

The Code on Social Security, 2020

Section 2 - Definitions

In this Code, unless the context otherwise requires,---

(1) "agent" when used in relation to an establishment, means every person, whether appointed as such or not, who acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such establishment or part thereof;

(2) "aggregator" means a digital intermediary or a market place for a buyer or user of a service to connect with the seller or the service provider;

(3) "appropriate" Government means---

(a) in relation to, an establishment carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified by notification in this behalf, by the Central Government or the establishment of railways including metro railways, mines, oil field, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or the central public sector undertaking or subsidiary companies set up by the central public sector undertakings, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, subsidiary companies or autonomous bodies or any company in which not less than fifty-one per cent. of the paid up share capital is held by the Central Government, as the case may be, or in relation to an establishment having departments or branches in more than one State, as the case may be, the Central Government; and

(b) in relation to any other establishment, the State Government.

Explanation 1---For the purposes of this clause, the expression metro railway means the metro railway as defined in sub-clause (i) of clause (1) of section 2 of the Metro Railways (Operation and Maintenance) Act, 2002 (60 of 2002).

Explanation 2---For the purposes of this clause, the Central Government shall continue to be the appropriate Government for the central public sector undertakings even if the holding of the Central Government reduces to less than fifty per cent. equity in that public sector undertaking after the commencement of this Code;

(4) "audio-visual production" means audio-visual produced wholly or partly in India and includes---

(i) animation, cartoon depiction, audio-visual advertisement;

(ii) digital production or any of the activities in respect of making thereof; and

(iii) feature films, non-feature films, television, web-based serials, talk shows, reality shows and sport shows;

(5) "Authorised Officer" means such officer of the Central Board, or as the case may be, of the Corporation notified by the Central Government;

(6) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, water courses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include any building or other construction work which is related to any factory or mine or any building or other construction work employing less than ten workers in the preceding twelve months or where such work is related to own residential purposes of an individual or group of individuals for their own residence and the total cost of such work does not exceed fifty lakhs rupees or such higher amount and employing more than such number of workers as may be notified by the appropriate Government;

(7) "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual,

technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;

(8) "Building Workers' Welfare Board" means the State Building and other Construction Workers' Welfare Board constituted under sub-section (1) of section 7;

(9) career centre means any office (including employment exchange, place or portal) established and maintained in the manner prescribed by the Central Government for providing such career services (including registration, collection and furnishing of information, either by the keeping of registers or otherwise, manually, digitally, virtually or through any other mode) as may be prescribed by the Central Government, which may, *inter alia*, relate generally or specifically to

(i) persons who seek to employ employees;

(ii) persons who seek employment;

(iii) occurrence of vacancies; and

(iv) persons who seek vocational guidance and career counselling or guidance to start self employment;

(10) "Central Board" means the Board of Trustees of the Employees' Provident Fund constituted under section 4;

(11) "Central Provident Fund Commissioner" means the Central Provident Fund Commissioner of the Central Board appointed under sub-section (1) of section 14;

(12) "child", for the purposes of Chapter VI, includes a stillborn child;

(13) "Commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;

(14) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013);

(15) "compensation" means compensation as provided under Chapter VII;

(16) "competent authority" means any authority appointed under section 58 for the purposes of Chapter V or notified for the purposes of Chapter VI or appointed under section 91 for the purposes of Chapter VII, as the case may be, as competent authority by the appropriate Government or the State Government, as the case may be;

(17) "completed year of service" means continuous service for twelve months;

(18) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(19) "contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker but does not include an employee (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;

(20) "contractor", in relation to an establishment means a person, who

(i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment through contract labour; or

(ii) supplies contract labour for any work of the establishment as mere human resource, and includes a sub-contractor;

(21) "contribution" means the sum of money payable by the employer, under this Code, to the Central Board and to the Corporation, as the case may be, and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Code;

(22) "Corporation" means the Employees' State Insurance Corporation constituted under section 5;

(23) delivery means the birth of a child;

(24) "dependant" means any of the following relatives of deceased employee, namely:

(a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother;

Provided that for the purposes of Chapter IV, a legitimate adopted son, who has not attained the age

oftwenty-five years, shall be dependant of the deceased employee;

(b) if wholly dependant on the earnings of the employee at the time of his death, a legitimate or adopted son or a daughter who has attained the age of eighteen years and who is infirm; except for the purposes of Chapter IV wherein the word eighteen occurring in this sub-clause shall be deemed to have been substituted by the word twenty-five;

(c) if wholly or in part dependent on the earnings of the employee at the time of his death,

(i) a widower;

(ii) a parent other than a widowed mother;

(iii) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;

(iv) a minor brother or an unmarried sister or a widowed sister if a minor;

(v) a widowed daughter-in-law;

(vi) a minor child of a pre-deceased son;

(vii) a minor child of a pre-deceased daughter where no parent of the child is alive, or;

(viii) a grandparent if no parent of the employee is alive.

Explanation.---For the purposes of sub-clause (b) and items (vi) and (vii) of sub-clause (c), reference to a son, daughter or child include an adopted son, daughter or child, respectively;

(25) "dock work" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes

(i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;

(ii) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; and

(iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area in board the ship or in the docks;

(26) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) (52 of 1961) employed on wages by an establishment, either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:

Provided that for the purposes of Chapter III, except in case of the Employees Provident Fund Scheme and Chapter IV, the term employee shall mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government and includes such other persons or class of persons as the Central Government may by notification, specify to be employee, for the purposes of those Chapters:

Provided further that for the purposes of counting of employees for the coverage of an establishment under Chapter III and Chapter IV, as the case may be, the employees, whose wages are more than the wage ceiling so notified by the Central Government, shall also be taken into account:

Provided also that for the purposes of Chapter VII, the term employee shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government, or as the case may be, the State Government may add to the said Schedule, by notification, for the purposes of that Government;

(27) "employer" means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified, by the head of such department, in this behalf or where no authority is so specified, the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,---

(a) in relation to an establishment which is a factory, the occupier of the factory;

(b) in relation to mine, the owner of the mine or agent or manager having requisite qualification under the law for the time being in force and appointed by the owner or agent of the mine as such;

(c) in relation to any other establishment, the person who, or the authority which has ultimate control over the

affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

(d) contractor; and

(e) legal representative of a deceased employer;

(28) "employment injury" means a personal injury to an employee, caused by accident or an occupational disease, as the case may be, arising out of and in the course of his employment,---

(i) for the purposes of Chapter IV, if the employee is an insured or insurable employee under section 28 whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India; and

(ii) for the purposes of Chapter VII, whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India;

(29) "establishment" means---

(a) a place where any industry, trade, business, manufacture or occupation is carried on; or

(b) a factory, motor transport undertaking, newspaper establishment, audiovisual production, building and other construction work or plantation; or

(c) a mine, port or vicinity of port where dock work is carried out.

Explanation.---For the purposes of Chapter III, where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment;

(30) "executive officer" means such officer of the appropriate Government as may be notified by that Government for the purposes of Chapter XIII or an officer authorised in writing by such executive officer to discharge his duties under that Chapter;

(31) "exempted employee" for the purposes of Chapter III, means an employee to whom any of the schemes referred to in section 15, but for the exemption granted under this Code, would have applied and for the purposes of Chapter IV, means an employee, whose wage is specified in the notification by the Central Government and who is not liable to pay employee's contribution;

(32) "factory" means any premises including the precincts thereof---

(a) whereon ten or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(b) whereon twenty or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on, but does not include a mine, or a mobile unit belonging to the Armed Forces of the Union, railways running shed or a hotel, restaurant or eating place.

Explanation 1.---For computing the number of employees for the purposes of this clause, all the employees in (different groups and relays) a day shall be taken into account.

Explanation 2.---For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(33) "family" means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:---

(a) a spouse;

(b) a minor legitimate or adopted child dependent upon the employee or an unorganised worker, as the case may be;

(c) a child who is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, and who is---

(i) receiving education, till he attains the age of twenty-one years; and

(ii) an unmarried daughter;

(d) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganized worker, as the case may be, so long as the infirmity continues;

(e) dependent parents (including father-in-law and mother-in-law of a woman employee), whose income from all sources does not exceed such income as may be prescribed by the Central Government;

(f) in case the employee or an unorganised worker, as the case may be, is unmarried and his parents are not alive, a minor brother or sister wholly dependent upon the earnings of the Insured Person;

(34) "fixed term employment" means the engagement of an employee on the basis of a written contract of employment for a fixed period:

Provided that---

(a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent employee doing the same work or work of a similar nature; and

(b) he shall be eligible for all benefits, under any law for the time being in force, available to a permanent employee proportionately according to the period of service rendered by him even if his period of employment does not extend to the required qualifying period of employment;

(35) "gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship;

(36) "home-based worker" means a person engaged in, the production of goods or services for an employer in his home or other premises of his choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

(37) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under section 122;

(38) "Insurance Fund" means the Deposit-Linked Insurance Fund established under clause (c) of sub-section (1) of section 16;

(39) "Insured Person" means the Insured Person referred to in section 28;

(40) "Insurance Scheme" means the Deposit-Linked Insurance Scheme framed under clause (c) of subsection (1) of section 15;

(41) "inter-State migrant worker" means a person who is employed in an establishment and who

(i) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or

(ii) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State, under an agreement or other arrangement for such employment and drawing wages not exceeding eighteen thousand rupees per month or such higher amount as may be notified by the Central Government from time to time;

(42) "manufacturing process" means any process for---

(i) making, altering, repairing, ornamenting, finishing, oiling, washing, cleaning, breaking up, demolishing, refining, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(ii) pumping oil, water, sewage or any other substance; or

(iii) generating, transforming or transmitting power; or

(iv) composing, offset printing, printing by letter press, lithography, photogravure screen printing, three or four dimensional printing, prototyping, flexography or other types of printing process or bookbinding; or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(vi) preserving or storing any article in cold storage; or

(vii) such other activities as the Central Government may notify;

(43) "maternity benefit", in respect of Chapter VI, means the payment referred to in sub-section (1) of section 60;

(44) "medical practitioner" means a person registered under any law for the time being in force, or, any person declared by the State Government, by notification, to be qualified as medical practitioner for the purposes of this Code:

Provided that different class or classes of medical practitioner having specific qualification may be notified by the Central Government for the purposes of Chapter IV and by the appropriate Government for other Chapters of this Code;

(45) "medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of the Medical Termination of Pregnancy Act, 1971 (34 of 1971);

(46) "mine" shall have the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);

(47) "minor" means a person who has not attained the age of eighteen years;

(48) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy, but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code (45 of 1860);

(49) "National Social Security Board" means the National Social Security Board for Unorganised Workers constituted under sub-section (1) of section 6;

(50) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression notify with its grammatical variations and cognate expressions shall be construed accordingly;

(51) "occupational disease" means a disease specified in the Third Schedule as a disease peculiar to the employment of the employee;

(52) "occupier in respect of a factory" means the person who has ultimate control over the affairs of the factory:

Provided that---

(a) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

(b) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013 (18 of 2013);

(c) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier;

(53) "oilfield" shall have the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948 (53 of 1948);

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

(55) "permanent partial disablement" means, where the disablement is of a permanent nature, such disablement as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:

Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement;

(56) "permanent total disablement" means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent.;

(57) "Pension Fund" means the Pension Fund established under clause (b) of sub-section (1) of section 16;

(58) "Pension Scheme" means the Employees' Pension Scheme framed under clause (b) of sub-section (1) of section 15;

(59) plantation means---

(a) any land used or intended to be used for

(i) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;

(ii) growing any other plant, which admeasures five hectares or more and in which ten or more persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification, so directs.

Explanation.---Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of

this sub-clause, the piece of land first mentioned shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more;

(b) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares;

Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and

(c) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (a) and sub-clause (b); but does not include factory on the premises;

(60) "platform work" means a work arrangement outside of a traditional employer employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment;

(61) "platform worker" means a person engaged in or undertaking platform work; (62) "port" shall have the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(63) "Provident Fund" means the Employees' Provident Fund established under clause (a) of sub-section (1) of section 16;

(64) "Provident Fund Scheme" means the Employees' Provident Fund Scheme framed under clause (a) of sub-section (1) of section 15;

(65) "prescribed" means prescribed by rules made under this Code;

(66) "railway" shall have the meaning assigned to it in clause (31) of section 2 of the Railways Act, 1989 (24 of 1989);

(67) "railway company" includes any persons whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway;

(68) "Recovery Officer" means any officer of the Central Government, the State Government, the Central Board or the Corporation, who may be authorised by the Central Government or the State Government, as the case may be, by notification, to discharge the functions and to exercise the powers of a Recovery Officer under this Code;

(69) "regulations" means regulations made by the Corporation under this Code;

(70) "retirement" means termination of the service of an employee otherwise than on superannuation;

(71) "sales promotion employees" means the sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976);

(72) "Schedule" means a Schedule to this Code;

(73) "seamen" means any person forming part of the crew of any ship, but does not include the master of the ship;

(74) "seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of ground-nuts, the manufacture of indigo, lac, sugar (including gur) or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year in a manufacturing process as the Central Government may, by notification, specify;

(75) "self-employed worker" means any person who is not employed by an employer, but engages himself 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, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;

(76) "shop", in respect of a State, means a shop as defined in any law for the time being in force dealing with the shop in that State;

(77) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical ground;

(78) "social security" means the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by

means of rights conferred on them and schemes framed, under this Code;

(79) "Social Security Organisation" means any of the following organisations established under this Code, namely:---

- (a) the Central Board of Trustees of Employees' Provident Fund constituted under section 4;
- (b) the Employees' State Insurance Corporation constituted under section 5;
- (c) the National Social Security Board for Unorganised Workers constituted under section 6;
- (d) the State Unorganised Workers' Social Security Board constituted under section 6;
- (e) the State Building and other Construction Workers' Welfare Boards constituted under section 7; and
- (f) any other organisation or special purpose vehicle declared to be the social security organisation by the Central Government;

(80) "State Government" includes---

- (a) in relation to a Union territory with legislature, the Government of the Union territory; and
- (b) in relation to a Union territory without legislature, the administrator appointed under article 239 of the Constitution as an administrator thereof;

(81) "State Unorganised Workers' Board" means the State Unorganised Workers' Social Security Board constituted under sub-section (9) of section 6;

(82) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service, as the age on the attainment of which the employee shall vacate the employment:

Provided that for the purposes of Chapter III, the age of superannuation shall be fifty-eight years;

(83) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of the injury;

(84) "Tribunal" means the Industrial Tribunal constituted by the appropriate Government under section 7A of the Industrial Disputes Act, 1947 (14 of 1947);

(85) "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;

(86) "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 the Industrial Disputes Act, 1947 or Chapters III to VII of this Code;

(87) "vacancy", for the purposes of Chapter XIII, means an unoccupied post (including newly created post, post of trainee, post to be filled through apprentice or any unoccupied post created in an establishment by any other means) in a cadre or occupation for the purpose of employing a person and carrying remuneration;

(88) "wages" means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,---

- (a) basic pay;
 - (b) dearness allowance; and
 - (c) retaining allowance, if any,
- but does not include---

(a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(d) any conveyance allowance or the value of any travelling concession;

(e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(f) house rent allowance;

- (g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
- (h) any overtime allowance;
- (i) any commission payable to the employee;
- (j) any gratuity payable on the termination of employment;
- (k) any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment, under any law for the time being in force:

Provided that for calculating the wages under this clause, if payments made by the employer to the employee under sub-clauses (a) to (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in sub-clauses (d), (f), (g) and (h) shall be taken for computation of wage.

Explanation.---Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

(89) "wage ceiling" means such amount of wages as may be notified by the Central Government, for the purposes of becoming a member under Chapter III and Chapter IV;

(90) "wage worker" means a person employed for remuneration in the unorganized 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 the State Government, as the case may be;

(91) "woman" means a woman employed, whether directly or through any contractor, for wages in any establishment:

Provided that for the purposes of Chapter IV, a woman who is or was an employee in respect of whom contribution is or were payable under the said Chapter and who is by reason thereof, entitled to any of the benefits provided under the said Chapter shall be called insured woman and shall include

- (i) a commissioning mother who as biological mother wishes to have a child and prefers to get embryo implanted in any other woman;
- (ii) a woman who legally adopts a child of up to three months of age.