

CHAPTER 1

Section 1 – Short Title, Extent, Commencement and Application

1. Short Title

Statutory Provision

"This Act may be called the Code on Social Security, 2020."

Every law needs an official name so that it can be identified easily.

The official name of this legislation is:

Code on Social Security, 2020

Whenever any authority, court, employer, employee, labour officer, ESIC authority or EPFO authority refers to this legislation, this is the name that must be used.

Why is it called a "Code"?

Earlier, social security laws were scattered across many separate Acts.

For example:

Earlier Law	Subject
Employees' Provident Funds and Miscellaneous Provisions Act, 1952	Provident Fund
Employees' State Insurance Act, 1948	Medical Benefits
Maternity Benefit Act, 1961	Maternity Benefits
Payment of Gratuity Act, 1972	Gratuity
Unorganised Workers' Social Security Act, 2008	Social Security for Unorganised Workers

The Government combined these laws into one consolidated legislation.

Therefore, instead of calling it an "Act" relating to one subject, it is called a **Code**.

Remember: **The Code on Social Security, 2020 consolidates nine central labour laws relating to social security.**

2. Extent

Statutory Provision

"It extends to the whole of India."

The provisions of this Code apply throughout the territory of India.

This includes:

- All States
- All Union Territories

Example :- If a factory is situated in:

- Rajasthan
- Tamil Nadu
- Assam
- Jammu and Kashmir
- Ladakh
- Delhi

the Code can apply equally.

No State can claim that the Code is not applicable merely because it is situated in a particular geographical region.

Example

ABC Factory is located in Jaipur.

XYZ Factory is located in Chennai.

PQR Factory is located in Guwahati.

All three establishments can be governed by the Code on Social Security, 2020 if the applicable conditions are fulfilled.

Question: The Code on Social Security, 2020 extends to:

- (a) Selected States
- (b) Entire India
- (c) Only Industrial Areas
- (d) Central Government Establishments

Answer: **(b) Entire India**

3. Commencement

Statutory Provision

The Code shall come into force on such date as the Central Government may appoint through notification in the Official Gazette.

Different dates may be appointed for different provisions.

A law may be passed by Parliament today.

However, it does not necessarily become operational immediately.

The Government may decide:

- when to implement it;
- which provisions to implement first;
- which provisions to implement later.

Therefore, enactment and enforcement are not always the same thing.

Important Difference

Term	Meaning
Passing of Law	Parliament approves the law
Presidential Assent	President approves the law
Commencement	Law actually starts operating

Timeline of this Code

Event	Date
Parliament passed the Code	2020

Presidential Assent	28 September 2020
Actual Enforcement	On dates notified by Government

Why Different Dates?

Social Security Code is a huge legislation.

It covers:

- Provident Fund
- Pension
- Insurance
- Gratuity
- Maternity Benefit
- Gig Workers
- Platform Workers
- Unorganised Workers

The Government may require time to create:

- Rules
- Portals
- Databases
- Registration systems
- Administrative machinery

Therefore different provisions may commence at different times.

Example

Suppose Government decides:

1 January → Registration provisions start.

1 March → Provident Fund provisions start.

1 June → Gig Worker provisions start.

This is legally permissible under Section 1(3).

Meaning of "Official Gazette"

Official Gazette is the Government's authorized publication through which legal notifications are issued.

When the Government wants to implement any provision, it generally publishes a notification in the Official Gazette.

Examination Tip

The Code does not come into force automatically on the date of Presidential Assent.

It comes into force on the date notified by the Central Government.

4. Application of Different Chapters

Statutory Provision

The applicability of different chapters shall be according to the First Schedule.

Not every chapter applies to every establishment.

Different chapters have different coverage criteria.

The First Schedule tells us:

- Which chapter applies
- To whom it applies
- Under what conditions it applies

Why is this Necessary?

A small shop employing five persons cannot always be treated exactly like a huge factory employing five thousand persons.

Therefore, different thresholds are prescribed.

Illustration

A chapter dealing with Provident Fund may apply after a certain employee threshold.

A chapter dealing with Gratuity may have different conditions.

A chapter dealing with Gig Workers may operate differently.

Hence, applicability is linked with the First Schedule.

Examination Tip

Whenever a question asks:

"Applicability of a chapter is determined by?"

Answer:

The First Schedule of the Code.

5. Voluntary Coverage Under Provident Fund (Section 1(5))

This provision is extremely important.

Many candidates read it quickly and miss the concept.

What Does It Say?

Even if an establishment is not compulsorily covered under Chapter III (Provident Fund Chapter), it can voluntarily choose to come under Provident Fund coverage.

Who Takes the Decision?

Two parties must agree:

1. Employer
2. Majority of Employees

Both must consent.

Authority Involved

The authority is:

Central Provident Fund Commissioner (CPFC)

Process

Step 1

Employer and majority of employees agree.

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Step 2

Application or information reaches CPFC.

↓

Step 3

CPFC issues notification.

↓

Step 4

Chapter III becomes applicable.

Example

A software company employs a small number of workers.

It is not compulsorily covered.

However:

- Employer wants PF benefits.
- Employees want retirement savings.

Both agree.

The establishment applies.

CPFC may notify applicability.

Thereafter Provident Fund provisions become applicable.

Can the Establishment Later Exit?

Yes.

This is another important examination point.

The employer may seek removal from coverage if:

- Employer agrees, and
- Majority of employees agree.

CPFC must be satisfied regarding such agreement.

Then Chapter III may be made inapplicable subject to prescribed conditions.

Examination Tip

For voluntary PF coverage:

Authority = **Central Provident Fund Commissioner**

Agreement required = **Employer + Majority of Employees**

6. Power of Central Government to Extend Coverage

Statutory Provision

The Central Government may apply provisions of the Code to any establishment employing not less than such number of persons as specified in the notification.

Before doing so, it must give at least two months' notice.

“The Government has flexibility.

New industries emerge regularly.

New business models arise.

The Government may decide that certain establishments should also receive social security benefits.

Therefore, it is empowered to extend coverage.

Important Requirement

The Government cannot do this suddenly.

At least:

Two months' prior notice

must be given.

Example

Suppose a new industry develops involving digital logistics workers.

Government believes such workers need social security protection.

After giving two months' notice, it may extend provisions of the Code to such establishments.

Examination Tip

Minimum notice required before extending coverage:

Two Months

This is a frequently testable factual provision.

7. Voluntary Coverage Under Employee State Insurance (ESI)

Section 1(7) creates a provision similar to Provident Fund but for Employee State Insurance.

What is Chapter IV?

Chapter IV deals with:

Employee State Insurance (ESI)

Who is the Authority?

For ESI matters:

Authority = **Director General of the Corporation**

The Corporation refers to ESIC.

Basic Principle

Even where ESI is not compulsorily applicable:

- Employer agrees
- Majority of employees agree

Then ESI coverage may be extended.

Process

Employer + Majority Employees Agree

↓

Application to Director General

↓

Director General verifies agreement

↓

Notification issued

↓

ESI provisions become applicable

Example

A private educational institution wants:

- Medical benefits
- Sickness benefits
- Maternity benefits
- Dependants' benefits

Employees also support the proposal.

The institution may request voluntary ESI coverage.

After due procedure, ESI provisions may become applicable.

Comparison Between PF and ESI Voluntary Coverage

Particular	Provident Fund	Employee State Insurance
Relevant Chapter	Chapter III	Chapter IV
Authority	Central Provident Fund Commissioner	Director General of ESIC
Consent Required	Employer + Majority Employees	Employer + Majority Employees
Notification Required	Yes	Yes

8. Voluntary Exit from Employee State Insurance (ESI) Coverage

We have already seen that under Section 1(7), an establishment may voluntarily come under the Employee State Insurance (ESI) scheme when:

- The employer agrees; and
- The majority of employees agree.

However, a practical question arises:

What if the employer and employees later decide that they no longer want ESI coverage?

The law provides a mechanism for such situations.

Statutory Position

If an establishment has voluntarily come under Chapter IV (ESI Chapter), the employer may later apply for withdrawal from such coverage.

However, the employer cannot take this decision alone.

The Director General of the Corporation must be satisfied that:

- The employer agrees; and
- The majority of employees also agree.

Only then can the ESI provisions be made inapplicable to that establishment.

Important Authority

For ESI matters, the relevant authority is:

Director General of the Employees' State Insurance Corporation (ESIC)

Remember this carefully because examinations frequently ask:

"Who has the power to approve voluntary application or withdrawal of ESI coverage?"

Answer:

Director General of the Corporation

Conditions for Withdrawal

The following conditions must be fulfilled:

Requirement	Necessary ?
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Employer's consent	Yes
Majority employees' consent	Yes
Application to Director General	Yes
Satisfaction of Director General	Yes
Compliance with prescribed conditions	Yes

If any one of these conditions is absent, withdrawal may not be allowed.

Example

Suppose:

ABC Educational Institute voluntarily joined ESI coverage in 2026.

In 2030:

- Employer wishes to discontinue ESI.
- 80% employees also agree.

The employer applies to the Director General of ESIC.

After verification of the agreement, the Director General may allow withdrawal according to rules prescribed by the Central Government.

Why Employee Consent is Necessary?

Social security benefits directly affect employees.

If only the employer were allowed to decide, employees could lose:

- Medical benefits
- Sickness benefits
- Maternity benefits
- Disablement benefits
- Dependants' benefits

Therefore, the law requires consent of the majority of employees.

Examination Tip

For both voluntary entry and voluntary exit under ESI:

Employer + Majority Employees + Director General's Satisfaction = Mandatory

9. Once Covered, Always Covered Principle

(Section 1(8))

This is one of the most important provisions for competitive examinations.

Many questions in ESIC SSO, EPFO, Labour Officer and Labour Law examinations are framed on this principle.

Statutory Provision

If any chapter becomes applicable to an establishment at the first instance, it shall continue to apply even if the number of employees later falls below the prescribed threshold.

The applicability of a chapter is determined when the establishment initially satisfies the required employee strength.

After coverage begins, subsequent reduction in employee strength does not automatically remove the establishment from the scope of that chapter.

The Legal Principle

This provision creates a very important rule:

"Once Covered, Always Covered"

or

"Once Applicable, Continues to Apply"

Why Was This Rule Introduced?

Without this provision, employers could avoid social security obligations very easily.

For example:

Suppose a law applies to establishments employing 20 or more employees.

An employer could:

- Show 20 employees today,
- Become covered,
- Reduce workforce to 18 tomorrow,
- Claim exemption.

This would create uncertainty and defeat the purpose of social security.

Therefore, the law says:

Coverage continues even after employee strength falls below the threshold.

Illustration 1

Suppose Provident Fund provisions apply to an establishment employing 20 workers.

Employee strength at first instance:

25 employees

Result:

PF provisions become applicable.

After one year:

Employee strength reduces to 15.

Can the employer stop PF compliance?

No.

The establishment remains covered.

Important Concept

Situation	Result
Employee strength reaches threshold first time	Coverage begins
Employee strength later falls below threshold	Coverage continues

Memory Trick

Entry depends on threshold. Exit does not depend on threshold.

Examination Tip

If a question states:

"An establishment was covered under a chapter when it employed 25 employees. Subsequently the number reduced to 12."

Answer:

The chapter continues to apply.

SECTION 2 – DEFINITIONS

Definition No. 1 – Agent

Statutory Definition

"Agent" means every person, whether appointed as such or not, who acts on behalf of the owner and participates in the management, control, supervision or direction of an establishment.

Understanding the Concept

Many people believe that an agent is only a person officially designated as an "Agent".

This is incorrect.

The law looks at actual functions, not merely job titles.

Therefore, even if a person is not formally appointed as an agent, he may still be treated as one if he performs the functions of an agent.

Key Elements

A person becomes an agent when:

1. He acts on behalf of the owner.
2. He participates in management.
3. He exercises control.
4. He supervises activities.
5. He directs operations.

Any one or more of these activities may bring him within the definition.

Practical Example 1

A factory owner lives in another city.

Mr. Sharma manages:

- Daily operations
- Staff supervision
- Administrative control

Even if his designation is "Manager", he may be treated as an agent.

Why Is This Definition Important?

Authorities should not be misled merely by designations.

An employer cannot escape liability simply by giving a different title.

The law examines actual powers and responsibilities.

Examination Tip

The word "Agent" depends upon:

Function performed, not designation held.

Definition No. 2 – Aggregator

An aggregator means a digital intermediary or marketplace that connects buyers or users of services with sellers or service providers.

Why Was This Definition Introduced?

Traditional labour laws were designed for factories and offices.

The modern economy includes:

- App-based services
- Online platforms
- Digital marketplaces

Workers increasingly obtain work through digital platforms.

Therefore, the Social Security Code recognizes aggregators.

Example

Imagine a customer wants a ride.

The customer uses a mobile application.

The platform connects:

Customer ↔ Driver

The platform itself may not provide the ride.

Instead, it acts as an intermediary.

Such a platform is generally called an aggregator.

Main Functions of an Aggregator

Function	Description
Connects buyers and sellers	Yes
Provides digital platform	Yes