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EXTENSION OF SOCIAL PROTECTION  
IN INDIA

- INFORMATION PAPERS SERIES -

SOCIAL SECURITY FOR  
UNORGANIZED WORKERS:

NATIONAL COMMISSION FOR  
ENTERPRISES IN THE  
UNORGANIZED SECTOR REPORT -  
2006

November 2006

## INTRODUCTION

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The National Common Minimum Programme (CMP) of the United Progressive Alliance (UPA) which was formed after the general elections in April/May 2004 was announced on 27 May 2004. It set out the major policy orientations adopted in order to enhance sustainable development in India. In the spirit of the Alliance, it referred in its preamble to the welfare of farmers, agricultural workers and weaker sections of the society and strongly stated a commitment to ensure, through social security, health insurance and other schemes the welfare and well-being of all workers, particularly in the unorganized sector who constitutes 93% of the labour force. To follow up this commitment, the Government established a National Commission to examine the major problems facing the various enterprises operating in the informal economy.

In August 2005, the National Commission published an ambitious plan (The Unorganized Sector Workers Social Security Draft Bill) aiming to provide a minimum level of social protection benefits to some 300 million informal economy workers. This proposal could be viewed as paving the way towards a nation-wide social security system based on the national solidarity principle. Almost one year later, in May 2006, the Commission released its report on Social Security for unorganized workers which included a revised version of this Bill complemented this time with detailed recommendations relating to its implementation mechanisms and financing requirements.

The present document presents this important Bill and provides an overview of the main features, provisions and practical measures recommended by the Commission in order to bring it into existence.

## 1. NATIONAL COMMISSION FOR ENTERPRISES IN THE UNORGANIZED SECTOR

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The National Commission for enterprises in the unorganized sector was set up with a clear mandate on September 20, 2004 in the wake of the CMP resolutions. The broad terms of reference given to the Commission were as follows:

- Review the status of unorganized/informal sector in India including the nature of enterprises, their size, spread and scope, and magnitude of employment
- Identify the constraints faced by small enterprises with regard to freedom of carrying out the enterprise, access to raw materials, finance, skills, entrepreneurship development, infrastructure, technology and markets and suggest measures to provide institutional support and linkages to facilitate easy access to them
- Suggest the legal and policy environment that should govern the informal/unorganized sector for growth, employment, exports and promotion
- Examine the range of existing programmes that relate to employment generation and suggest improvement for their redesign
- Identify innovative legal and financing instruments to promote the growth of the informal sector
- Review the existing arrangements for estimating employment and unemployment and examine why the rate of growth of employment has stagnated in the 1990s
- Suggest elements of an employment strategy focussing on the informal sector
- Review labour laws, consistent with labour rights, and with the requirements of expanding growth of industry and services, particularly in the informal sector, and improving productivity and competitiveness, and
- Review the social security system available for labour in the informal sector, and make recommendations for expanding its coverage

## 2. UNORGANIZED WORKERS SOCIAL SECURITY BILL

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The new version of the proposed Bill included the following major changes:

## Proposed Bill, 2005

### Under Definitions

j) "Self employed worker"... subject to a monthly earning of Rs. 5,000...

k) "Unorganized sector" means all private unincorporated enterprises including own-account enterprises engaged in any agriculture, industry, trade and / or business

l) "Unorganized sector worker"

m) "Wage worker" ... with a monthly wage of not more than Rs. 5,000...

## Proposed Bill, 2006

### Under Definitions

j) "Self employed worker"... subject to a monthly earning of Rs. 6,500...

K) "Unorganized sector" consists of all unincorporated private enterprises owned by individuals or households engaged in the production or sale of goods and services and operated on a proprietary or a partnership basis and employing less than 10 persons

l) "Unorganized worker"...

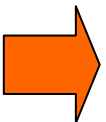
m) "Wage worker".... or workers employed by households including domestic workers, with a monthly wage of not more than Rs. 6,500...



### Under Chapter II

(1)By this Act, the Central Government shall formulate a scheme to be called National Social Security Scheme for the unorganized sector workers consisting of the following national minimum social security benefits:

- I. Old age pension to all workers above the age of 60 years
- II. Health insurance for self, spouse and children below the age of 18 years
- III. Maternity benefits for women workers or spouse or men workers; and
- IV. Insurance to cover death and disability arising out of accidents



### Under Chapter II

(1)By this Act, the Central Government shall formulate a scheme to be called National Social Security Scheme for the unorganized workers consisting of the following national minimum social security benefits:

- I. Health benefits in the form of health insurance for self, spouse and children below the age of 18 years, sickness benefits, and maternity benefits for women workers or spouse of men workers
- II. Life insurance to cover natural and accidental death
- III. Old age security in the form of old age pension for BPL workers above the age of 60 years and provident fund cum unemployment insurance benefit to all other workers

The major stipulations relating to the contributions to be paid remained unchanged.

### Under Chapter III

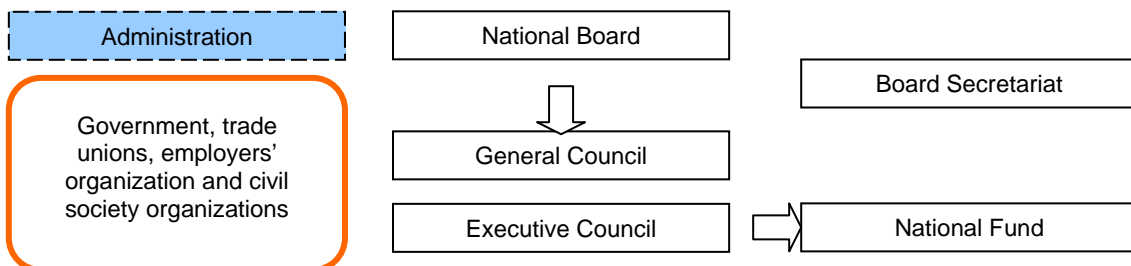
(5) Contributions from workers, employers and governments for the specified national minimum social security shall be as under:

- I. Re. 1 per day by the worker, provided that for those below the poverty line the contribution shall be made by the Central Government
- II. Re. 1 per day, per worker, by the employer, provided that where the employer is not identifiable, the contribution shall be shared by the Central Government and the respective State Government in the ratio of 3:1
- III. Re. 0.75 per worker, per day, by the central Government, and Re. 0.25 per worker, per day by the State Government

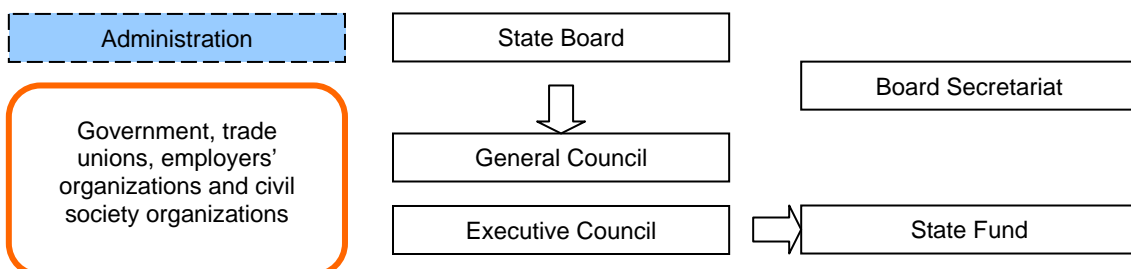
### 3. IMPLEMENTATION MACHINERY

The implementation machinery described in the previous version of the Bill also remained the same.

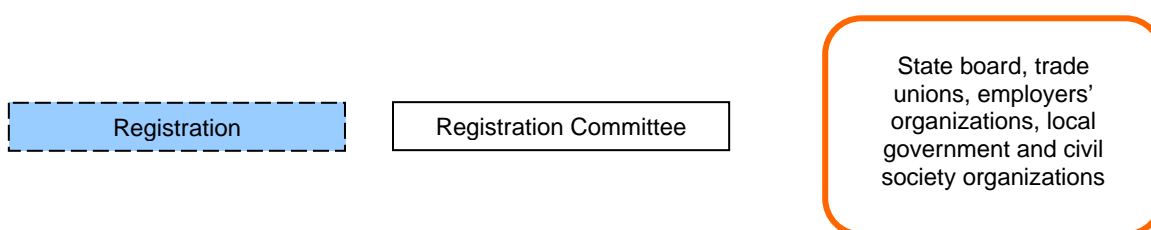
#### National Level



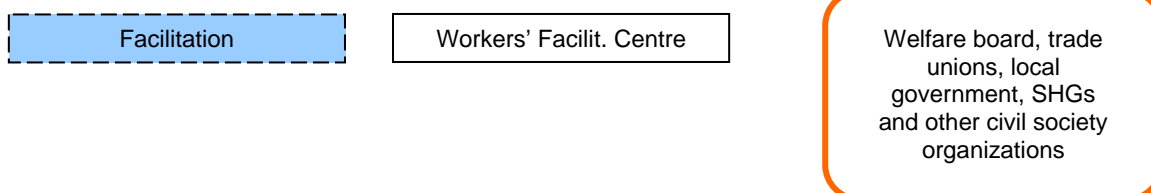
#### State Level



#### District Level



#### Local Level



## 4. IMPLEMENTATION ARRANGEMENTS

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Chapter 9 of the Report on Social Security for the unorganized workers provides detailed information on the various implementation arrangements. The following recommendations deserve to be highlighted:

- 9.0 The National Social Security Scheme proposed by the Commission is based on defined contributions. These contributions are meant to be utilized as premium for insurance to cover (a) sickness, (b) life insurance, and (c) old age security. As per the defined contribution, of Rs. 3 per worker per day (contributed equally by the worker, employer and the Government), a sum of Rs. 1,095 will be available per worker per year. This may be split into three premiums: sickness and maternity, life insurance and old age security. In the scheme of things suggested by the Commission, it will be the responsibility of the State Social Security Boards to negotiate with the concerned insurance agencies, with the help of the National Social Security Board, and decide on how best to apportion the contribution and secure the best possible deal. The Commission has suggested a division consisting of Rs. 380 for sickness and maternity cover and Rs. 150 for life insurance and Rs. 565 for old age security. These figures were arrived at in consultation with insurance agencies.

### Health and Maternity Insurance Cover

- 9.1 The Commission suggests an annual premium of Rs. 380 per worker based on preliminary discussions with public sector insurance agencies. A single policy is expected to cover a typical family of five members. The minimum benefits presently stipulated are:
- a) Hospitalization cover up to Rs. 15,000
  - b) Maternity benefit of Rs. 1,000 (maximum) per delivery
  - c) Personal accident cover in the event of death of earning head of family (Rs. 25,000) and
  - d) Sickness cover for the registered worker during hospitalization (Rs. 50 per day for a period of 15 days)
- 9.2 The National Board and the State Boards may negotiate with the insurance agencies to ensure the above-mentioned minimum health and maternity benefits. As of now, there are four general insurance agencies in the public sector with different health insurance policies.
- 9.5 ... Although the experience of the general insurance agencies with regard to health insurance services is rather limited, the Commission's discussions revealed that they may be willing to consider a fixed policy (as opposed to annual policy) for a longer period say, five years provided the claim-to-premium ratio does not exceed a certain maximum, say 70 per cent in a year. In case the claim is less than this ratio, the insurance agencies are willing to offer a lump sum discount to the concerned State Boards. Alternatively, however, if the claim ratio exceeds this ceiling, the insurance agencies will have to be compensated by the State Boards.
- 9.10 The social security identity cards issued to the worker/family shall allow him/her to avail of the prescribed facilities on the basis of either a cashless system or reimbursement of expenses. The Commission is of the opinion that a cashless system is the more appropriate one for the unorganized workers...
- 9.11 The Commission has recommended the insurance route for covering the health care requirements of the workers not as a substitute to the existing services provided by the public health care institutions. In fact, by providing risk cover for hospitalization, we expect the insurance system to work as an incentive to the designated public health care institutions to strengthen their infrastructure and provide the needed services if they are allowed the chargeable element of the cost of treatment of the registered workers.

### Life Insurance

- 9.12 The suggested annual premium for life insurance is Rs. 150 per worker per annum. This is expected to provide a benefit of at least Rs. 15,000. The benefit could be negotiated with insurance agencies.
- 9.13 Given the fact that the Department of Post (DoP) has considerable experience in marketing and servicing Postal Life Insurance schemes at costs that are lower than insurance agencies, it should be possible to secure a better deal for the unorganized workers with defined contributions through the Department. Moreover, the Department of Posts has a network of infrastructure in the form of Post Offices that number more than 150,000 connecting all localities in rural and urban areas in the country. This should strengthen the delivery of services in every nook and corner of the country... The DoP was permitted to introduce a Rural Postal Life Insurance (RPLI) scheme in 1995 offering five different insurance schemes. The aggregate number of active insurance policies served by the Department of Posts (as on 31.03.2004) is 4.87 million that includes 2.67 million RPLI policies....
- 9.15 In order to enable the Department of Posts to come out with a suitable scheme, the Commission recommends that the Department be allowed to design a new insurance product, if necessary, in the form of a group insurance scheme.

#### **Provident Fund for Contributing Workers**

- 9.17 As observed in para 9.0, a premium of Rs. 565 is available per worker per year for old age security, either in the form of pension or contribution towards Provident Funds. The Commission has considered both these options for all workers and has recommended a Provident Fund for all registered workers above the poverty line and a pension for old aged (60+) workers in BPL households.
- 9.18 The calculations of the Commission show that even if one were to consider pensions at Rs. 2,400 per year (i.e. Rs. 200 per month) to contributing workers, this would depend upon the age of entry of workers into the scheme. The Commission's discussions with the Life Insurance Corporation (LIC) suggest that the return on investment could be between 5.5 to 6% per annum, which is a conservative estimate. This is mainly due to the restrictions on the type of investment as per the Insurance Regulatory and Development Authority (IRDA). This will fall short of Rs. 200 for those workers entering scheme at around age 39 and above; while less conservative estimates (assuming a return of 10%) show that this age will be around 43. This would mean that those workers above the age of around 40 years would not be in a position to secure a minimum pension of Rs. 200 per month.
- 9.19 Taking the above into account, the Commission recommends the institution of a Provident Fund for the contributing informal workers who are above the poverty line (estimated at 77%). This will ensure that all those who contribute will get a terminal benefit on completion of 60 years of age.
- 9.20 The Commission further recommends that the workers be given an option, on attaining 60 years of age, to take either the accumulated corpus in their PF or purchase an annuity. This will give an option to those who are desirous of having an old age pension.
- 9.21 In addition, the Commission also recommends that the PF may also be designed as an Unemployment Insurance by permitting the workers to withdraw up to half of his contribution depending on the period of unemployment. However, a minimum lock-in period of ten years is recommended.
- 9.22 Discussions with Unit Trust of India revealed that a PF scheme can be managed by a mutual fund organization. However, the mutual fund organization will not be in a position to guarantee a minimum return as per the regulations of the Securities and Exchange board of India. However, the experience of the last several years suggests that the annual return has been well above ten per cent.
- 9.23 The Commission therefore recommends a minimum guaranteed return of ten per cent to the workers under the proposed PF. This is to ensure that the unorganized workers, who are

much poorer than the workers in the organized sector, get a return higher than the Employees Provident Fund. If the proposed PF experiences a short-fall, it will have to be covered by the State Boards. To make this operational, the mutual funds should transfer the excess realization of promised 10 per cent to State Boards. If the accumulated sum on that account falls short of the outgo on account of a minimum 10 per cent return to the employees in any year, the National Social Security Fund (NSSF) will provide for the difference. The State Boards may declare bonus for the workers every five years if there is a balance left on this account.

### Old Age Pension for Poor (BPL) Workers

- 9.24 For poor workers, it is desirable that they are entitled to a minimum level of protection regardless of the year of inception of the scheme and number of years of their contribution. In the case of BPL workers, the Commission has suggested a premium of Rs. 565 per worker per annum towards old age security of unorganized workers.
- 9.25 The Commission has carefully considered the various options through which a minimum level of protection may be available to all aged poor workers. It has noted that the Government of India already funds the National Old Ages Pension Scheme (NOAPS) under which destitute old-aged persons, above the age of 65 years are being provided a monthly pension of Rs. 200. The Central allocation for the scheme has been enhanced to Rs. 1430 crores in the 2006-2007 Budget and the Finance Minister has considered it desirable that States use additional resources to enhance the pension to Rs. 400 per month.
- 9.28 The Commission recommends payment of a minimum pension of Rs. 200 to all the poor (BPL) aged unorganized workers on completion of 60 years of age. This can be done by expanding the NOAPS, which at present is confined only to those above 65 years and are identified as destitute.

## 5. FINANCIAL REQUIREMENTS

The following tables provide an overview of the main financial requirements attached to the scheme.

### Individual Contribution Distribution

	Worker	Employer	C. Gov.	S. Gov.	Total
BPL	0	0	912,50	182,50	1,095
APL – Without Employer	365	0	547,50	182,50	1,095
APL – With Employer	365	365	273,75	91,25	1,095

### Extension Targets

(In Crore – X 10 million)	2006-07	2007-08	2008-09	2009-10	2010-11
Total NO of Workers	6	12	18	24	30
BPL workers	1.38	2.76	4.14	5.52	6.90
APL workers	4.62	9.24	13.86	18.48	23.10

### Expected Costs – Health and Life Insurance for All

(In Crore – X 10 million)	2006-07	2007-08	2008-09	2009-10	2010-11
Contrib: Rs. 530 per worker	3,180	6,360	9,540	12,720	15,900
Of Which:					
• APL Workers Contribution	816	1,632	2,449	3,265	4,081
• Government Contribution	2,362	4,725	7,087	9,449	11,811
o Central Gov.	1,834	3,668	5,501	7,335	9,169
o State Gov.	528	1,057	1,585	2,114	2,642



## Expected Costs – Old Age Security

### 1. Provident Fund - APL

(In Crore – X 10 million)	2006-07	2007-08	2008-09	2009-10	2010-11
Contrib: Rs. 565 per worker	2,610	5,221	7,831	10,441	13,052
Of Which:					
• APL Workers Contribution	870	1,740	2,610	3,480	4,351
• Government Contribution	1,742	3,483	5,225	6,967	8,709
o Central Gov.	1,306	2,613	3,919	5,225	6,532
o State Gov.	435	871	1,306	1,742	2,177

### 2. Old-Age Pension - BPL

(In Crore – X 10 million)	2006-07	2007-08	2008-09	2009-10	2010-11
Pension: Rs. 2,400 per year	3,244	3,292	3,340	3,387	3,434
Of Which:					
o Central Gov.	3,244	3,292	3,340	3,387	3,434
o State Gov.	0	0	0	0	0



## STATEMENT OF OBJECTS AND REASONS

The unorganized sector of the economy in India is the largest sector in terms of employment of the workforce. It consists of agriculture and such related activities as forestry, livestock and fishing as well as non-agriculture. The workers may be broadly divided into self-employed and wage workers. Wage workers may be sub-divided into those (a) working in the unorganized sector, and (b) working in the organized sector without any social security cover. Around ninety per cent of the workers in India are neither covered by any formal system of social security nor regulation of conditions of work. This Bill is intended to provide a measure of social security to the workers in the unorganized sector. This Bill provides a model that will be inclusive in nature and provide for clearly demarcated division of responsibilities between the Central and State Governments. It mandates the Central and State Governments to implement a National Social security Scheme.

## UNORGANIZED WORKERS SOCIAL SECURITY BILL, 2006 A BILL

To provide for social security and welfare of unorganized sector workers and to provide for other matters connected therewith or incidental thereto.

Be it enacted by Parliament in the fifty-fifth year of the Republic of India as follows:

### CHAPTER I PRELIMINARY

#### 1. Short Title, extent, commencement and application

- (1) This Act may be called Unorganized Workers Social Security Act, 2006
- (2) It extends to the whole of India
- (3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

#### 2. Definitions

For the purposes of this Act, unless the context otherwise requires:

- a) "Agriculture" would include the following occupations:
  - I. Farming, including the cultivation and tillage of soil etc;
  - II. Dairy farming;
  - III. Production, cultivation, growing and harvesting of any horticultural commodity;
  - IV. Raising of livestock, bee-keeping or poultry;
  - V. Fishing and/or fish farming;
  - VI. Any practice performed on a farm as incidental to, or in conjunction with, the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products);
  - VII. Growing fodder or thatching grass or for grazing cattle.
- b) "Central Government" means the Government of India;
- c) "Employer" means a natural or juridical person, or an association of such persons, by whom any unorganized worker is engaged or employed either directly or otherwise, for any remuneration;

d) "Home based worker" means a person involved in the production of goods or services for an employer in his/her home or either premises of his/her choice other than the work place of the employer, for remuneration irrespective of whether or not the employer provides the equipment, materials or other inputs;

e) "Identity card" means a card issued to a worker carrying unique social security number issued by the authorized agency Of the State Board ;

f) "National Board" means the National Social Security Board for unorganized workers;

g) "Registered worker" means an unorganized worker registered for social security under this Act;

h) "State Government" means the Government of a State in the Indian Union;

i) "State Board" means the (name of the State) State Social Security Board for unorganized workers;

j) "Self employed worker" means a person who is not employed by an employer, but directly engages himself/herself in any occupation in the unorganized sector, subject to a monthly earning of Rs. 6,500 / - or such limits as may be notified from time to time, subject to such ceiling on land cultivated as may be notified from time to time by the State Government;

k) "Unorganized sector" consists of all private unincorporated private enterprises owned by individuals or households engaged in the production and sale of goods and services and operated on a proprietary or a partnership basis and employing less than 10 persons;

l) "Unorganized worker" means a self employed worker or a wage earner in the unorganized sector and includes wage workers in the organized sector without any social security cover;

m) "Wage worker" means a person employed for a remuneration in the unorganized sector or in the organized sector without any social security benefit, directly by an employer or through any agency or contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether simultaneously or otherwise, whether in cash and/or in kind, whether as a home based worker, or as a temporary or casual worker, or as a migrant worker, or as an outworker, or, workers employed by households including domestic workers, with a monthly wage of not more than Rs. 6,500 or such limits as may be notified from time to time, but does not include an unpaid family worker;

### 3. Rules of evidence

In this Act, notwithstanding anything contained in the Indian Evidence Act, 1872, the burden of proof that compliance with the provisions of the Act and the Scheme has been effected shall be entirely on the employer and the units of the Board wherever applicable.

*Explanatory Note : This section facilitates shifting of the burden of proof from the workers to the employer. This is a departure from the normal practice and ordinary rules of evidence, which places the burden on the plaintiff*

## CHAPTER II SOCIAL SECURITY BENEFITS

### 4. Framing of schemes

- 2) By this Act, the Central Government shall formulate a scheme to be called National Social Security Scheme for the unorganized sector workers consisting of the following national minimum social security benefits:
  - I. Health benefits in the form of health insurance for self, spouse and children below the age of 18 years, sickness allowances, and maternity benefits for women workers or spouse of men workers;
  - II. Life insurance to cover natural and accidental death
  - III. Old age security in the form of old age pension for BPL workers above the age of 60 years and Provident Fund cum unemployment insurance benefit to all other workers
- 3) In addition to the national minimum, the Central Government may frame such schemes as it may deem necessary or finance such schemes of the State Governments as it may find appropriate subject to availability of finance by such means as mentioned in Section 5 and may include those listed under (3) below;
- 4) The State Government may formulate such unorganized worker based schemes as it may find appropriate to (a) strengthen the national minimum social security by way of its own contribution, and/or (b) design and implement additional social security benefits through its own schemes. These may include:
  - a) Provident fund schemes;
  - b) Employment injury benefit scheme;
  - c) Housing schemes;
  - d) Educational schemes for children of workers;
  - e) Skill up gradation of workers;
  - f) Funeral assistance;
  - g) Marriage of daughters; and
  - h) Any other schemes to enhance the socio economic security of unorganized worker.

## CHAPTER III NATIONAL SOCIAL SECURITY FUND FOR UNORGANIZED WORKERS

### 5. Constitution of a National Fund

The Central Government shall create a national Social Security Fund to which contributions shall accrue from the following sources:

- a) Grants and loans from the Central Government;
- b) Contributions from workers, employers and Governments for the specified national minimum social security shall be as under:
  - I. Re. 1 per day by the worker, provided that for those below the poverty line the contribution shall be made by the Central Government;
  - II. Re. 1 per day, per worker, by the employer, provided that where the employer is not identifiable, the contribution shall be shared by the Central Government and the respective State Government in the ratio of 3:1;
  - III. Re. 0.75 per worker, by the Central Government, and Re. 0.25 per worker, per day, by the State Government.

*Explanatory note: The contribution of Central and State Governments in (iii) above is in accordance with the practice of Government contribution to social security schemes in the organized sector*

- c) Any tax or cess that the Central Government may impose for the purpose of providing social security for unorganized workers;
- d) Any tax or cess that the Central Government may impose on commodities and/or services in lieu of employers' contributions (which are either difficult to collect or appropriate employers in the unorganized sector are not directly identifiable).

In addition to the above, contributions may also accrue from the following sources:

- e) Contributions from the national financial/developmental institutions; and
- f) Any voluntary contribution from individuals or institutions.

#### 6. Existing Welfare Boards

All eligible unorganized workers shall be entitled to register and obtain benefits under the national minimum social security scheme, which shall be in addition to the social security benefits provided by the existing Welfare Boards created by the Central or State Governments, if any. Schemes which are in existence and operated through the Welfare Boards may be continued by the respective Governments in the existing form or in any other way as they deem fit.

#### 7. Exemption from income tax

All financial contributions made by individuals and institutions to the National Social Security Fund will be exempted from the payment of income tax under the Income Tax Act.

#### 8. Utilization of the National Fund

All contributions accruing to the National Board shall be credited to the Fund, which shall be applied for meeting the following:

- a) Expenses on social security schemes of the Central Government;
- b) Grants to the State Boards, including for the purposes of the functioning of the Workers' Facilitation centres;
- c) Expenses on the administration of the scheme, subject to a ceiling of 5% of the contribution of the Central and State Governments as specified in section 5;
- d) Investment in permitted schemes;
- e) Any other item in connection with the administration of this Act.

### **CHAPTER IV NATIONAL SOCIAL SECURITY BOARD FOR UNORGANIZED WORKERS**

#### 9. Establishment and incorporation

With effect from such date as the Central Government may, by notification appoint, there shall be established for the purposes of this Act, a Board to be called the National Social security Board for unorganized workers.

#### 10. Functions of the Board

The National Board shall provide the following functions:

- a) Administration of this Act and formulation of policies at the national level, and shall have such powers as may be laid down to direct, coordinate, supervise and monitor the functioning of State Boards and the Central Welfare Funds;
- b) Review the working including auditing of the State-level Social Security Boards and the Central Welfare Boards every four years and make suitable recommendations to the Government(s) concerned for further improvement;
- c) Manage and maintain the National Social Security Fund and provide financial assistance to State Boards;
- d) Advise the Central Government on policy matters relating to social security, health and safety and welfare of unorganized workers;
- e) Assist in capacity building of the State Boards, and collect,

compile and publish statistics relating to the unorganized sector and undertake such promotional activities as may be decided from time to time.

### 11. Composition of the Board

- 1) The National Board for unorganized workers shall be constituted by the Central Government consisting of the following member organizations:
  - a) State Boards for unorganized workers;
  - b) Central Welfare Boards for unorganized workers administered by the Ministry of Labour and Employment;
  - c) National-level unions of unorganized workers;
  - d) National-level voluntary associations of unorganized workers including self-employed with an explicit social security scheme for its members; and
  - e) National-level organizations of employers in the unorganized sector (such as organizations of tiny and small scale industries, farmers organizations) and government/public institutions with a stake in the welfare of the unorganized sector workers such as the All India Handicrafts Board, All India Handloom Board, Central Social Welfare Board, Department of Women and child Development, and Department of Small Scale Industries.
- 2) The Central Government shall decide the number and names of such organizations to be represented on the National Board.
- 3) The National Board shall work through a General Council and an Executive Council.

### 12. General Council

- 1) The Union minister for Labour and Employment shall be the Chairperson of the General Council.
- 2) The Secretary to the Government of India, Ministry of Labour and Employment, shall be the Member-Secretary of the General Council.
- 3) There shall be a General Council for the Board consisting of one representative from each of the member-organizations.
- 4) The General Council shall meet once a year within six months of the last day of the previous financial year;
- 5) The General Council shall discuss and review the functioning of the National Board in the light of the annual report for the preceding year. It shall also provide a platform for members to articulate their views, ideas and problems with regard to the unorganized sector in general and social security issues in particular and shall give broad policy directions to the Executive Council.

### 13. Executive Council

- 1) The Board shall have an Executive council with the Secretary to the Government of India, Ministry of Labour and Employment, as its Chairperson and a full-time Chief Executive Officer to be designated by the Central Government as its ex-officio Member-Secretary. In addition, the Central Government shall nominate the members to the Executive Council as per the following:
  - a) Two representatives of the organizations of wagedworkers in the unorganized sector, which are members of the National Board;
  - b) Two representatives of organizations of self-employed workers in the unorganized sector workers, which are members of the National Board;
  - c) Two representatives of organizations of employers in the

- unorganized sector that are members of the National Board;
  - d) One representative from any one of the Central Welfare Boards;
  - e) One representative each of the Government of India from the Ministry of Agriculture, Finance, Health and Small Scale Industries;
  - f) Six representatives of the State Boards;
  - g) One expert in the management of insurance products and services;
  - h) One expert in the area of social security and related issues in the unorganized sector; and
  - i) One expert in the management of finances.
- 2) The tenure of the members shall be for a period of three years. The Executive Council shall meet as often as required but not less than twice a year.

*A, b, c and f may be based on the principle of rotation among the member-organizations.*

#### 14. Secretariat of the Board

The National Board shall have a secretariat with adequate professional and other staff. The staff of the National Board shall be governed by the Central Government rules and regulations existing from time to time. The annual budget of the National Board shall be prepared by the Secretariat and placed before the Executive Council for approval.

### **CHAPTER V STATE SOCIAL SECURITY BOARDS FOR UNORGANIZED WORKERS**

#### 15. Establishment of State Boards

- 1) Each State shall have a State Board to implement the national minimum social security as well as design and implement state level social security and welfare programmes for unorganized workers. The State Governments shall constitute the State Boards within one year of the date of commencement of this Act. The State Boards shall have the following as its members:
- a) Workers Welfare Boards (both existing and newly designed) providing social security and welfare to the unorganized workers;
  - b) Organizations which are registered as trade unions/charitable societies, engaged in the provision of social security for unorganized workers subject to such qualifying criteria as the State Government may lay down;
  - c) Departments or agencies of the State Government acting as employers of the unorganized workers (e.g. Public Work department, forest department, or those employing anganwadi workers, khadi workers, etc.);
  - d) Representatives of organizations of self employed unorganized workers; and
  - e) Representatives of employers' organizations in the unorganized sector.
- 2) The State Government shall decide the number and names of such organizations to be represented in the State Board.
- 3) The State Board shall work through a General Council and an Executive Council.

#### 16. State Fund

- 1) The State Government shall create a State Social Security Fund to which contributions shall accrue from the following sources:



- i. Grants and loans from National Board and the State Government;
  - ii. Any tax or cess that the State Government may impose on commodities and/or services in lieu of employers' contributions (which are either difficult to collect or appropriate employers in the unorganized sector are not directly identifiable);
  - iii. Contribution toward additional social security scheme (if any) formulated by the State Board;
  - iv. Contributions from the financial/developmental institutions; and
  - v. Any voluntary contribution from individuals or institutions.
- 2) All financial contributions made by individuals and institutions to the State Social security Fund will be exempted from the payment of income tax under the Income Tax Act.
- 3) All contributions accruing to the State Boards shall be credited to the State Social Security Fund which shall be applied for meeting the following:
- i. Expenses on the implementation of the national minimum social security and additional social security schemes of the State Government;
  - ii. Grants to the Welfare Boards and the Workers' Facilitation Centres;
  - iii. Expenses on the administration of the State Board as per the annual budget approved by the Executive Council;
  - iv. Investment in permitted schemes;
  - v. Any other item in connection with the administration of this Act.

## 17. Functions

The State Boards will have the following functions:

- a) Administration of this Act at the state level including ensuring maintenance of individual accounts of the registered workers and records of receipt of contribution from individual employers;
- b) Implement the national minimum social security for unorganized workers through appropriate organizational arrangements, and to stipulate norms for the evaluation of the work done by the Workers' Facilitation Centres;
- c) To collect the contribution from the registered worker and the employer and to credit it to the account(s) as directed by the National Board;
- d) Implement social security schemes, in addition to the National Social Security Scheme, that the State Board may design in consultation with the State Government;
- e) Provide financial assistance to other member-organizations implementing social security programmes;
- f) Advise the State Government on policy matters relating to social security, health and safety and welfare of workers;
- g) Create awareness among the unorganized workers about the need for social security registration and the existence of various social security schemes;
- h) Collect, compile and publish statistics, with the help of statistical organizations, regarding workers and their conditions of work, and employers who engage these workers at the Panchayat/Municipal, District, State levels with such details as gender and age, nature of occupation, level of earnings, etc.;
- i) Review the working of the Welfare Boards and other implementing agencies on the basis of annual reports and statements of audited accounts or specially commissioned reports and make suitable recommendations to the Government(s) concerned for further improvement;



- j) Assist in capacity building of Workers Welfare Boards and Workers' Facilitation Centres;
- k) Initiate innovative approaches, through interaction across sectors and constituencies, for the enhancement of welfare, working conditions and productivity of unorganized sector workers; and
- l) Submission of annual report to the National Board within four months from the last day of the previous financial year along with an audited statement of accounts.

#### 18. General Council

- 1) There shall be a General Council for the State Board consisting of one representative from each of the member-organizations. The Minister of Labour in the State shall be the Chairperson of the General Council. The Secretary to the State Government concerned, Department of Labour, shall be the Member-Secretary.
- 2) The General Council shall meet once a year within six months of the last day of the previous financial year.
- 3) The General Council shall discuss and review the functioning of the State Board in the light of the annual report for the preceding year. It will also provide a platform for members to articulate their views, ideas and problems with regard to the unorganized sector in general and social security issues in particular and shall give broad policy directions to the Executive Council.

#### 19. Executive Council

- 1) The State Board shall have an Executive council with the Secretary of the State Government concerned, Department of Labour, as Chairperson and an official designated by the State Government as Chief Executive Officer, who shall be the ex-officio Member-Secretary, after taking the view of the General Council of the State Board concerned. In addition, the State Government shall nominate the members to the Executive Council as per the following:
  - a) Two representatives of the organizations of waged workers in the unorganized sector, that are members of the State Board;
  - b) Two representatives of organizations of self-employed workers in the unorganized sector workers, that are members of the State Board;
  - c) Two representatives of organizations of employers in the unorganized sector that are members of the State Board;
  - d) One representative from the National Board nominated by it;
  - e) One representative each from the Departments of Agriculture, Finance, Health and Small Scale Industries of the State Government;
  - f) Not more than six representatives of the State level Workers Welfare Boards or organizations providing social security to the unorganized workers that are members of the State Board;
  - g) One expert in the management of insurance products and services;
  - h) One expert in the area of social security and related issues in the unorganized sector; and
  - i) One expert in the management of finances.
- 2) The tenure of the members shall be for a period of three years. The Executive Council shall meet as often as required but not less than twice a year.

- 3) Appropriate rules for appointment and removal from office of the Chief Executive shall be framed by the State Government.

**20. Secretariat of the Board**

The State Board shall have a secretariat with adequate professional and other staff. The staff of the State Board shall be governed by the State Government rules and regulations existing from time to time.

**CHAPTER VI REGISTRATION OF UNORGANIZED WORKERS**

**21. Eligibility for registration and for social security benefits**

- 1) Every unorganized worker shall be eligible for registration subject to the following conditions:
- a) He/she should have completed 18 years of age; and
  - b) A self declaration confirming that he/she is an unorganized worker.
- 2) Every registered worker shall be eligible for national minimum social security benefits only if payments of regular contributions have been made.

**22. Unique identification social security number**

Each registered worker shall be eligible for receiving a Unique Identification Social Security Number in the form of an Identity Card issued in the name of the State Board. With a view to prevent duplication of identity, the Identity Card shall also carry the registration number of the ration card of the worker. In the absence of a ration card, the registration number on the voter's card shall be entered in the Identity Card.

**23. District Committee for registration of workers**

A district-level committee shall be constituted as the registering authority for the National Social Security Scheme. The District Committee will have the District Collector/Magistrate as the Chairman and the District Labour Officer as its Convenor and Nodal Officer. The District Committee shall include:

- a) Two representatives of workers' organizations such as unions, associations or co-operatives in the unorganized sector;
- b) Two representatives of organizations working among the unorganized workers who do not have organizations of their own;
- c) Two representatives of employers' organizations in the unorganized sector;
- d) One representative of the Zillah Parishad and one from amongst the Nagar Palikas; and
- e) A representative of the State Board.

**24. Identity card**

This Identity Card shall be issued under the authority of the District Committee based on a formal application for registration from workers and forwarded by the Workers' Facilitation Centre with its recommendation. The District Committee shall send the Identity Cards to the Workers' Facilitation Centre for distribution to the workers concerned.

**25. Portability of registration**

The Identity Card issued by the District Committee to workers shall remain valid even in the case of migration to another district in the country and the new address can be changed on application to the District Committee concerned.

**26. Cessation of**

- 1) The validity of the Identity Card shall be for a period of three years from the date of registration and can be renewed. If it is not

## registration

renewed within one year of expiry, the worker will cease to be eligible to the benefits of the scheme. Renewals would be allowed on payment of arrears of contribution, if any.

- 2) In the event of death, the Identity Card shall become invalid after the settlement of claims and the name of the worker shall be removed from the list of registered workers.

## **CHAPTER VII DELIVERY OF SOCIAL SECURITY BENEFITS**

### 27. Implementation machinery

- 1) The member-organizations of the State Boards shall be responsible for the delivery of mandatory social security benefits as decided by the State and National Boards. If adequate member-organizations do not exist, the State Boards shall decide the manner in which social security benefits shall have to be delivered to the registered workers.
- 2) The State Boards may decide on such delivery mechanism as may be feasible under local conditions. This may include existing delivery mechanisms as Welfare Boards or through tie-ups with local organizations like banks, Post Offices and insurance companies.

### 28. Workers' Facilitation Centres

- 1) In order to extend coverage and reach the unorganized workers in remote areas the State Boards may designate any one or more of the following at the local level as Workers' Facilitation Centre (WFC) for purposes of facilitating registration of workers:
  - a) Existing Worker Welfare Boards and their local offices;
  - b) Local Panchayati Raj Institutions (PRI) or urban local bodies;
  - c) Organizations of workers including trade unions, associations and cooperatives in the unorganized sector;
  - d) Self-Help Groups; and
  - e) Non-profit organizations working among the unorganized workers.
- 2) Such designated Workers' Facilitation Centres shall perform the following functions:
  - a) Disseminate information on available social security schemes for the workers;
  - b) Facilitate the filling, processing and forwarding of application forms for registration of workers;
  - c) Obtain registration from the District Committee and deliver the Identity Cards to the registered workers;
  - d) Facilitate the registered workers to enrol in social security schemes;
  - e) Act as an authorized intermediary in collecting contributions from the workers and employers to the social security schemes and remit them with the designated institutions;
  - f) Ensure the delivery of social security benefits in cooperation with institutions designated to deliver such social security (insurance companies, Post Offices, Departments of the State/Central Government and other institutions concerned).
- 3) The Workers' Facilitation Centres shall be entitled to charge such fees as may be decided by the State Board for the performance of its functions. Wherever required, it may also receive personnel recruited or deputed by the State Board for purposes of administration.

### 29. Premium and

- 1) The National Board shall decide the amount and manner of

#### compensation/benefits

payment of contribution by the workers to the National Social security Schemes. It shall however be the responsibility of the State Boards to remit the contributions of registered workers and employers to the National Board.

- 2) For schemes initiated by the State Boards, the State Board concerned shall decide the contributions of workers and employers.
- 3) The claim of registered workers for social security benefits shall lie solely against the State Board and it shall be the responsibility of the State Board to settle the dues, if any.

### **CHAPTER VIII DISPUTE RESOLUTION BODIES AND THEIR CONSTITUTION**

#### 30. Resolution of disputes

The State Government shall constitute at least one Dispute Resolution Council in each district for resolution of disputes relating to the non observance of provisions in this Act, arising amongst the unorganized workers, employers, Workers' Facilitation Centres and State Boards.

#### 31. Reference of disputes

- 1) Any unorganized worker or employer or organization representing such worker or Workers' Facilitation Centres or State Boards may raise a dispute relating to the non-observance of provisions in this Act by filing a complaint before the Dispute Resolution Council in the manner prescribed by the State Government.
- 2) Upon reference of such dispute, the Dispute Resolution Council shall at the first instance proceed to arrive at a conciliated settlement to the satisfaction of all parties. Upon failure of such conciliation proceedings, the Dispute Resolution Council shall adjudicate on the matter as expeditiously as possible.
- 3) Where the dispute pertains to any matter covered by any other existing law, the Dispute Resolution Council shall forward the complaint to the appropriate authority created under the relevant Act for adjudication and such reference shall be treated as a valid complaint under such Act.
- 4) The Dispute Resolution Council shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (of 1908).

#### 32. Consequences of contravention of provisions of this Act

Whoever contravenes any provisions of this Act or the rules made there under, other than those made punishable under any other law, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and in case of continuing contravention, with additional fine which may extend up to one hundred rupees for every day during which such contravention continues. The Dispute Resolution Council shall be authorized to give the fine so collected either in whole or in part to the aggrieved party.

### **CHAPTER IX MISCELLANEOUS**

#### 33. Accounts and audit

- a) The National Board and the State Boards shall maintain proper accounts and other relevant records and prepare annual statements of accounts in such form as may be prescribed.
- b) The National Board shall furnish to the Central Government before such date as may be prescribed, the audited copy of the consolidated account of itself and the Funds together with the auditor's report.

34. Power to make  
rules

The Central and the State Government shall have the power to make rules for the purposes of carrying out the objects of the Act

35. Savings

This law shall not affect the functioning of any other State or Central Acts providing for substantially similar or superior benefits to the unorganized sector workers.