



Supdt. Misc. <supdthq.misc@gmail.com>

Fwd: Punjab Social Security and Wages Code Rules: Feedback on public comments and sub-committee responses

Labour Commissioner Punjab <lcpboffice@gmail.com>

Mon, Jul 19, 2021 at 3:10 PM

To: supdthq.misc@gmail.com

----- Forwarded message -----

From: Labour Commissioner Punjab <lcpboffice@gmail.com>

Date: Wed, Jun 9, 2021 at 9:55 AM

Subject: Fwd: Punjab Social Security and Wages Code Rules: Feedback on public comments and sub-committee responses

To: <supdthq.gen@gmail.com>

----- Forwarded message -----

From: Bhuvana Anand <bhuvana@trayas.org>

Date: Tue, Jun 8, 2021 at 3:30 PM

Subject: Punjab Social Security and Wages Code Rules: Feedback on public comments and sub-committee responses

To: <seeparveen@gmail.com>, Praveen Kumar Thind IAS <pk.thind@ias.gov.in>, <lcpboffice@gmail.com>

Cc: Sarvnipun Kaur <sarvnipun@trayas.org>, Research Intern 1 <researchintern1@trayas.org>

Dear Sir,

We studied the comments/suggestions received on the Punjab Social Security and Wages Code Rules and the sub-committee's responses. Here are some of our suggestions on these. In addition, we have previously submitted our independent feedback on each of the rules and these need to be incorporated in the next draft. We are keen to have a discussion on this at the earliest. Look forward to our discussions on this. Thank you for your time and consideration.

Feedback on Public Commons and Subcommittee Responses: Social Security Rules

1. Sh. Vijay Walia mentions the Rules do not specify the registration amount to be submitted by the beneficiary under the code. Would separate registration be required under each code? If so, we recommend that the department rationalise the number of registrations and the registration fees under all 4 codes. We would be happy to discuss this recommendation further during our scheduled meeting.
2. Sh. Yogesh Parshad observes that Chapter V on Maternity Benefit empowers the inspector-cum-facilitator to adjudicate. Rule 23 (1) (b) requires the inspector-cum-facilitator to examine records and employees and, if satisfied that the benefit is improperly withheld, direct the employer to make the payment. Sh. Prasad believes that it is a quasi-judicial matter, and the Inspector-cum-Facilitator could be empowered to make enquiries, but not adjudicate on the matter. We agree with Sh Parshad's observation that investigative and adjudicative functions should be separated. However, we don't think that this separation is achieved by having the ALC adjudicate. These functions need to be thoughtfully separated with firewalls. We would be happy to discuss this recommendation further during our scheduled meeting.

Feedback on Public Commons and Subcommittee Responses: Wages Rules

1. Sh. Vijay Walia recommended that the words "year" (mentioned in Rule 5) and "Normal working day" are not defined in the Rules. The department agreed to the recommendations. We suggest the department look at every instance where the words "year" and "Normal working day" are used in all four Rules and ensure uniform definition across all four Rules. The Wages Rules use the terms "normal working day" and "working day". We suggest the department rationalise the number of the definitions and lay out the difference between a working day and a normal working day in the Rules. We would be happy to discuss this rationalisation further once we understand the department's rationale for using these different terms.

2. Sh Vijay Walia recommended that the word "Agriculture labour" (used in the rule 10) be defined in the Rules. We are unclear about the rationale of differentiating agricultural labour from other labour. If there is a difference between the two, we suggest the department capture the difference in their definition of "Agriculture labour", if the difference is not stark we recommend the department avoid this further classification. The wages schedule also list 'farm assistant' as an labour category. It will be important to clarify how this relates to farm labour.
3. CII recommended that the categorization of various occupations provided in Rule 4(3) has anomalies and should be rectified. The department responded that they will issue notifications after the implementation of the Code to reduce the confusion regarding the categories. We suggest that either the department publish the rationalised and reconciled skill categories in the Rules, by clearing out any current ambiguities, or not publish them in the rules at all and release them later as a notification. This will reduce the confusion around the categorisation.
4. CII recommended that workers be paid normal wage rate on the rest day. The Department responded that this suggestion cannot be considered. We ask that the department re-consider this suggestion. We have also included this in our note to the department, and in our discussions, the sub-committee agreed to bring this down to 1.5 times the normal rate. Punjab should be a lighthouse state and introduce the normal wage for the rest day if a compensatory day off is given. If this is not feasible, instead of the overtime rate of 2 times the wage, we suggest the department consider the rate as 1.5 times the wage on the rest day.
5. The Department of Industry and Commerce suggested that Rule 48 may be omitted since the clause requiring the Principal employer to release the payment to the contractor before 7th of every month interferes with the contractual relationship between two independent parties. The Department agreed but continues to include a provision where if the contractor fails to pay its workers, the Principal employer is made liable to pay the workers. We recommend that the department not add this proviso because it transfers the liability of payment from the contractor to the Principal Employer and encourages contractors to default.

Bhuvana Anand
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Fwd: Punjab Code on Social Security Rules: Our feedback on draft shared on 20th July 2021

Labour Commissioner Punjab <lcpboffice@gmail.com>
To: supdthq.misc@gmail.com

Thu, Jul 22, 2021 at 10:36 AM

----- Forwarded message -----

From: **Sarvnipun Kaur** <sarvnipun@trayas.org>

Date: Wed, Jul 21, 2021 at 12:24 PM

Subject: Punjab Code on Social Security Rules: Our feedback on draft shared on 20th July 2021

To: <viksadb@gmail.com>, <vikrantee23@gmail.com>, <pradeep313131@gmail.com>

Cc: <lcpboffice@gmail.com>, <pk.thind@ias.gov.in>, <seeparveen@gmail.com>, Bhuvana Anand <bhuvana@trayas.org>, Research Intern 1 <researchintern@trayas.org>

Dear Sirs,

We studied the draft of the Code on Social Security (Punjab) Rules, 2021 shared by the Committee on 20 July 2021. We observed that the Department has incorporated our recommendation that the register for women employees (form XXI of the Rules) be renamed as Register of notice of claim for maternity benefit and payment thereof. The Department has also rectified printing errors in the Rules as suggested by Sh. Rajinder Kumar and Sh. Vijay Walia.

The Department has incorporated the recommendations that we had agreed on, and we do not have any further recommendations.

We attach a summary document with details of each recommendation. Please do not hesitate to reach out to me with any questions or clarifications. Grateful for all your support.

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Sarvnipun Kaur
Senior Research Analyst
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sarvnipun@trayas.org
+91-7888815331

**Punjab SS Rules | Review of Stakeholder's Recommendations | 21 July 2021.pdf**

120K



supdthq.miscellaneous <supdthq.misc2021@gmail.com>

Fwd: Feedback on Comments submitted by Mr. Vijay Walia

Vikas K <viksadb@gmail.com>
To: supdthq.misc2021@gmail.com

Sat, Aug 21, 2021 at 4:07 PM

Sent from my iPhone

Begin forwarded message:

From: Parveen Thind <seeparveen@gmail.com>
Date: 21 August 2021 at 4:00:27 PM IST
To: Vikas K <viksadb@gmail.com>
Subject: Fwd: Feedback on Comments submitted by Mr. Vijay Walia

Sent from my iPhone

Begin forwarded message:

From: Sarvnipun Kaur <sarvnipun@trayas.org>
Date: 10 August 2021 at 6:44:39 PM IST
To: seeparveen@gmail.com, lc@punjab.gov.in, lcpboffice@gmail.com
Cc: Bhuvana Anand <bhuvana@trayas.org>
Subject: Feedback on Comments submitted by Mr. Vijay Walia

Dear Sir,

We went through all the comments submitted by Mr. Vijay Walia to the Department. Mr. Walia submitted 12 recommendations related to the Code on Social Security (Punjab) Rules, 2021. We did not have a view on 11 of these recommendations, and agreed with the recommendation that highlighted a printing error related to the Section governing Rule 18.

Overall, Mr. Walia submitted 28 recommendations related to the Code on Social Security (Punjab) Rules, the Industrial Relations (Punjab) Rules, and Code on Wages (Punjab) Rules. We support 7 and don't have a view on 20 of his recommendations. One of his recommendations is yet to be closed with the Code on Wages sub-committee.

We are attaching a detailed spreadsheet recording Mr. Walia's comments, department responses, and our feedback on each of these.

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Sarvnipun Kaur
Senior Research Analyst
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Review of Stakeholder's Recommendations on Code on Social Security (Punjab) Rules, 2021

| Code | Stakeholder suggesting (Name+Affiliation) | Trayas/Stakeholder Recommendations | Committee Response | Latest Status Accepted/ Partly Accepted/ To be Escalated/ Not Doable/ Under Negotiation/ No Trayas View/ Not doable and Acceptable to Trayas | Trayas Response | Fact Checks Supporting Trayas Response |
|-----------------|---|--|---|--|---|---|
| Social Security | Sh. Jagdish Chand Vice President of the Trade Union: CTU Punjab, General Secretary of Lal Jhanda Hosiery Mazdoor Union, Ludhiana | In the social security code, there is a provision under Chapter IV that the employees for redressal of their grievance can approach the competent authorities for claiming their dues under the Payment of Gratuity Act and the Assistant Labour Commissioner or Labour-cum-Conciliation Officer can adjudicate upon the matter under the Payment of Gratuity Act | Can't be considered. Since rule is framed under Sections 58 (1) and 154 (2) (h) and it states that The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour Conciliation Officer having educational qualification and experience as determined for that post by the Government | No Trayas view | We are unclear about the stakeholder's recommendation. | Rule 22: Qualifications and experience of the officer appointed as the competent authority.—The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour Conciliation Officer having educational qualification and experience as determined for that post by the Government. Section 58. (1) The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification. Section 154 (2) (h) the qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 58; Section (5) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Chapter or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the competent authority such amount as he admits to be payable by him as gratuity. (b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the competent authority in the form prescribed by the appropriate Government for deciding the dispute. (c) The competent authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the competent authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer |
| Social Security | Sh. Jagdish Chand Vice President of the Trade Union: CTU Punjab, General Secretary of Lal Jhanda Hosiery Mazdoor Union, Ludhiana | As per rule 30 read with section 91, qualification and experience for competent authority under Employees Compensation Act, provision has been made that the matter under Employees Compensation Act can be adjudicated by the Assistant Labour Commissioner or by the Labour-cum-Conciliation Officer having educational qualification and experience as determined by post by the govt. and further a clause has been added that the person to be appointed as competent authority under Employees Compensation Act should have experience of at least 5 years of service on the post of Labour-cum-Conciliation Officer | Can't be considered. Since rule is framed under Sections 91 (1) and 154 (2) (1) and it states that The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experience as determined for the post by the Government, Provided that a person to be appointed as competent authority for the purpose of this Chapter shall have experience of at least five years of service on the post of Labour-cum-Conciliation Officer: Provided that a person who has worked as Labour-cum-Conciliation Officer and Assistant Labour Commissioner for a combined period of not less than five years need not possess the above mentioned experience for being appointed as competent authority. | No Trayas view | We are unclear about the stakeholder's recommendation. | Rule 30 Qualifications and experience for competent authority.—The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experience as determined for the post by the Government: Provided that a person to be appointed as competent authority for the purpose of this Chapter shall have experience of at least five years of service on the post of Labour-cum-Conciliation Officer: Provided that a person who has worked as Labour-cum-Conciliation Officer and Assistant Labour Commissioner for a combined period of not less than five years need not possess the above mentioned experience for being appointed as competent authority. Section 91. (1) The State Government may, by notification, appoint any person who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the appropriate Government to be a competent authority for the purposes of this Chapter and for such area as may be specified in the notification. (2) Where more than one competent authority has been appointed for any area, the State Government may, by general or special order, regulate the distribution of business amongst them. (3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry. Section 154 (2) (l) such other experience and qualifications for appointment as a competent authority under sub-section (1) of section 91 |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | Some of the establishments are exempted from the coverage under building or other construction work in its definition like factory or mine or establishments employing less than 10 workers. It should be clarified in the rules that the construction workers working in those establishments will get the benefits under these rules or not? | Can't be considered. Since registration of establishment under building or other construction work doesn't cover under The Code on Social Security, 2020. | No Trayas view | We agree with the department's response. Section 7 (1) read with Section 100 (1) of the Code provides that the Board will be constituted for the purposes of social security and welfare of building workers and construction workers. We understand that if the building workers are registered under Section 106 of the Code, then they would get the benefits. | Covered by the Building Workers Welfare Board Section 7(1): Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the.....(name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this section and Chapter VIII. Section 108: (1) There shall be constituted by a Building Workers' Welfare Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto— (a) the amount of any cess levied under sub-section (1) of section 100; (b) any grants and loans made to the Building Workers' Welfare Board by the Central Government; and (c) all sums received by the Building Workers' Welfare Board from such other sources as may be decided by the Central Government. Section 100. (1) There shall be levied and collected a cess for the purposes of social security and welfare of building workers at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by notification, from time to time, specify. Explanation.—For the purposes of this sub-section, the cost of construction shall not include,— (a) the cost of land; and (b) any compensation paid or payable to an employee or his kin under Chapter VII. Section 106: Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be registered by the officer authorised by the Building Workers' Welfare Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | The words cess collector and construction project or project or construction work mentioned in the Rule 34 are not defined in the rules as well as the code | Can't be considered. As appropriate government is Central Government as per rule 155. | No Trayas view | We do not have a take on it. | Rule 34. Time limit to pay the amount of cess .— (1) The cess levied under the sub-section (1) of section 100 shall be paid by an employer, within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable is finished; whichever is earlier, to the cess collector. (2) Notwithstanding anything contained in sub-rule (1), where the duration of the project or construction work exceeds one year, cess shall be paid within thirty days of completion of one year from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period. Section 155: Powers of Central Government to make rules (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof. (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 manner, and the conditions subject to which, the provisions of Chapter III shall be made inapplicable to an establishment by the Central Provident Fund Commissioner, under sub-section (5) and the manner, and the conditions subject to which the provisions of that Chapter IV shall be made inapplicable to an establishment by the Director General of the Corporation under sub-section (7) of section 1; |

Review of Stakeholder's Recommendations on Code on Social Security (Punjab) Rules, 2021

| Code | Stakeholder suggesting (Name+Affiliation) | Trayas/Stakeholder Recommendations | Committee Response | Latest Status Accepted/ Partly Accepted/ To be Escalated/ Not Doable/ Under Negotiation/ No Trayas View/ Not doable and Acceptable to Trayas | Trayas Response | Fact Checks Supporting Trayas Response |
|-----------------|--|---|--|--|--|--|
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | The conditions are to be prescribed in the Rule 36 as per Section 120 of the SS Code which are not mentioned . They should be mentioned to reduce corruption in the system and streamline the system | Can't be considered. As rule is framed under Sections 120 and 154 (2) (o) and it states that The Government shall in consultation with the Punjab Unorganised Social Security Board and the Punjab Building and Other Construction Workers Welfare Board frame a detailed policy for the purposes specified in Section 120 of the Code. | No Trayas view | We do not have a take on it. | Rule 36. Conditions to acquire, hold, sell or otherwise transfer any movable or immovable property. — The Government shall in consultation with the Punjab Unorganised Social Security Board and the Punjab Building and Other Construction Workers Welfare Board frame a detailed policy for the purposes specified in Section 120 of the Code. Section 120. (1) A Social Security Organisation (except Corporation) may, subject to such conditions as may be prescribed by the appropriate Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation may, from time to time invest any moneys vested in it, which are not immediately required for expenses properly defrayable and may, subject to as aforesaid, from time to time re-invest or realise such investments: Provided that in case of Provident Fund, Pension Fund or Insurance Fund, such investment, re-investment or realisation shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be. (3) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, raise loans and take measures for discharging such loans. (4) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, constitute for the benefit of its officers and staff or any class of them, such provident or other benefit funds as it may think fit: Provided that in case of officers and staff of the Central Board, such terms shall be specified in the Provident Fund Scheme. Section 154 (2)(o): conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (1), conditions to invest moneys, re-invest or realise investments under sub-section (2) terms to raise loans and take measures for discharging such loans under sub-section (3) and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds under sub-section (4) of section 120. |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | There are no rules made in relation to how to pay for the pension for the workers which was there in the model welfare schemes too and Moreover it was mentioned in the judgment of Hon'ble Supreme Court too | Can't be considered. Since the appropriate Government may, by notification will formulate scheme after implementation of the code. | No Trayas view | We agree with the department's response. Section 15 states that the Central Government will frame schemes through notification. | Section 15 (1) (a): The Central Government may, by notification frame a scheme to be called the Employees' Provident Fund Scheme for which the provident funds shall be established under this Chapter for employees or for any class of employees and specify the establishments or class of establishments to which the said scheme shall apply (b) frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for— (i) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies; (ii) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; and (iii) nominee pension; (c) frame a scheme to be called the Employees' Deposit Linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Chapter applies; (d) frame any other scheme or schemes for the purposes of providing social security benefits under this Code to self-employed workers or any other class of persons; and (e) modify any scheme referred to in clauses (a), (b), (c) and (d) by adding thereto, amending or varying therein, either prospectively or retrospectively. (2) Subject to the provisions of this Chapter, the schemes referred to in clauses (a), (b) and (c) of sub-section (1) may provide for all or any of the matters respectively specified in Part A, Part B and Part C of the Fifth Schedule. (3) The schemes may provide that all or any of its provisions shall take effect either prospectively or retrospectively on and from such date as may be specified in that behalf in the scheme. Section 16 (1)(b) the Pension Scheme, establish a Pension Fund in the manner specified in that scheme by that Government into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,— (i) such sums from the employer's contribution under clause (a) not exceeding eight and one-third per cent. of the wages or such per cent. of wages as may be notified by the Central Government; (ii) such sums payable as contribution to the Pension Fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 143 to which the pension scheme applies; (iii) such sums as the Central Government after due appropriation by Parliament by law in this behalf, specifies; Section 164: (2) Notwithstanding such repeal,— (b) the Employees' Provident Funds Scheme, 1952, the Employees' Deposit Linked Insurance Scheme, 1976, the Employees' Pension Scheme, 1995 and the Tribunal (Procedure) Rules, 1997 framed or made under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the rules, regulations and schemes made or framed under the Employees' State Insurance Act, 1948, shall remain in force, to the extent they are not inconsistent with the provisions of this Code for a period of one year from the date of commencement of this Code; |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | There are no rules made in relation to powers of appropriate government Section 154 (2) (a) which is in relation to the insurance, educational and medical expenses for major ailments schemes which are to be made under Section 7 of the SS Code 2020. This is one of the major functions being done for the welfare of the workers by labour department. Labour department has completely ignored the welfare of the workers by doing this. Since after the implementation of these rules, previous schemes will not exist then what will happen to educational needs of the poor and needy workers. This is a major flaw in the rules. These rules should be made so that the welfare aspect of the labourers should be taken care of. This is kept open for increasing corruption in the system of Labour Department. | Can't be considered. Since the appropriate Government may, by notification will formulate insurance, educational and medical expenses for major ailments schemes after implementation of the code. | No Trayas view | We agree with the department's response. Section 7 states that the Building and Construction Workers' Welfare Board will perform functions under Chapter VIII. | Section 154 (2) (a): (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 amount in connection with premium for Group Insurance Scheme of the beneficiaries under clause (c), the educational schemes for the benefit of children of the beneficiaries under clause (d) and the medical expenses for treatment of major ailments of a beneficiary or, such dependant under clause (e) of sub-section (6) of section 7; Section 7. (1) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the.....(name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this section and Chapter VIII. |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | It is written that the Rule 18 is made under Section S(1) and Section 154 (2) (c) but the section 154 (2)(c) gives power to make rules under Section 51(1) , hence this rule is either made under wrong or made under other section. Hence it should be corrected. It is the clear issue of the over reach | To be considered. As there is printing error, so 5(1) to be replaced by 53(1). | Accepted | We agree with the department's response. | Rule 18 Deduction under section 24.- Deductions for recovery of loans granted for house building or other purposes approved by the State Government, and the interest due in respect thereof shall be, subject to any direction made or circular issued by the State Government from time to time regulating the extent to which such loans may be granted and the rate of interest shall be payable thereon. Section 154 (e) the manner of commencement of proceedings before the Employees' Insurance Court, fees and procedure thereof under sub-section (1) of section 51. Section 51 (1): The manner of commencement of proceedings before the Employees' Insurance Court, fees and procedure thereof shall be such as may be prescribed by the appropriate Government: Provided that the limitation for initiating the proceedings by the aggrieved person in the Employees' Insurance Court shall be three years from the date on which the cause of action arises. Provided further that the "arising of cause of action" in respect of a claim by the Insured Person or dependants; by the Corporation for recovering contribution (including interests and damages) from the employer; and the claim by the employer for recovering contributions from a Contractor and the time within which such claims, recovery or contribution, from employer by the Corporation and recovery of contribution by the employer from the Contractor, shall be as specified in the regulations. |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | The time period is mentioned in the Rules 21 but as per Section 57 (3) of the SS Code, the time limit shall be defined by the Central Government and it is written that every employer of the establishment covered by the code shall register but section 57(1) exempts some establishments from this section. Hence it should be corrected. Furthermore, the form XIII should be corrected accordingly | Can't be considered. Since appropriate government is State Government and rule is framed under Sections 57 (3), 57(4) and 154 (2) (g). | No Trayas view | We agree with the department's response. We do not have a take on it. | Rule 21: Manner of registration .-(1) Every Employer of an establishment covered by the Code shall get his/her establishment registered electronically with competent authority in Form XIII within thirty days from the date of notification of the compulsory insurance specified under sub section (1) of section 57 of the Code. (1) The Board of Trustees shall include an equal number of representatives of the employer and the employees of the establishment. (2) Any amount directed to be paid under sub-section (4) of Section 57 shall be recoverable as an arrear of land revenue. Section 57(3) For the purposes of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed by the Central Government get his establishment registered with the competent authority in the manner prescribed by the appropriate Government and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2). |

Review of Stakeholder's Recommendations on Code on Social Security (Punjab) Rules, 2021

| Code | Stakeholder suggesting (Name+Affiliation) | Trayas/Stakeholder Recommendations | Committee Response | Latest Status Accepted/ Partly Accepted/ To be Escalated/ Not Doable/ Under Negotiation/ No Trayas View/ Not doable and Acceptable to Trayas | Trayas Response | Fact Checks Supporting Trayas Response |
|-----------------|--|---|---|--|---|--|
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | It is stated that the Rule 22 describes the qualifications and experience of the officer appointed as the competent authority and it gives the qualification and experience as a designation which is not correct, if the central govt. wanted to give the designation for qualification and experience of some designation rather the central government has written any officer with prescribed qualifications and experience. Hence it should be correct to write some qualification like Diploma in Labour laws, Degree is Social Welfare or Diploma in personnel management, Law or Technical degree etc. and experience should also be in some field like labour laws or workers management or personnel management rather than some designation. This rule is made to increase inherent corruption in the labour department. | Can't be considered. Since rule is framed under Sections 58 (1) and 154 (2) (h) and it states that The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour Conciliation Officer having educational qualification and experience as determined for that post by the Government. | No Trayas view | We do not have a take on it. | Rule 22. Qualifications and experience of the officer appointed as the competent authority. —The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour Conciliation Officer having educational qualification and experience as determined for that post by the Government. Section 58. (1) The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification. Section 154 (2) (h): the qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 58. |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | The terms and conditions of appointment and the salary and allowances payable to the secretary and the other officers are not clearly specified in the rules. This shows the arbitrary powers. | Can't be considered. Since in rule 15 of the code it is written that —The Secretary, other officers and employees, of the Board shall be appointed on such terms and conditions and shall be paid such salary and allowances, as may be determined by the Board from time to time with the approval of the Government, | No Trayas view | We agree with the department's response. We do not have a take on it. | Rule 15: Terms and conditions of appointment of Secretary, other officers and employees of the Board. —The Secretary, other officers and employees of the Board shall be appointed on such terms and conditions and shall be paid such salary and allowances, as may be determined by the Board from time to time with the approval of the Government. |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | The Rule 23 is to be not made as per the code. the power is only given to the state government to prescribe the authority. the whole other matter in the rules are not required as per the code. It should be rectified | Can't be considered. Since rule is framed under Sections 72 (3), and 156 (2) (i), where state government is appropriate government to prescribe the rules. | No Trayas view | We do not have a take on it. | Rule 23: (1) Complaint and Appeal. — (1) Complaint,— (a) A complaint under sub-section (1) of section 72 shall be made in writing in Form XIV as the case may be. (b) When a complaint referred to in sub-section (2) of Section 72 is received by an Inspector-cum-Facilitator, he shall examine the relevant record maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 63, as the case may be, immediately or within a specified period. Section 72 (3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government. Section 156 (2) (i) time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93; |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | It is stated that the Rule 30 describes the qualifications and experience for the competent authority, it is made incorrect since the SS code allows any person including private lawyers or retired judges or to be the competent authorities under section 91 of the code but this rule is binding the government to make the assistant labour commissioner or labour conciliation officers only this is not as per SS code. Furthermore the designation should not be there. Rather is should allow the people to have the private lawyers involved too so that the decisions are made faster and correct and it will lead to decrease in corruption in the department. The qualifications should be specifically mentioned along with the experience in field. This rule proves that the officers who made this rules wants power even above the central or state government and this will inherently increase in corruption | Can't be considered. Since rule is framed under Sections 91 (1) and 154 (2) (1) and it states that The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experience as determined for the post by the Government, Provided that a person to be appointed as competent authority for the purpose of this Chapter shall have experience of at least five years of service on the post of Labour-cum-Conciliation Officer: Provided that a person who has worked as Labour-cum-Conciliation Officer and Assistant Labour Commissioner for a combined period of not less than five years need not possess the above mentioned experience for being appointed as competent authority. | No Trayas view | We do not have a take on it. | Rule 30: Qualifications and experience for competent authority. —The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experience as determined for the post by the Government: Section 91. (1) The State Government may, by notification, appoint any person who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the appropriate Government to be a competent authority for the purposes of this Chapter and for such area as may be specified in the notification. (2) Where more than one competent authority has been appointed for any area, the State Government may, by general or special order, regulate the distribution of business amongst them. (3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry. |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | Some of the establishments are exempted from the coverage under building or other construction work in its definition like factory or mine or establishments employing less than 10 workers. It should be clarified in the rules that the construction workers working in those establishments will get the benefits under these rules or not? | Can't be considered. Since registration of establishment under building or other construction work doesn't cover under The Code on Social Security, 2020. | No Trayas view | We agree with the department's response. Section 7 (1) of the Code provides that the construction workers will be covered by Building Workers Welfare Board. The benefits under the Rules are not provided to the Building and Construction workers covered by the Board. | Covered by the Building Workers Welfare Board Section 7(1): Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the.....(name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this section and Chapter VIII. Section 108: (1) There shall be constituted by a Building Workers' Welfare Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto— (a) the amount of any cess levied under sub-section (1) of section 100; (b) any grants and loans made to the Building Workers' Welfare Board by the Central Government; and (c) all sums received by the Building Workers' Welfare Board from such other sources as may be decided by the Central Government. Section 100. (1) There shall be levied and collected a cess for the purposes of social security and welfare of building workers at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by notification, from time to time, specify. Explanation.—For the purposes of this sub-section, the cost of construction shall not include,— (a) the cost of land; and (b) any compensation paid or payable to an employee or his kin under Chapter VII. Section 106: Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be registered by the officer authorised by the Building Workers' Welfare Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | The words cess collector and construction project or project or construction work mentioned in the Rule 34 are not defined in the rules as well as the code | Can't be considered. Since appropriate government is Central Government as per rule 155. | No Trayas view | We do not have a take on it. | Rule 34. Resignation of the Chairperson and other members of the Board. (1) A member of the Board, other than the Chairperson, may, by giving notice in writing to the Chairperson, resign his membership and the Chairperson may resign by a letter addressed to the State Government. (2) A resignation shall take effect from the date of communication of its acceptance or on the expiry of thirty days from the date of resignation, whichever is earlier. (3) When a vacancy occurs or is likely to occur in the membership of the Board, the Chairperson shall submit a report to the State Government immediately and the State Government shall, then, take steps to fill the vacancy in accordance with the provisions of the Code |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | The conditions are to be prescribed in the Rule 36 as per Section 120 of the SS Code which are not mentioned. They should be mentioned to reduce corruption in the system and streamline the system | Can't be considered. Since, rule is framed under Sections 120 and 154 (2) (o) and it states that The Government shall in consultation with the Punjab Unorganised Social Security Board and the Punjab Building and Other Construction Workers Welfare Board frame a detailed policy for the purposes specified in Section 120 of the Code. | No Trayas view | We do not have a take on it. | Rule 36. Conditions to acquire, hold, sell or otherwise transfer any movable or immovable property. — The Government shall in consultation with the Punjab Unorganised Social Security Board and the Punjab Building and Other Construction Workers Welfare Board frame a detailed policy for the purposes specified in Section 120 of the Code. Section 120. (1) A Social Security Organisation (except Corporation) may, subject to such conditions as may be Social Security Organisation be prescribed by the appropriate Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation is established Section 152 (2) (o) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (1), conditions to invest moneys, re-invest or realise investments under sub-section (2) terms to raise loans and take measures for discharging such loans under sub-section (3) and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds under sub-section (4) of section 120; |

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| Code | Stakeholder suggesting (Name+Affiliation) | Trayas/Stakeholder Recommendations | Committee Response | Latest Status Accepted/ Partly Accepted/ To be Escalated/ Not Doable/ Under Negotiation/ No Trayas View/ Not doable and Acceptable to Trayas | Trayas Response | Fact Checks Supporting Trayas Response |
|-----------------|--|--|--|--|--|---|
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | There are no rules made in relation to how to pay for the pension for the workers which was there in the model welfare schemes too and Moreover it was mentioned in the judgment of Hon'ble Supreme Court too | Can't be considered. Since the appropriate Government may, by notification will formulate scheme after implementation of the code. | No Trayas view | We agree with the department's response. Section 15 states that the Central Government will frame schemes through notification. | Section 15 (1) (a): The Central Government may, by notification frame a scheme to be called the Employees' Provident Fund Scheme for which the provident funds shall be established under this Chapter for employees or for any class of employees and specify the establishments or class of establishments to which the said scheme shall apply |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | There are no rules made in relation to powers of appropriate government Section 154 (2) (a) which is in relation to the insurance, educational and medical expenses for major ailments schemes which are to be made under Section 7 of the SS Code 2020. This is one of the major functions being done for the welfare of the workers by labour department. Labour department has completely ignored the welfare of the workers by doing this. Since after the implementation of these rules, previous schemes will not exist then what will happen to educational needs of the poor and needy workers. This is a major flaw in the rules. These rules should be made so that the welfare aspect of the labourers should be taken care of. This is kept open for increasing corruption in the system of Labour Department | Can't be considered. Since the appropriate Government may, by notification will formulate insurance, educational and medical expenses for major ailments schemes after implementation of the code. | No Trayas view | We agree with the department's response. Section 7 states that the Building and Construction Workers' Welfare Board will perform functions under Chapter VIII. | Section 154 (2) (a): (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 amount in connection with premium for Group Insurance Scheme of the beneficiaries under clause (c), the educational schemes for the benefit of children of the beneficiaries under clause (d) and the medical expenses for treatment of major ailments of a beneficiary or, such dependant under clause (e) of sub-section (6) of section 7; |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | It is written that the Rule 18 is made under Section S(1) and Section 154 (2) (c) but the section 154 (2)(c) gives power to make rules under Section 51(1) , hence this rule is either made under wrong or made under other section. Hence it should be corrected. It is the clear issue of the over reach | To be considered. As there is printing error, so 5(1) to be replaced by 53(1). | Accepted | We agree with the department's response. | Rule 18 Deduction under section 24. Deductions for recovery of loans granted for house building or other purposes approved by the State Government, and the interest due in respect thereof shall be, subject to any direction made or circular issued by the State Government from time to time regulating the extent to which such loans may be granted and the rate of interest shall be payable thereon. |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | The time period is mentioned in the Rules 21 but as per Section 57(3) of the SS Code, the time limit shall be defined by the Central Government and it is written that every employer of the establishment covered by the code shall register but section 57(1) exempts some establishments from this section. Hence it should be corrected. Furthermore, the form XIII should be corrected accordingly | Can't be considered. Since appropriate government is State Government and rule is framed under Sections 57 (3), 57(4) and 154 (2) (g). | No Trayas view | We agree with the department's response. We do not have a take on it. | Rule 21. Manner of registration .-(1) Every Employer of an establishment covered by the Code shall get his/her establishment registered electronically with competent authority in Form XIII within thirty days from the date of notification of the compulsory insurance specified under sub section (1) of section 57 of the Code. (1) The Board of Trustees shall include an equal number of representatives of the employer and the employees of the establishment. (2) Any amount directed to be paid under sub-section (4) of Section 57 shall be recoverable as an arrear of land revenue. Section 57 (1): Every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity under this Chapter, from any insurance company regulated by the Authority as defined under clause (b) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999: Section 57 (3): Every employer get his establishment registered with the competent authority in the manner prescribed by the appropriate Government and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) Section 57 (4): The appropriate Government may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund, in such manner as may be prescribed. Section 154 (2)(g) the manner of registration of an establishment by the employer under sub-section (3) and the manner of composition of the Board of Trustees of the approved gratuity fund and the manner in which the competent authority may recover the amount of the gratuity payable to an employee from the insurer under sub-section (4) of section 57. |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | It is stated that the Rule 22 describes the qualifications and experience of the officer appointed as the competent authority and it gives the qualification and experience as a designation which is not correct , if the central govt. wanted to give the designation for qualification and experience of some designation rather the central government has written any officer with prescribed qualifications and experience. Hence it should be correct to write some qualification like Diploma in Labour laws, Degree is Social Welfare or Diploma in personnel management, Law or Technical degree etc. and experience should also be in some field like labour laws or workers management or personnel management rather than some designation. This rule is made to increase inherent corruption in the labour department. | Can't be considered. Since rule is framed under Sections 58 (1) and 154 (2) (h) and it states that The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour Conciliation Officer having educational qualification and experience as determined for that post by the Government. | No Trayas view | We do not have a take on it. | Rule 22: Qualifications and experience of the officer appointed as the competent authority .— The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour Conciliation Officer having educational qualification and experience as determined for that post by the Government. Section 58. (1) The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification. Section 154 (2) (h) the qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 58; |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | The terms and conditions of appointment and the salary and allowances payable to the secretary and the other officers are not clearly specified in the rules. This shows the arbitrary powers. | Can't be considered. Since in rule 15 of the code it is written that —The Secretary, other officers and employees, of the Board shall be appointed on such terms and conditions and shall be paid such salary and allowances, as may be determined by the Board from time to time with the approval of the Government, | No Trayas view | We agree with the department's response. We do not have a take on it. | Section 2 (1) (i) "competent person", means a person or an institution recognised as such by the Chief Inspector-cum-Facilitator for the purposes of carrying out tests, examinations and inspections required to be done in an establishment having regard to— (i) the qualifications and experience of the person and facilities available at his disposal; or (ii) the qualifications and experience of the persons employed in such institution and facilities available therein: Provided that in case of mines the competent person includes such other person who is authorised by the manager referred to in section 67 to supervise or perform any work, or to supervise the operation of machinery, plant or equipment and is responsible for such duties assigned to him and also includes a shot firer or blaster. Section 34 (3) The appropriate Government may— (i) for the purposes of inspection referred to in sub-section (2), by notification, lay down an inspection scheme which may provide for the generation of web-based inspection and calling of information under this Code, electronically and such scheme shall, inter alia, have provisions to cater to special circumstances for assigning inspection and calling for information from establishment or any other person besides web-based inspections; and (ii) without prejudice to the provisions of sub-section (2), by notification, under the scheme, provide for the randomised selection of establishment and the Inspector-cum-Facilitator for inspection. |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | The Rule 23 is to be not made as per the code. the power is only given to the state government to prescribe the authority. the whole other matter in the rules are not required as per the code. It should be rectified | Can't be considered. Since rule is framed under Sections 72 (3), and 156 (2) (i), where state government is appropriate government to prescribed the rules. | No Trayas view | We do not have a take on it. | Rule 23 (1): Complaint and Appeal. (1) Complaint,- (a) A complaint under sub-section (1) of section 72 shall be made in writing in Form XIV as the case may be. (b) When a complaint referred to in sub-section (2) of Section 72 is received by an Inspector-cum-Facilitator, he shall examine the relevant record maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 63, as the case may be, immediately or within a specified period: Section 72 (3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government. Section 156 (2)(i) time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93; |

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| Code | Stakeholder suggesting (Name+Affiliation) | Trayas/Stakeholder Recommendations | Committee Response | Latest Status Accepted/ Partly Accepted/ To be Escalated/ Not Doable/ Under Negotiation/ No Trayas View/ Not doable and Acceptable to Trayas | Trayas Response | Fact Checks Supporting Trayas Response |
|-----------------|--|---|---|--|---|---|
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized Labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | It is stated that the Rule 30 describes the qualifications and experience for the competent authority, it is made incorrect since the SS code allows any person including private lawyers or retired judges or to be the competent authorities under section 91 of the code but this rule is binding the government to make the assistant labour commissioner or labour conciliation officers only this is not as per SS code. Furthermore the designation should not be there. Rather it should allow the people to have the private lawyers involved too so that the decisions are made faster and correct and it will lead to decrease in corruption in the department. The qualifications should be specifically mentioned along with the experience in field. This rule proves that the officers who made this rules wants power even above the central or state government and this will inherently increase in corruption | Can't be considered. Since rule is framed under Sections 91 (1) and 154 (2) (1) and it states that The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experience as determined for the post by the Government, Provided that a person to be appointed as competent authority for the purpose of this Chapter shall have experience of at least five years of service on the post of Labour-cum-Conciliation Officer: Provided that a person who has worked as Labour-cum-Conciliation Officer and Assistant Labour Commissioner for a combined period of not less than five years need not possess the above mentioned experience for being appointed as competent authority. | No Trayas view | We do not have a take on it. | Rule 30. Qualifications and experience for competent authority. —The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experience as determined for the post by the Government: Section 91. (1) The State Government may, by notification, appoint any person who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the appropriate Government to be a competent authority for the purposes of this Chapter and for such area as may be specified in the notification. Section 154 (2) (1) such other experience and qualifications for appointment as a competent authority under sub-section (1) of section 91; |
| Social Security | Sh. Yogesh Parshad President, Law Power Association | As per rule 30 read with section 91, qualification and experience for competent authority under Employees Compensation Act, provision has been made that the matter under Employees Compensation Act can be adjudicated by the Assistant Labour Commissioner or by the Labour-cum-Conciliation Officer having educational qualification and experience as determined by post by the govt. and further a clause has been added that the person to be appointed as competent authority under Employees Compensation Act should have experience of at least 5 years of service on the post of Labour-cum-Conciliation Officer | Can't be considered. Since rule is framed under Sections 91 (1) and 154 (2) (1) and it states that The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experience as determined for the post by the Government, Provided that a person to be appointed as competent authority for the purpose of this Chapter shall have experience of at least five years of service on the post of Labour-cum-Conciliation Officer: Provided that a person who has worked as Labour-cum-Conciliation Officer and Assistant Labour Commissioner for a combined period of not less than five years need not possess the above mentioned experience for being appointed as competent authority. | No Trayas view | We are not clear about the stakeholder's recommendation. | Rule 30. Qualifications and experience for competent authority. —The person to be appointed as the competent authority for the purpose of this Chapter shall be an officer not below the rank of Assistant Labour Commissioner or Labour-cum-Conciliation Officer having educational qualification and experiences determined for the post by the Government: Section 91. (1) The State Government may, by notification, appoint any person who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the appropriate Government to be a competent authority for the purposes of this Chapter and for such area as may be specified in the notification. (2) Where more than one competent authority has been appointed for any area, the State Government may, by general or special order, regulate the distribution of business amongst them. (3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry. Section 154 (2) (1) such other experience and qualifications for appointment as a competent authority under sub-section (1) of section 91 |
| Social Security | Sh. Rajinder Kumar, (rajindersingh33660@gmail.com) | There is no mention of the amount of contribution to be taken from beneficiary to get registered under the code as well as for renewal in the rules. Moreover, there is no mention of the grace period for the beneficiaries after the beneficiary ceased to get benefits under the rules made under the code | Can't be considered. Since the appropriate Government may, by notification will formulate the policy regarding this. | No Trayas view | We are unclear about the stakeholder's recommendation. He has not referred to any specific section or rule. There are multiple registrations under the SS Code for employers (for compulsory insurance [Section 57], registration of establishment [Section 3]) and employees (for building workers as beneficiaries [Section 106], unorganised workers, platform workers and gig workers [Section 113]) Would separate registration be required under each code? If so, we recommend that the department rationalise the number of registrations and the registration fees under all 4 codes. | Section 3(1) Every establishment to which this Code applies shall be electronically or otherwise, registered within such time and in such manner as may be prescribed by the Central Government. Provided that the establishment which is already registered under any other Central labour law for the time being in force shall not be required to obtain registration again under this Code and such registration shall be deemed to be registration for the purposes of this Code. Rule 21: Manner of registration -(1) Every Employer of an establishment covered by the Code shall get his/her establishment registered electronically with competent authority in Form XIII within thirty days from the date of notification of the compulsory insurance specified under sub section (1) of section 57 of the Code. (1) The Board of Trustees shall include an equal number of representatives of the employer and the employees of the establishment. (2) Any amount directed to be paid under sub-section (4) of Section 57 shall be recoverable as an arrear of land revenue. Section 57 (3) For the purposes of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed by the Central Government get his establishment registered with the competent authority in the manner prescribed by the appropriate Government and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2). (4) The appropriate Government may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund, in such manner as may be prescribed. Section 154 (2) (g) grants the appropriate government the rule-making powers regarding the manner of registration of an establishment by the employer under Section (3) |
| Social Security | Sh. Vijay Walia Fight for the Rights of Unorganized Labour Disable person & fight against injustice Organization Director Center for Social Change & Equity (Regd.) Patron: Ajmer Merwada Contractor Association | There is no mention of the amount of contribution to be taken from beneficiary to get registered under the code as well as for renewal in the rules. Moreover, there is no mention of the grace period for the beneficiaries after the beneficiary ceased to get benefits under the rules made under the code | Can't be considered. Since the appropriate Government may, by notification will formulate scheme after implementation of the code. | No Trayas view | We are unclear about the stakeholder's recommendation. He has not referred to any specific section or rule. There are multiple registrations under the SS Code for employers (for compulsory insurance [Section 57], registration of establishment [Section 3]) and employees (for building workers as beneficiaries [Section 106], unorganised workers, platform workers and gig workers [Section 113]) Would separate registration be required under each code? If so, we recommend that the department rationalise the number of registrations and the registration fees under all 4 codes. | Section 3: Every establishment to which this Code applies shall be electronically or otherwise, registered within such time and in such manner as may be prescribed by the Central Government: Section 154 (2) (g) grants the appropriate government the rule-making powers regarding the manner of registration of an establishment by the employer under Section (3) Rule 21: Manner of registration -(1) Every Employer of an establishment covered by the Code shall get his/her establishment registered electronically with competent authority in Form XIII within thirty days from the date of notification of the compulsory insurance specified under sub section (1) of section 57 of the Code. (1) The Board of Trustees shall include an equal number of representatives of the employer and the employees of the establishment. (2) Any amount directed to be paid under sub-section (4) of Section 57 shall be recoverable as an arrear of land revenue. Section 57 (3) For the purposes of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed by the Central Government get his establishment registered with the competent authority in the manner prescribed by the appropriate Government and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2). (4) The appropriate Government may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund, in such manner as may be prescribed. |
| Social Security | Sh. Jagdish Chand Vice President of the Trade Union: CTU Punjab, General Secretary of Lal Jhanda Hosiery Mazdoor Union, Ludhiana | In Chapter V, Maternity Benefit Act, the Inspector-cum-facilitator has been empowered to adjudicate the matter. It is pertinent to mention here that it is a quasi-judicial matter and the Inspector-cum-Facilitator can only make enquiry, he should not have the experience to adjudicate upon the matter because, he has the only knowledge to make enquiry. In the cases, he cannot pass the orders. He has less ability to pass the orders. In quasi-judicial matter, so the Assistant Labour Commissioner or Labour-cum-Conciliation Officer of the area should be deputed or should be empowered to exercise the powers under this Chapter. | Can't be considered. Since rule is framed under Sections 72 (3), and 156 (2) (i), where state government is appropriate government to prescribed the rules. In discussion dated June 11, the department responded that the LC is the appellate authority and the Code on Social Security provides that the appellate authority can be made by Rules. They are abiding by the Codes. Moreover, the LC is the best possible firewall. | Not doable | In mail dated June 8 we responded: We agree with the observation that investigative and adjudicative functions should be separated. However, we don't think that this separation is achieved by having the ALC adjudicate. These functions need to be thoughtfully separated with firewalls. We would be happy to discuss this recommendation further during our scheduled meeting. | Rule 23 (1) (b): When a complaint referred to in sub-section (2) of Section 72 is received by an Inspector-cum-Facilitator, he shall examine the relevant record maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 63, as the case may be, immediately or within a specified period. Rule 23 (3) Authority to whom an appeal may be preferred: A person aggrieved by the order of Inspector-cum Facilitator under sub-section (2) of section 72 may appeal to Additional Labour Commissioner. Section 72 (3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government. Section 156 (2) (i) time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93. |
| Social Security | Sh. Yogesh Parshad President, Law Power Association | In Chapter V, Maternity Benefit Act, the inspector-cum-facilitator has been empowered to adjudicate the matter. It is pertinent to mention here that it is a quasi-judicial matter and the Inspector-cum-Facilitator can only make enquiry, he should not have the experience to adjudicate upon the matter because, he has the only knowledge to make enquiry. In the cases, he cannot pass the orders. He has less ability to pass the orders. In quasi-judicial matter, so the Assistant Labour Commissioner or Labour-cum-Conciliation Officer of the area should be deputed or should be empowered to exercise the powers under this Chapter. | Can't be considered. Since rule is framed under Sections 72 (3), and 156 (2) (i), where state government is appropriate government to prescribed the rules. In discussion dated June 11, the department responded that the LC is the appellate authority and the Code on Social Security provides that the appellate authority can be made by Rules. They are abiding by the Codes. Moreover, the LC is the best possible firewall. | Not doable | In mail dated June 8 we responded: We agree with the observation that investigative and adjudicative functions should be separated. However, we don't think that this separation is achieved by having the ALC adjudicate. These functions need to be thoughtfully separated with firewalls. We would be happy to discuss this recommendation further during our scheduled meeting. | Rule 23 (1) (b): When a complaint referred to in sub-section (2) of Section 72 is received by an Inspector-cum-Facilitator, he shall examine the relevant record maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 63, as the case may be, immediately or within a specified period. Rule 23 (3) Authority to whom an appeal may be preferred: A person aggrieved by the order of Inspector-cum Facilitator under sub-section (2) of section 72 may appeal to Additional Labour Commissioner. Section 72 (3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government. Section 156 (2) (i) time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93 |



superintendent miscellaneous <supdthq.misc2021@gmail.com>

Fwd: Final draft of Social Security (Punjab) rules, 2021

Labour Commissioner Punjab <lcpboffice@gmail.com>
To: supdthq.misc2021@gmail.com, supdthq.misc@gmail.com

Sat, Aug 21, 2021 at 4:18 PM

----- Forwarded message -----

From: **Bhuvana Anand** <bhuvana@trayas.org>
Date: Sat, Aug 21, 2021 at 3:02 PM
Subject: Re: Final draft of Social Security (Punjab) rules, 2021
To: Supdt. Misc. <supdthq.misc@gmail.com>
Cc: <Sarvnipun@trayas.org>, <lcpboffice@gmail.com>, Praveen Kumar Thind IAS <pk.thind@ias.gov.in>, <seeparveen@gmail.com>, Sirjan Kaur <sirjan@trayas.org>

Sirs, we have gone through the revised draft Social Security (Punjab) Rules shared with us. All the pending issues have been address in this draft. This can now be sent for approval. Thank you for your cooperation.

Sincerely,
Bhuvana

Bhuvana Anand
Founder Director
Trayas Foundation
bhuvana@trayas.org
+91-9953988304

On 21-Aug-2021, at 2:46 PM, Supdt. Misc. <supdthq.misc@gmail.com> wrote:

Kindly find the attached file on the subject cited above. the suggestion given by you in the meeting held on 19.08.2021 with members of the drafting committee on Social Security (Punjab) Rules,2021 under the chairmanship of Worthy ACS,Labour have been accepted and has been incorporated in the Draft rules accordingly. Kindly check and give your feedback on the same. Thanks and regards. Supdt. Misc
Labour Dept Punjab
<FINAL DRAFT OF SS PUNJAB RULES 21.08.21.docx>