandatory crèche facilities for establishments employing 50 or more employees, irrespective of gender composition
- ⇒ Option to share crèche facilities with nearby establishments
- ⇒ Continued maternity benefits for biological, adoptive, and commissioning mothers

### **Practical Insight**

The panel emphasised that compliance under the Social Security Code is not merely procedural. Employers must proactively reassess:

- ⇒ Wage and salary structures
- ⇒ Employment contracts and consultancy arrangements
- ⇒ HR and payroll systems
- ⇒ Contractor engagement models
- ⇒ Digital registration and reporting processes

Company Secretaries were highlighted as key governance professionals responsible for ensuring coordinated and organisation-wide compliance under the new labour law regime.

### **Conclusion**

The Code on Social Security, 2020 represents a decisive move towards a unified, inclusive, and technology-driven social security framework. While it expands employer responsibilities and compliance oversight, it also offers clarity, standardisation, and long-term sustainability for workforce welfare.

Organisations that proactively align their policies, systems, and documentation with the evolving framework of the Social Security Code will be better equipped to manage regulatory risk and support a resilient and future-ready workforce.