

Rules and Regulations Review

The Social Security (Central) Rules, 2026

Key Features of the Rules

- ◆ The Rules require every establishment to which the Code applies to register. Certain details are specified for administration of provident fund and insurance benefits.
- ◆ The Rules specify the manner of constituting social security organisations (EPFO Central Board, ESIC, and National Social Security Board), and conditions of service.
- ◆ Construction workers must be registered with the State Building Workers' Welfare Board. Migrant construction workers are also entitled to benefits.
- ◆ The Rules provide for registration of unorganised, gig, and platform workers on the central government's designated portal. Aggregators must share details of all existing workers within 45 days of the Rules coming into force, and register new workers in real time or on a daily basis.

Key Issues and Analysis

- ◆ Under the Building and Other Construction Workers' Welfare Cess Rules, 1998, a trade union, assessing officer, or inspector could complain to the Board about violations such as evasion of cess payment. The 2026 Rules allow the assessing officer or Inspector-cum-Facilitator to file a complaint directly with the state government. However, they do not provide for the right of a trade union to file a complaint directly either with the Board or the government.
- ◆ In some cases, the Rules may be going beyond the powers delegated under the Code. These include: (i) provision of crèche allowance where crèche facility is not provided, and (ii) denying Employees' State Insurance cash benefits to insured persons convicted of certain offences such as furnishing false information.
- ◆ The Code on Social Security, 2020 delegates several details to be prescribed by the central and state governments through Rules, including the procedure for Employees' Provident Fund appeals, procedures for registration and cancellation of establishments, calculation of gratuity, gratuity insurance and related exemptions. However, the 2026 Rules do not prescribe Rules on certain procedures.

The Code on Social Security, 2020 establishes a framework consolidating multiple laws relating to social security, and extends benefits such as provident fund, insurance, gratuity, maternity benefit, and employee compensation to workers across the organised, unorganised, gig, and platform sectors.¹ The Code consolidates nine existing central labour laws relating to social security, including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Maternity Benefit Act, 1961, the Unorganised Workers' Social Security Act, 2008, the Employees' State Insurance Act, 1948, and the Payment of Gratuity Act, 1972.

The Code empowers the appropriate government to make Rules on certain matters. These include: (i) constitution and functioning of social security organisations such as the Central Board of Trustees, the Employees' State Insurance Corporation, and the National Social Security Board, (ii) registration of establishments, aggregators, and gig and platform workers, (iii) manner of assessment and collection of contributions and cess, and (iv) forms, registers, and returns for compliance and reporting.

The draft Social Security (Central) Rules, 2025 were published for public consultation on December 30, 2025.² The Ministry of Labour and Employment notified the Social Security (Central) Rules, 2026 on May 8, 2026.³ The Social Security (Central) Rules, 2026 supersede twelve earlier sets of rules, including the Employees' State Insurance (Central) Rules, 1950 and the Payment of Gratuity (Central) Rules, 1972.

KEY FEATURES

These Rules will apply to industrial establishments for which the central government is the appropriate government under the Code on Social Security, 2020. These include establishments such as railways, banks, mines, central public sector undertakings, and establishments with branches in more than one state. Key features of the Rules are:

- **Organised sector schemes:** The Rules require every establishment to which the Code applies to register on an electronic platform. Some details are provided for administration of Employees' Provident Fund (EPF) and Employees' State Insurance (ESI) benefits to workers.
- **Social Security Organisations:** The Rules specify the manner of constituting bodies such as the Central Board of Trustees (for EPF) and the Employees' State Insurance Corporation (for ESI), the composition of their sub-committees, and the powers, functions, and terms of members.
- **Building and construction workers:** The Rules provide for the Aadhaar-based registration of construction workers with the State Building Workers' Welfare Board. If a building worker moves from one state to another, the employer or contractor must update the worker's registration on the destination state's portal within 30 days. The worker will be entitled to benefits applicable in the destination state.
- **Unorganised workers, and gig and platform workers:** Unorganised, gig, and platform workers (aged 16 and above) are required to self-register on the central government's designated portal. Aggregators must share details of all existing workers within 45 days of the Rules coming into force, and update new engagements in real time or on a daily basis. To be eligible for scheme benefits, a gig or platform worker must have been engaged for at least 90 days with one aggregator, or 120 days across multiple aggregators, in the previous financial year. A day counts if the worker earned income from the aggregator on that day.
- **Maternity benefits:** A woman must prove pregnancy or delivery by a certificate and give notice to her employer. A medical bonus is to be paid along with the maternity benefit if no pre-natal confinement and post-natal care is provided for by the employer. Establishments with 50 or more employees must provide a crèche. Where a crèche is not provided, employees are entitled to a crèche allowance of at least Rs 500 per month per child.

KEY ISSUES AND ANALYSIS

Trade unions can no longer file complaints on cess evasion

- 1998 Rules:* Under the Building and Other Construction Workers' Welfare Cess Rules, 1998, a trade union, assessing officer, or inspector could complain to the Board about violations such as evasion of cess payment. The Board, after examining the complaint, may refer it to the central government. The 2026 Rules allow the assessing officer or Inspector-cum-Facilitator to file a complaint directly with the state government. However, they do not provide for the right of a trade union to file a complaint directly either with the Board or the government.
- 2026 Rules:* Rule 47(3)

The Rules may be going beyond the powers delegated by the Code

The Supreme Court has held that Rules cannot alter the scope, provisions, or principles of the parent Act. It has held that the general power of rule-making cannot be exercised in a manner to create substantive rights, obligations, or disabilities that are not contemplated by the provisions of the Act itself.⁴ Certain Rules may be going beyond the scope of powers delegated under the Code.

Crèche allowance where crèche facility is not provided

- Code:* Section 67(1) The Code requires every establishment employing 50 or more employees, or such number as may be prescribed by the central government, to provide a crèche facility. The Rules allow an employer and the sole negotiating union, negotiating council, or, where none exists, the majority of employees, to enter into an agreement. Under such an agreement, eligible employees will be paid a monthly crèche allowance of at least Rs 500 per child if the crèche facility is not provided. By providing for a crèche allowance in lieu of providing a crèche, the Rules may be going beyond the scope of the power delegated.
- Rules:* Rule 37(2)(viii)

Denial of Employees' State Insurance cash benefits on conviction for certain offences

- Code:* 133(o) The Code provides that furnishing a false return, report, or statement is punishable with imprisonment of up to six months, a fine of up to Rs 50,000, or both. The Rules provide that an insured person convicted of this offence will not be entitled to any cash benefit under the Employees' State Insurance provisions of the Code. This bar will apply for three months after the first conviction and for six months after each subsequent
- Rules:* Rule 52(15)

conviction. The Code does not provide for denying cash benefits as a consequence of conviction. By imposing this restriction, the Rules may go beyond the scope of the powers delegated by the Code.

Rules on several provisions of the Code not specified

The Code on Social Security, 2020 designates the central government as the appropriate government for specified entities including: (i) establishments carried on by, or under the authority of the central government, (ii) specified controlled industries and establishments such as railways (including metro rail), mines, oilfields, major ports, air transport, and banking, (iii) central public sector undertakings and their subsidiaries, (iv) any company where the central government holds at least 51% of the paid-up share capital, and (v) establishments with departments or branches in more than one state. The Code designates state government as the appropriate government for all other establishments. The Code requires the central government to frame Rules on many matters including the constitution of social security organisations, procedures for registration and cancellation of establishments, calculation of gratuity, administration of provident fund, and maternal and employee compensation benefits. While the Rules cover many of these matters, they do not cover all rule-making provisions and further delegate some details to schemes and regulations. **Table 1** provides a list of such provisions.

Table 1: Provisions under the Code which do not have corresponding Rules

Provisions in the Code	Provisions in the 2026 Rules
Chapter I: Preliminary	
The Code provides that for ships in a dry dock for hire, the dock owner is deemed the occupier. The ship owner is deemed occupier for such matter directly related to the ship's condition as may be prescribed. (second proviso to section 2(52), 155(2)(b))	Not Specified
Chapter II: Social Security Organisations	
The Code provides that the Standing Committee should administer the affairs of the ESIC and perform any of its functions in a manner prescribed by the government. (Section 5(4)(a), 155(2)(e))	The Rules do not prescribe the manner in which the Standing Committee would administer the affairs of ESIC or perform any of its functions (Rule 8).
Chapter III: Employees' Provident Fund	
The central government may authorise an employer to maintain a provident fund account on an application by the employer and a majority of employees. The Rules may prescribe the manner for such authorisation. (Section 21(1), 155(2)(j))	Not specified
Chapter V: Gratuity	
The Code provides for the manner of obtaining insurance for gratuity liability to be prescribed by the central government. (Section 57(1), 155(2)(za))	Not specified
The Code provides for the central government to prescribe conditions for exemption of employers with approved gratuity fund. (Section 57(2), 155(2)(za))	Not specified
Time for registration with competent authority and manner of registration to be prescribed by central government and appropriate government respectively. (Section 57(3), 155(2)(za))	Not specified

Sources: Code on Social Security, 2020; The Social Security (Central) Rules, 2026; PRS.

1. The Code on Social Security, 2020, <https://www.indiacode.nic.in/bitstream/123456789/16823/1/aA2020-36.pdf>.
2. G.S.R. 935(E), the Draft Social Security (Central) Rules, 2025, Ministry of Labour and Employment, December 30, 2025, <https://clc.gov.in/clc/node/791>.
3. G.S.R. 344(E), The Social Security (Central) Rules, 2026, Ministry of Labour and Employment, May 8, 2026, <https://egazette.gov.in/WriteReadData/2026/272366.pdf>.
4. Civil Appeal No. 4672 of 2012, Naresh Chandra Agrawal v. Institute of Chartered Accountants of India, the Supreme Court of India, February 8, 2024, https://api.sci.gov.in/supremecourt/2011/29601/29601_2011_15_1501_50151_Judgement_08-Feb-2024.pdf.

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