THE UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008

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THE UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008

ACT NO. 33 OF 2008

[30*th December*, 2008.]

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

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Unorganised Workers' Social Security Act, 2008.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "employer" means a person or an association of persons, who has engaged or employed an unorganised worker either directly or otherwise for remuneration;

(*b*) "home-based worker" means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or 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;

(*c*) "identity card" means a card, document or certificate issued to an unorganised worker by the District Administration under sub-section (*3*) of section 10;

(*d*) "National Board" means the National Social Security Board for unorganised workers constituted under sub-section (*1*) of section 5;

(*e*) "notification" means a notification published in the Official Gazette;

(*f*) "organised sector" means an enterprise which is not an unorganised sector;

(*g*) "prescribed" means prescribed by rules made under this Act by the Central Government or the State Government, as the case may be;

(*h*) "registered worker" means an unorganised worker registered under sub-section (*3*) of section 10;

(*i*) "Schedule" means the Schedule annexed to the Act;

(*j*) "State Board" means the (name of the State) State Social Security Board for unorganised workers constituted under sub-section (*1*) of section 6;

(*k*) "self-employed worker" means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;

(*l*) "unorganised sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;

1. 16th May, 2009, *vide* notification No. S.O. 1220(E), dated 14th May, 2009, s*ee* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

(*m*) "unorganised worker" means 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 by any of the Acts mentioned in Schedule II to this Act; and

(*n*) "wage worker" means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households

including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be.

CHAPTER II

SOCIAL SECURITY BENEFITS

3. Framing of scheme.—(*1*) The Central Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—

(*a*) life and disability cover;

(*b*) health and maternity benefits;

(*c*) old age protection; and

(*d*) any other benefit as may be determined by the Central Government.

(*2*) The schemes included in the Schedule 1 to this Act shall be deemed to be the welfare schemes under sub-section (*1*).

(*3*) The Central Government may, by notification, amend the Schedules annexed to this Act. (*4*) The State Government may formulate and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—

(*a*) provident fund;

(*b*) employment injury benefit;

(*c*) housing;

(*d*) educational schemes for children;

(*e*) skill upgradation of workers;

(*f*) funeral assistance; and

(*g*) old age homes.

4. Funding of Central Government Schemes.—(*1*) Any scheme notified by the Central Government may be—

(*i*) wholly funded by the Central Government; or

(*ii*) partly funded by the Central Government and partly funded by the State Government; or

(*iii*) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the Central Government.

(*2*) Every scheme notified by the Central Government shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to,—

(*i*) scope of the scheme;

(*ii*) beneficiaries of the scheme;

(*iii*) resources of the scheme;

(*iv*) agency or agencies that will implement the scheme;

(*v*) redressal of grievances; and

(*vi*) any other relevant matter.

CHAPTER III

NATIONAL SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS

5. National Social Security Board.—(*1*) The Central Government shall, by notification, constitute a National Board to be known as the National Social Security Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(*2*) The National Board shall consist of the following members, namely:—

(*a*) Union Minister for Labour and Employment-Chairperson, *ex officio*;

(*b*) the Director General (Labour Welfare)-Member-Secretary, *ex officio*; and

(*c*) thirty-four members to be nominated by the Central Government, out of whom—

(*i*) seven representing unorganised sector workers;

(*ii*) seven representing employers of unorganised sector;

(*iii*) seven representing eminent persons from civil society;

(*iv*) two representing members from Lok Sabha and one from Rajya Sabha;

(*v*) five representing Central Government Ministries and Departments concerned; and

(*vi*) five representing State Governments.

(*3*) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(*4*) The number of persons to be nominated as members from each of the categories specified in clause (*c*) of sub-section (*2*), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the National Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

(*5*) The term of the National Board shall be three years.

(*6*) The National Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.

(*7*) The members may receive such allowances as may be prescribed for attending the meetings of the National Board.

(*8*) The National Board shall perform the following functions, namely:—

(*a*) recommend to the Central Government suitable schemes for different sections of unorganised workers;

(*b*) advise the Central Government on such matters arising out of the administration of this Act as may be referred to it;

(*c*) monitor such social welfare schemes for unorganised workers as are administered by the Central Government;

(*d*) review the progress of registration and issue of identity cards to the unorganised workers;

(*e*) review the record keeping functions performed at the State level;

(*f*) review the expenditure from the funds under various schemes; and

(*g*) undertake such other functions as are assigned to it by the Central Government from time to time.

CHAPTER IV

STATE SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS

6. State Social Security Board.—(*1*) Every State Government shall, by notification, constitute a State Board to be known as (name of the State) State Social Security Board to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(*2*) The State Board shall consist of the following members, namely:—

(*a*) Minister of Labour and Employment of the concerned State—Chairperson, *ex officio*;

(*b*) the Principal Secretary or Secretary (Labour) —Member—Secretary, *ex officio*; and

(*c*) twenty-eight members to be nominated by the State Government, out of whom—

(*i*) seven representing the unorganised workers;

(*ii*) seven representing employers of unorganised workers;

(*iii*) two representing members of Legislative Assembly of the concerned State;

(*iv*) five representing eminent persons from civil society; and

(*v*) seven representing State Government Departments concerned.

(*3*) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(*4*) The number of persons to be nominated as members from each of the categories specified in clause (*c*) of sub-section (*2*), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

(*5*) The term of the State Board shall be three years.

(*6*) The State Board shall meet atleast once in a quarter at such time and place and shall observe such rules of procedure relating to the transac gs, as may be prescribed.

(*7*) The members may receive such allowances as may be prescribed for attending the meetings of the State Board.

(*8*) The State Board shall perform the following functions, namely:—

(a) recommend the State Government in formulating suitable schemes for different sections of the unorganised sector workers;

(*b*) advise the State Government on such matters arising out of the administration of this Act as may be referred to it;

(*c*) monitor such social welfare schemes for unorganised workers as are administered by the State Government;

(*d*) review the record keeping functions performed at the District level;

(*e*) review the progress of registration and issue of cards to unorganised sector workers;

(*f*) review the expenditure from the funds under various schemes; and

(*g*) undertake such other functions as are assigned to it by the State Government from time to time.

7. Funding of State Government Schemes.—(*1*) Any scheme notified by the State Government may be—

(*i*) wholly funded by the State Government; or

(*ii*) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State Government.

(*2*) The State Government may seek financial assistance from the Central Government for the schemes formulated by it.

(*3*) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

8. Record keeping by District Administration.—The record keeping functions for the purpose of this Act shall be performed by the District Administration:

Provided that the State Government may direct that the record keeping function shall be performed by—

(*a*) the District Panchayat in rural areas; and

(*b*) the Urban Local Bodies in urban areas.

9. Workers facilitation centres.—The State Government may set up such Workers' facilitation centres as may be considered necessary from time to time to perform the following functions, namely:—

(*a*) disseminate information on available social security schemes for the unorganised workers;

(*b*) facilitate the filling, processing and forwarding of application forms for registration of unorganised workers;

(*c*) assist unorganised worker to obtain registration from the District Administration;

(*d*) facilitate the enrollment of the registered unorganised workers in social security schemes.

CHAPTER V

REGISTRATION

10. Eligibility for registration and social security benefits.—(*1*) Every unorganised worker shall be eligible for registration subject to the fulfilment of the following conditions, namely:—

(*a*) he or she shall have completed fourteen years of age; and

(*b*) a self-declaration by him or her confirming that he or she is an unorganised worker.

(*2*) Every eligible unorganised worker shall make an application in the prescribed form to the District Administration for registration.

(*3*) Every unorganised worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable.

(*4*) If a scheme requires a registered unorganised worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution.

(*5*) Where a scheme requires the Central or State Government to make a contribution, the Central or State Government, as the case may be, s egularly in terms of the scheme.

CHAPTER VI

MISCELLANEOUS

11. Power of Central Government to give directions.—The Central Government may give directions to—

(*i*) the National Board; or

(*ii*) the Government of a State or the State Board of that State,

in respect of matters relating to the implementation of the provisions of this Act.

12. Vacancies, etc., not to invalidate proceedings.—No proceedings of the National Board or any State Board shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the National Board or, as the case may be, the State Board.

13. Power to make rules by Central Government.—(*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (*1*) of section 4;

(*b*) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the National Board under sub- section (*4*) of section 5;

(*c*) the rules of procedure relating to the transaction of the business at the meeting of the National Board under sub-section (*6*) of section 5;

(*d*) the allowances for attending the meetings of the National Board under sub-section (*7*) of section 5;

(*e*) the form for making an application for registration under sub-section (*2*) of section 10; and

(*f*) any other matter which is required to be, or may be, prescribed.

14. Power to make rules by State Government.—(*1*) The State Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the State Board under sub-section (*4*) of section 6;

(*b*) the rules of procedure relating to the transaction of business at the meetings of the State Board under sub-section (*6*) of section 6;

(*c*) the allowances for attending the meetings of the State Board under sub-section (*7*) of section 6;

(*d*) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (*1*) of section 7;

(*e*) the

form in which the application for registration shall be made under sub-section (*2*) of section 10; and

(*f*) any other matter which is required to be, or may be, prescribed.

15. Laying of rules.—(*1*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(*2*) Every rule made under this Act by State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

16. Saving of certain laws.—Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the unorganised workers than those provided for them by or under this Act.

17. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SCHEDULE I

[*See* sections 2(*i*) and (3)]

SOCIAL SECURITY SCHEMES FOR THE UNORGANISED WORKERS

S. No.	Name of the Scheme
1.	Indira Gandhi National Old Age Pension Scheme.
2.	National Family Benefit Scheme.
3.	Janani Suraksha Yojana.
4.	Handloom Weavers' Comprehensive Welfare Scheme.
5.	Handicraft Artisans' Comprehensive Welfare Scheme.
6.	Pension to Master craft persons.
7.	National Scheme for Welfare of Fishermen and Training and Extension.
8.	Janshree Bima Yojana.
9.	Aam Admi Bima Yojana.
10.	Rashtriya Swasthya Bima Yojana.

SCHEDULE II

[*See* section 2(*m*)]

S. No.	Name of the Act
1.	The Workmen's Compensation Act, 1923 (8 of 1923).
2.	The Industrial Disputes Act, 1947 (14 of 1947).
3.	The Employees' State Insurance Act, 1948 (34 of 1948).
4.	The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).
5.	The Maternity Benefit Act, 1961 (53 of 1961).
6.	The Payment of Gratuity Act, 1972 (39 of 1972).

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