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Statement of objects and reasons

The agricultural sector of the economy in India is the largest sector in terms of employment of the workforce. It consists of crop cultivation and other agricultural activities such as forestry, livestock and fishing. The workers in this sector may be broadly divided into wage workers, and farmers. Almost the entire agricultural sector (except the Plantation Sector) is unorganized i.e. it has neither any formal system of social security nor regulation of conditions of work. Hence, this Bill is intended to cover all unorganised agricultural workers, who are all agricultural wage workers not protected under the Plantations Workers Act, and marginal and small farmers. This Bill is intended to regulate the minimum conditions of work to agricultural wage workers and provide a measure of social security to agricultural wage workers and marginal and small farmers in the unorganised sector. The Bill mandates the Central and State governments to implement a package of National Minimum Social Security Scheme for which all agricultural workers would be entitled. This Bill is also intended to provide minimum conditions of work for agricultural wage workers whose minimum conditions of work are not regulated by any other legislation. It also provides a mechanism for dispute resolution for such workers.


A BILL
to provide for regulation of conditions of work, social security and welfare, and a dispute resolution mechanism for Agricultural workers and to provide for other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the fifty-eighth year of the Republic of India as follows:-
Chapter I

PRELIMINARY

1. Short title, extent, commencement and application

(1) This Act may be called Agricultural Workers’ Conditions of Work and Social Security Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and different areas in a State and for different provisions of this Act, within six months from the date of the assent.

2. Definitions

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

a) "Adolescent" means a person of the age of 14 years and above and who has not completed 18 years of age.

b) "Agricultural worker" means either a farmer (as defined in clause g below) or a wage worker engaged in agriculture.

Explanation: Workers eligible for protection under the Plantation Workers Act are excluded from the purview of this Act.

c) "Agriculture" means 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 or sericulture;

(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.

d) "Casual worker" means a wage worker engaged in agriculture in consideration of wages, whose employment is of casual nature.

e) "Child" means a person who has not completed 14 years of age.

f) "Employer" means a natural or juridical person, or an association of such persons, by whom any agricultural worker is engaged or employed either directly or otherwise, in consideration of wages.

g) "Farmer" means any person engaged in agricultural activities, either individually or with one or more persons, and not owning or operating a holding of more than two hectares or such limits as may be notified from time to time by the State government.

h) "Government" means either Central Government, or State Government, or Union Territory administration, or local government, or Cantonment Boards as the case may be.

i) "Home worker" means an unorganised non-agricultural sector worker involved in the production of goods or services as specified by an employer, in his/her own home or other 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.

j) "Identity card" means a card issued to an agricultural worker carrying a unique number issued by the authorised agency of the State Board.
k) "Migrant worker" includes inter state and intra state migrant workers.

l) "National Board" means the National Social Security and Welfare Board for unorganised workers.

m) "Non-agriculture" means all occupations other than those included in agriculture and includes occupations related to Mining and Quarrying, Manufacturing, Electricity, Gas and water supply and Construction sectors, and services (including trade; hotels; restaurants; transport, storage and communications; financing, insurance, real estate and business services; and community, social and personal services).

n) "Registered Agricultural Worker" means an agricultural worker registered for benefits under this Act.

o) "Remuneration" means as defined in the Equal Remuneration Act, 1976.

p) "Sexual Harassment" is such unwelcome sexually determined behavior such as physical contact, advances, sexually coloured remarks, showing pornography or making sexual demands, whether verbal, textual, graphic or electronic or by any other actions, which may -.

(i) contain implied or overt promise of preferential treatment in that wage worker’s employment; or

(ii) contain an implied or overt threat of detrimental treatment in that wage worker’s employment or an implied or overt threat about the present or future employment status of that wage worker and includes the creation of a hostile working environment; or

(iii) interfere with a wage worker’s work or create an intimidating, hostile or offensive work environment; or

(iv) be humiliating and may constitute a health and safety problem.

Explanation1: Hostile Environment: A work environment is “hostile” when unwelcome verbal, non-verbal or physical behaviour focusing on sexuality is severe and pervasive enough to interfere with the victim’s work performance or be intimidating or offensive to a reasonable person.
q) “State Board” means the (name of the State) State Social Security and Welfare Board for agricultural workers.

r) “Self employed non-agricultural worker” means any person who operates a non-farm enterprise or engages in a non-agricultural profession, trade or business, either on own account individually or with one or more persons.

s) “Unorganised non-agricultural sector” consists of all unincorporated private non-agricultural enterprises owned by individuals or households engaged in the production and sale of non-agricultural goods and services and operated on a proprietary or a partnership basis and employing less than ten persons.

t) Unorganised non-agricultural sector worker means a self employed non-agricultural worker, a home worker or a wage worker employed or engaged in the unorganised non-agricultural sector.

u) “Unorganised non-agricultural worker” means an unorganised non-agricultural sector worker and also includes workers in the organized non-agricultural sector not protected by the existing laws relating to conditions of work and/or social security.

v) “Unorganised Worker” means unorganised non-agricultural worker, and agricultural worker (except those eligible for protection under the Plantation Workers Act).

w) “Wages” means as defined in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936).

x) “Wage worker” means a person employed in agriculture for a remuneration directly by an employer or through any agency or contractor, 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 temporary or casual worker, or as a migrant 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 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

CONDITIONS OF WORK TO BE ENSURED FOR THE WAGE WORKER

4. Physical Conditions of work

(1) Every employer shall provide in all the lands where agricultural work is carried on such basic amenities and first-aid facilities, and reasonable housing and provision of basic amenities for seasonal migrant workers, as may be prescribed.

(2) Every employer shall ensure that personal protective safety equipments are provided to such agricultural workers as are required to handle machinery and agro-chemicals as are hazardous to the life and limb of such workers. The State Board shall carry out periodic studies on occupational hazards arising in this sector and develop suitable outreach/extension programmes for this purpose.

(3) Every employer shall compensate a wage worker for any accident or occupational hazard arising out of or in the course of employment that results in any temporary, permanent, partial or total disablement of the wage worker, at rates to be specified in this behalf.

(4) The employer shall ensure that there is no sexual harassment of the agricultural wage worker at the place of work. The state government shall make appropriate rules concerning the disciplinary action that may be taken by an employer where a complaint of sexual harassment is established against a wage worker; and the compensation payable by an employer where a case of sexual harassment is established against the employer himself/herself.

(5) The State Board shall make rules with respect to child care facilities to be made available at local levels.

5. Duration of work

(1) The normal hours of work of a agricultural wage worker shall be limited to eight hours a day beyond which a worker shall be paid overtime at one and a half the normal rate of wages per hour.

Provided that nothing contained in this section shall be deemed to prohibit an agreement between the employer and the wage workers engaged in agriculture for working for less than eight hours on any particular day or days or on all days of employment or to affect any custom or practice prevailing in the locality under
which the wage worker engaged in agriculture is required to work for less than eight hours.

**Explanation:** Nothing contained in this section shall extend the normal hours of work beyond eight hours to give effect to any custom or practice prevailing in the locality.

(2) Every eight hour working day of the agricultural wage worker shall have at least an half hour break, so however that the spread over of work shall not exceed ten hours.

(3) Women and adolescents shall not be employed as agricultural wage workers between the hours of 9 p.m. and 5 a.m., except where permitted under rules made in this behalf.

(4) Every agricultural wage worker shall be entitled to one paid day of rest after completing six continuous days of employment by or under a single employer.

### 6. Conditions of work and payment of wages

(1) No employer shall employ any agricultural wage worker, in contravention of the existing Acts which are applicable to the worker. In particular, the employer shall comply with the following Acts:

- a) Bonded Labour System (Abolition) Act, 1976;
- b) Child Labour (Prohibition and Regulation) Act, 1986;
- c) Minimum Wages Act, 1948; and
- d) Equal Remuneration Act, 1976

(2) (a) The Central government shall notify a National Minimum Wage.

(b) The National Minimum Wage shall apply to all agricultural wage workers in employments not notified under the Minimum Wages Act.

Provided that where the wage under the Minimum Wages Act is lower than the National Minimum Wage, the concerned State Government shall amend the prescribed Minimum Wage to bring it in conformity with the National Minimum Wage.

Provided further that till such time as this is done, the wage worker shall be entitled to receive the National Minimum Wage.
(c) The Central Government shall fix a National Minimum Wage for all employments, after taking into account the minimum basic needs of the wage and home workers and his/her family, variations in the cost of living in different areas and other parameters on the basis of consultation with a tripartite body consisting of workers, employers and the Government representatives.

(d) The National Minimum Wage shall be announced by the Central Government within one year of the implementation of this Act and shall be periodically reviewed through a modality prescribed by the National Board.

Provided that, till the announcement of the National Minimum Wage as above, the national floor level minimum wage recommended by the Ministry of Labour for 2004-05, shall, after adjusting for cost of living changes in different areas, be treated as the National Minimum Wage.

(3) Where the wages are determined by a piece rate system, the earnings of an agricultural worker working for 8 hours should be at least equal to the time rated minimum wages fixed for that category of work in the state concerned, and where the rates have not been fixed under the Minimum Wages Act, 1948 in the relevant state, the rates as fixed under clause (2) above.

(4) Wages in employments performed predominantly by women shall be brought on par with employments certified as equivalent in value by an Employment Certification Committee to be constituted by the State Board. The Employment Certification Committee shall periodically evaluate employments in the state for this purpose.

(5) Wages of agricultural workers shall be duly paid for the periods agreed upon. The wage period can on no account exceed one month; any delay in payment beyond this period will require the employer to pay penal rates of interest, as specified in this behalf, for the period of the delay to the agricultural wage worker.

(6) There shall be no deduction from wages, including in such cases where such wages are paid as advance to the worker, in the form of interest, payments to contractors or agents, overvaluation of goods supplied or basic amenities provided including accommodation in the case of seasonal migrant workers, fines, inadequate or poor quality output, except in accordance with rules made in this behalf by the State Government.

(7)(a) Every employer shall provide an agricultural wage worker the details of remuneration received by him/her in such form as may be prescribed by the State Government.
(b) Every agricultural wage worker, except casual workers, shall receive a letter of employment from his/her employer, stating the terms of employment of his/her employment.

(c) Every employer shall maintain such registers and records as may be necessary to verify the employer's claim regarding the employment status of agricultural wage workers and details of payments made to them.

(8) All agricultural workers shall have the right to organise, by forming trade unions or other membership based organisations, for representation and collective bargaining in various fora. (Note: This applies to both wage workers and farmers)

(9) No employer shall discriminate against any agricultural wage worker on the grounds of sex, caste, religion, incidence of HIV-AIDS, migration status, place of origin, in employment, wage rates and conditions of work as laid down in this Act.

Chapter III

SOCIAL SECURITY BENEFITS

7. Framing of Schemes

(1) The Central Government shall formulate and notify in the Official Gazette a National Social Security Scheme containing such basic features as provided for in the Schedule to this Act.

(2) The National Social Security Scheme for the agricultural workers shall consist of a package of the following national minimum social security benefits:

   (i) Health benefits for self, spouse and children below the age of 18 years, and maternity benefits for women workers or spouse of men workers;
   
   (ii) Life and disability cover for natural or accidental death of the worker;
   
   (iii) Old age security in the form of old age pension for workers above the age of 60 years or Provident Fund.

(3) The Scheme will be applicable to all eligible workers within a period of five years.

(4) In addition to the national minimum, the Central Government may frame on recommendations of the National Board such schemes as it may deem necessary...
or finance such schemes of the State governments/Welfare Boards as it may find appropriate, subject to availability of finance by such means as mentioned in Section 8 and may include those listed under (5) below.

(5) The State Government on recommendations of the State Board may formulate schemes for such unorganised workers 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;
f) Funeral assistance;
g) Marriage of daughters; and
h) Any other schemes to enhance socio-economic security.

(6) The Central Government shall have the power to remove difficulties that arise in giving effect to the provisions of the Scheme by an order published in the Official Gazette, not inconsistent with the provisions of the Act, as appears to it necessary or expedient for the removal of the difficulty.

Chapter IV
NATIONAL SOCIAL SECURITY AND WELFARE FUND FOR UNORGANISED WORKERS

8. Constitution of a National Fund

The Central Government shall create a National Social Security and Welfare 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 in the form and manner to be prescribed in the specified National Minimum Social Security Scheme, provided that the Central government may exempt any class of unorganised workers or employers from making their contribution under such conditions as may be specified;
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 unorganised 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.

9. Existing Welfare Boards

Notwithstanding any other provision contained under any other law, the Appropriate Government may merge any existing Welfare Board/Boards and Welfare Fund/Funds constituted under any other law into the Board and Fund created under this Act.

10. Exemption from Income Tax

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

11. Utilisation 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 the National Social Security Scheme and any other 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;

d) Investment in permitted schemes;

e) Any other item in connection with the administration of this Act.
Chapter V

NATIONAL SOCIAL SECURITY AND WELFARE BOARD FOR UNORGANISED WORKERS

12. 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 and Welfare Board for Unorganised Workers.

13. Functions of the Board

The National Board shall perform 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, co-ordinate, supervise, and monitor the functioning of State Boards and the Central Welfare Boards;

b) Review the working including auditing of the State 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 and Welfare Fund, provide financial assistance to State Boards; recommend new schemes and programmes and projects for implementation through the Fund;

d) Advise the Central Government on policy matters relating to social security, and extension of schemes of social security such as ESI and EPF to unorganised sector workers; and health, safety and welfare of workers;

e) Assist in capacity building of the State Boards;

f) Collect, compile and publish statistics relating to the unorganised sector and undertake such promotional activities as may be decided from time to time;

g) Monitor and review the impact of existing schemes, policies and programmes of various Ministries and Departments of Government of India on the unorganised sector workers and make appropriate recommendations;
h) Advise the Government regarding the promotion of gainful employment opportunities and promotion of livelihood options and matters relating to welfare of unorganised sector workers;

i) Identify skill and training requirements for unorganised workers and to advise the government accordingly;

j) Carry out periodic surveys on the condition of work in the unorganised sector and make suitable recommendations to the government;

k) Hold public hearings to entertain petitions submitted by the unorganized sector workers and make appropriate recommendations;

l) Advise government on special protection measures for migrant workers and their families in providing the ration cards, housing and education to their children; and

m) Provide for guidelines of periodic review of the national minimum wages fixed by the Central Government after taking into account the minimum basic needs of the wage workers and his/her family.

14. Composition of the Board

(1) The National Welfare Board for unorganised workers shall be constituted by the Central Government consisting of the following member organisations:

a) Central Trade Unions and Agricultural Worker Unions; National level organizations, including federation of such organizations, of unorganised sector workers including the self-employed;

b) National Level organisations of employers of unorganised sector workers;

c) Central Government Ministries, State Boards, Central Welfare Boards and Public Agencies; and

d) Experts in the area of management of insurance products and services; social security and related issues in the unorganized sector; management of finances, and other organizations and stakeholders working with the unorganized sector.
(2) The Central Government shall decide the criteria, number and names of such organisations to be represented on the National Board, with adequate representation of wage workers, self-employed workers and women representing the workers.

(3) The National Board shall work through a Secretariat.

(4) The Chairman of the National Board shall be nominated by the Central Government from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration. The Member Secretary, who shall be the chief executive officer shall be designated by the Central Government being a person not below the rank of Secretary to the Government of India.

(5) The Board shall meet as often as possible but not less than twice a year.

15. 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 full Board for approval.

Chapter VI

STATE SOCIAL SECURITY AND WELFARE BOARDS FOR AGRICULTURAL WORKERS

16. 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 agricultural workers. Provided that wherever a similar Board is already in existence, the State government may merge or amalgamate the existing Board with the State Board. 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) Trade Unions and Agricultural Worker Unions; State level organizations, including federation of such organizations of unorganised agricultural sector workers including the farmers;
b) State Level organisations of employers of unorganised agricultural sector workers;

c) State Government Ministries, Welfare Boards and Public Agencies; and

d) Experts in the area of management of insurance products and services; social security and related issues in the unorganized agricultural sector; management of finances, and other organizations and stakeholders working with the unorganized agricultural sector.

(2) The State Government shall decide the criteria, number and names of such organisations to be represented on the State Board, with adequate representation of wage workers, farmers and women representing the workers.

(3) The State Board shall work through a Secretariat.

(4) The Chairman of the State Board shall be nominated by the State Government from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration. The Member Secretary, who shall be the chief executive officer shall be designated by the State Government being a person not below the rank of Secretary to the Government of the State.

(5) The Board shall meet as often as possible but not less than twice a year.

17. State Fund

(1) The State government shall create a State Social Security and welfare 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 unorganised Sector are not directly identifiable);

(iii) Contribution toward additional social security scheme (if any) formulated by the State Board;

(iv) Contributions from the national 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 and welfare 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 and Welfare Fund which shall be applied for meeting the following:

a) Expenses on the implementation of the national minimum social security and additional social security schemes of the State Government;

b) Grants to the Welfare Boards and the Workers’ Facilitation Centres;

c) Expenses on the administration of the State Board as per the annual budget approved by the Executive Council;

d) Investment in permitted schemes; and

e) Any other item in connection with the administration of this Act.

18. Functions

The State Boards will perform the following functions:

a) Administer this Act at the State level including ensuring collection of contributions, maintenance of individual accounts of the registered agricultural workers and records of receipt of contribution from individual employers;

b) Implement the national minimum social security for agricultural workers through appropriate organisational arrangements, negotiate with the providers for the best possible offers, and stipulate norms for the evaluation of the work done by the Workers’ Facilitation Centres;

c) Frame guidelines to ensure portability of benefits to workers;

d) Frame and 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 organisations implementing social security programmes;
f) Advise the State government on policy matters relating to social security, health and safety and welfare of agricultural workers;

g) Create awareness among the agricultural 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 organisations, regarding agricultural 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 agricultural workers;

l) Submit 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;

m) Monitor and review the impact of existing schemes, policies and programmes of various Ministries and Departments of the concerned State Government on agricultural workers and make appropriate recommendations; 

n) Advise the Government regarding the promotion of gainful employment opportunities and promotion of livelihood options for agricultural workers;

o) Encourage the promotion of labour organizations and cooperatives to secure gainful employment and dignified conditions of work;

p) Identify skill and training requirements for agricultural workers and to advise the government accordingly;
q) Carry out periodic surveys on the condition of work in the agricultural sector and make suitable recommendations to the government;

r) Hold public hearings to entertain petitions submitted by agricultural workers and make appropriate recommendations;

s) Carry out surveys to determine the safety and health standards required in the agricultural sector, and publish manuals and outreach programmes for worker safety;

t) Review the Minimum Wages for the state after taking into account the cost of living and minimum basic needs of the agricultural wage workers and his/her family;

u) Constitute Employment Certification Committee to bring the wages in employments performed predominantly by women on par with employments certified as equivalent in value and periodically evaluate employments in the state for this purpose; and

v) Carry out periodic studies on occupational hazards arising in this sector and develop suitable outreach/extension programmes for this purpose;

19. 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 VII

REGISTRATION OF AGRICULTURAL WORKERS

20. Eligibility for registration and for social security benefits

Every agricultural worker shall be eligible for registration subject to the following conditions:

a) He/she should have completed 18 years of age;
b) His monthly income does not exceed Rs.7000/- in 2007 (roughly equivalent to Rs. 6500/- per month recommended by the Indian Labour Conference held in December 2005); and

c) a self-declaration confirming that he/she is an agricultural worker not owning or operating a holding of more than two hectares or such limits as may be notified from time to time by the State government;

21. Unique Identification Social Security Number

Each registered agricultural 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.

22. Identity card

The State Government shall decide the manner of registration of unorganized agricultural sector workers, issuance of identity cards and manner of record keeping at the district level.

23. Portability of registration

The Identity Card issued to agricultural 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 authority concerned.

24. Cessation of registration

The National Board shall draw up rules to decide on the period of validity of registration, renewals, cessation of registration and settlement of claims on the death of the card holder.

25. Membership of Existing Welfare Boards

In case, any agricultural worker is eligible for benefit under one or more existing Central or Welfare Boards, in addition to his eligibility for the National Minimum Social Security Scheme,

(1) The agricultural worker shall retain the option of membership of the Fund with the highest benefit.
(2) The National/State Board may decide the criteria on which the agricultural worker can be eligible for benefit under the National Minimum Social Security Scheme in addition to membership in other Boards/schemes.

Chapter VIII

DELIVERY OF SOCIAL SECURITY BENEFITS

26. Implementation Machinery

The State Boards shall be responsible for the delivery of mandatory minimum social security benefits and shall decide the manner in which social security benefits shall have to be delivered to the registered agricultural workers. This may include tie-ups with local organisations like banks, post offices and insurance companies.

27. Workers' Facilitation Centres

(1) In order to extend coverage and reach the agricultural workers in remote areas, the State Boards may designate any one or more of the following at the local level as Workers' Facilitation Centres (WFC):

a) Existing Worker Welfare Boards and their local offices;

b) Local Panchayati Raj Institutions (PRI);

c) Organisations of workers including trade unions, associations and co-operatives in the agricultural sector;

d) Self-help Groups (SHGs); and

e) Non-profit organisations working among the agricultural sector workers.

(2) Such designated Workers' Facilitation Centres shall perform the following functions:
a) Disseminate information on available social security schemes for the agricultural workers;

b) Facilitate the filling, processing and forwarding of application forms for registration of agricultural workers;

c) Obtain registration from the District Committee and deliver the Identity Cards to the registered agricultural workers;

d) Facilitate the enrollment of the registered agricultural workers in social security schemes; and

e) Facilitate the delivery of social security benefits through the institutions designated to deliver such social security (insurance companies, post offices, Departments of the State/Central Government and other institutions concerned).

(3) The State Boards shall compensate the costs incurred by the Workers’ Facilitation Centres for performance of its functions.

28. Premium and Compensation/Benefits:

(1) The National Board shall decide the amount and manner of payment of contribution/fee by the agricultural workers to the National Social Security Schemes.

(2) For schemes initiated by the State Boards, the State Board concerned shall decide the contributions of agricultural workers and employers.

(3) The claim of registered agricultural 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 IX

ENFORCEMENT AND DISPUTE RESOLUTION BODIES

29. Disputes Resolution Council and Conciliation Committees

(1) The State Government shall, by rules, constitute Dispute Resolution Council (DRC) at District level and Conciliation Committees (CC) at an appropriate level below the district level i.e Block/Tehsil/Mandal level, for resolution of disputes relating to the non observance of provisions of this Act arising amongst the agricultural wage workers, employers, Workers' Facilitation Centres and State Boards.

(2) The Composition of the DRCs and CCs shall be tripartite and consist of an officer designated by the State Government to be the Member Secretary, one person nominated from the most representative of membership-based organisations of the agricultural workers in that State, having membership in the district, and a person nominated from the most representative organisation of employers' organisations in the agricultural sector in the state. The State government, may, if it thinks fit, appoint two persons as assessors to advice the conciliation Committee on the proceedings before it.

(3) When there is a complaint regarding sexual harassment, the CC/DRC shall co-opt two other members from the Panchayats/local bodies, who shall be women, at the time of dealing with such complaints. The CC/DRC, if satisfied that a case of sexual harassment is established, direct the employer to ensure that necessary action is taken against the person guilty of such conduct.

(4) The honorarium and/or the allowances to be paid to the workers and employers representatives on the DRC shall be determined by the State Government.

(5) The persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other related conditions, the procedure to be followed in the discharge of their functions, conduct of meetings, periodicity of meetings and the manner of filling vacancies among the members of the CC/DRC, shall be such as may be prescribed by the State Government.
30. Functions and powers of the Conciliation Committee and Dispute Resolution Council

(1) Any agricultural wage worker or employer or an organisation representing such worker or Workers’ Facilitation Centres or the State Board may raise a dispute relating to the non-observance of provisions of this Act by filing a complaint before the Conciliation Committee in the manner prescribed by the State Government. The DRC may also take *suo moto* cognizance of such disputes.

(2) Every complaint so filed shall be deemed to be a dispute under this Act notwithstanding that such a complaint had not been referred to the employer at the first instance, and been rejected.

(3) The status of employment of agricultural workers in the dispute raised before the CC or DRC shall not be affected merely for the reason that a complaint regarding non-observance of provisions of this Act has been raised before the DRC or CC.

(4) (a) Upon reference of a dispute, the Conciliation Committee shall proceed to arrive at a conciliated settlement. The Conciliation Committee shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters connected therewith, and may do all such things as they think fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(b) The inspectors appointed under the Minimum Wages Act, 1948, shall assist the CC/DRC in their duties and shall carry such investigation of complaints as required by the CC/DRC.

(c) Where the CC/DRC apprehends violation of the provisions of this Act the inspectors may be directed to investigate and report the matter expeditiously.

(5) The CC/DRC or the inspectors designated for this purpose under sub-section 4(b) above may for the purpose of investigating the dispute, after giving reasonable notice, enter the premises to which the dispute relates. The Conciliation Committee shall also have the powers under the Code of Civil Procedure 1908 to enforce the attendance of parties, compel the production of documents and material objects.
The Conciliation Committee may if it thinks fit appoint one or more persons having special knowledge of the matter under consideration to advise it on the proceeding before it.

The time limit for the conclusion of the proceedings of the CC shall not exceed four weeks. Where the parties to the dispute apply in the prescribed manner, whether jointly or separately, to the CC for the extension of such period and the member-secretary of the CC considers it necessary or expedient to extend such period, he/she may for reasons to be recorded in writing, extend such period by such further period as he/she may think fit;

Provided that no proceedings before a CC shall lapse merely on the ground that the period specified under this sub section has expired without such proceedings being completed.

If the Conciliation Committee is able to arrive at a conciliated settlement, it shall record its finding to such effect and shall issue such directions as considered necessary.

Upon failure of such conciliation proceedings, the Conciliation Committee shall record its findings and refer the dispute to the DRC, which shall within two weeks of receipt of reference, refer the matter to the adjudicator provided in this section.

Where a dispute is raised directly before the DRC, the DRC shall ordinarily refer the dispute to the CC below it, under whose jurisdiction the dispute falls.

In cases of disputes raised directly before it or referred to it by the CC under subsection (9) above, the DRC may itself seek to bring about a conciliated settlement.

In such cases, the DRC shall have all the powers mentioned in section (4) and (5) specified above.

If the DRC is able to arrive at a conciliated settlement, it shall record its finding to such effect and shall issue such directions as considered necessary.

In case of failure of conciliation, the DRC shall record its finding and refer the matter directly to the Agricultural Tribunal referred to in section 31, within 4 weeks of the reference of the dispute. Where the parties to the dispute apply in the prescribed manner, whether jointly or separately, to the DRC for the extension of such period and the member-secretary of the DRC considers it
necessary or expedient to extend such period, he/she may for reasons to be recorded in writing, extend such period by such further period as he/she may think fit.

Provided that no proceedings before a DRC shall lapse merely on the ground that the period specified under this sub section has expired without such proceedings being completed.

(15) The DRC shall also monitor the functioning of the CCs.

(16) Where the dispute pertains to any matter covered by any law mentioned in Section 6(1), the CC/DRC shall forward the complaint to the appropriate authority created under the relevant Act for adjudication.

31. Adjudication and Constitution of Agricultural Tribunals

(1) The State Government shall by notification in the Official Gazette constitute Agricultural Tribunals for each district for the purpose of adjudication of disputes relating to agricultural workers under this Act.

(2) The Agricultural Tribunal shall consist of a sole member who shall an officer of the Government not below the rank of a District Labour Officer or Deputy Collector for each district, or any officer with experience as Civil Judge or as Magistrate to be the Adjudicator under the section.

(3) The Agricultural Tribunal shall hold sessions in such Block/Tehsil/Mandal towns and with such frequency, as may be specified in the rules made in this behalf by the State Government, in order to adjudicate upon the disputes referred to it by the DRCs at the Block/Tehsil/Mandal level.

(Note: NO appeal has been provided for under this Act. Moving the High Courts under Art. 226 of the Constitution would of course be available).

(4) The State Government shall issue such notifications and directions as are necessary to ensure that the adjudication proceedings are concluded expeditiously with minimum loss of time and costs to the parties involved. The award of the Agricultural Tribunal shall be publicised in the manner as prescribed by the State Government.

(5) The designated department(s) of the State Government concerned shall be responsible for enforcement and implementation of the provisions of this Act.
32. Contravention of provisions regarding employment of agricultural workers

(1) Whoever contravenes any provisions of this Act or the rules made thereunder, other than those made punishable under any other law, regarding the employment of agricultural workers 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.

(2) No court shall take cognizance of an offence punishable under this Act or the abetment of any such offence, save on a complaint made by, or the previous sanction in writing of or under the authority of the State Government. No court inferior to that of a Metropolitan Magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

(3) No suit, prosecution or other legal proceeding shall lie against any person for anything done in good faith or intended to be done in pursuance of this Act or rules.

(4) No court shall take cognizance of an offence punishable under this Act unless the complaint is made within six months from the date on which the alleged commission of the offence came to the knowledge of the CC or the DRC concerned.

(5) Any person who commits a breach of any conciliated settlement arrived at in the CC or DRC or final award by the Tribunal, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, [and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first] and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realized from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach.

(6) Where any money is due to an agricultural worker under a settlement or an award, the workman himself or any other person authorized by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the State government for the recovery of the money due to him, and if the State government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.
Chapter X

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 State governments shall have the power to make rules for the purposes of carrying out the objects of the Act.

35. Savings

(1) This law will not affect the application of any other State or Central Acts which applies to the agricultural worker or to the employer under this Act. (Note: Even if the employer or establishment is covered, the agricultural worker who is not covered under the formal sector law would get benefit under this law for the matters covered here).

(2) Notwithstanding anything contained in this Act, wherever any agricultural worker is eligible for superior or better benefits under any existing law in force, the worker shall continue to be entitled for such benefits.

36. Effect of laws and agreements inconsistent with this Act

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act.

(2) Nothing contained in this Act shall be construed to preclude an agricultural worker from entering into an agreement with his/her employer for granting him/her rights or privileges in respect of any matter which are more favourable to him/ her than those to which he/she would be entitled under this Act.

* * * * *

(See section 7 (1))

National Social Security Scheme for Agricultural Workers

Background

The agricultural workers in the Unorganised Sector face problems that arise out of deficiency or capability deprivation in terms of inadequate employment, low earnings, low health, etc., as well as of adversity in the absence of fall back mechanisms (safety net). These workers have limited or no formal social security cover which increases their vulnerability during times of illness, old age, unemployment and untimely death. The absence of social security mechanisms is a critical factor in downturns in the conditions of these households, many of whom are already very poor. It destroys the workers ability to contribute meaningfully, and to increasing production and productivity. It leads to disaffection increasing social costs, widespread crimes, and persistent ill health. Presently, less than 6% of the entire unorganised sector workforce has recourse to any social security cover.

Objectives

1. To provide for a right based entitlement for the agricultural workers, and

2. To provide for a universal national minimum social security scheme to cover all the workers in the unorganised agricultural sector in a phased manner within a period of 5 years.

Definitions

Words and expressions shall have the meaning respectively assigned to them under Section. 2 of the Act.

Coverage and eligibility

This scheme may be called the National Social Security Scheme, 2007.
This scheme shall come into force on....

This scheme applies to all agricultural workers, hereafter referred to as 'worker' to whom the Act extends who

a) has completed 18 years of age;

b) whose monthly income does not exceed Rs. 7000/- in 2007 (roughly equivalent to Rs. 6500/- per month recommended by the Indian Labour Conference held in December 2005);

c) has submitted a prescribed self-declaration form confirming that he/she is an agricultural worker not owning or operating a holding of more than two hectares or such limits as may be notified from time to time by the State government; and

d) has paid the contribution/fee as prescribed.

Benefits

The national social security scheme shall provide for a package of the following minimum benefits:

(a) **Health Insurance**

(i) Each worker will be entitled to hospitalization for himself and his family members, costing Rs. 15000 a year in total with Rs. 10000 maximum per ailment in designated, hospitals or clinics, public or private, recognized by the State Board, with at least 15 beds. If there is no such clinic available within 10 kilometers from the worker's residence, he would be entitled to a transport cost to the nearest hospital on actuals up to a maximum of 5% of hospital cost. All payments will be made by the insurance company to the clinics/hospitals directly and except for the transportation cost, no cash payment will be made to the workers;

(ii) Maternity Benefits of Rs. 1000 maximum or actuals for the member or the spouse, per year;

(iii) Sickness cover of Rs 750/- for earning head of family (during hospitalisation) for 15 days (only in excess of 3 days) during the policy period @ Rs 50/- per day.
(b) Life and disability cover

In case of Natural Death: Rs. 30,000/-
In case of Death or total disability due to accident: Rs. 75,000/-
In case of Partial Permanent Disability due to accident: Rs. 37,500/-

(c) Old Age Security

(i) All BPL agricultural workers will get a monthly pension of Rs. 200 at 60 plus. This would be irrespective of the year of his/her registration with the scheme.

(ii) All agricultural workers other than BPL and registered in the scheme will be entitled to a Provident Fund which will accumulate to his account from the year of his/her registration.

(iii) At the end of 60th year the APL agricultural workers will have 3 options. He can continue with the provident fund scheme by contributing the full premium i.e. both the government's and his contribution, or, withdraw the whole amount of the Provident Fund accumulated to that date, or alternatively, he could buy an Annuity with the accumulated amount and the returns would be like his pension.

(iv) The Provident Fund Scheme can also be used as unemployment insurance. After 10 years' contribution, the worker, if he becomes unemployed and is verified to be so by the Workers Facilitation Centre (WFC), he would be entitled to draw up to 50% of the accumulated sum as unemployment benefits for a period of 6 months. After six months or before that if he becomes employed again, the worker will be able to continue with the scheme by renewing his contribution.

Organization

The organization model is federal in character where the implementation will be the responsibility of the State Social Security and Welfare Board for
agricultural workers (SSSWB) with the assistance of WFC at the grass root level, supervised and monitored by the National Social Security and Welfare Board.

The structure is as follows:

(i) There will be a National Social Security and Welfare Board (NSSWB) at the central level, representatively constituted, with the central government as the prime mover. This National Board will be supervising and monitoring the implementation of the scheme at different levels and will also be responsible for running for National Social Security and Welfare Fund.

At the state level there would be a State Social Security and Welfare Board for agricultural workers (SSSWB), representatively constituted, which will be the main implementing agency at the grassroots level through Workers Facilitation Centre (WFC).

(ii) The WFC would be appointed by the SSSWB, keeping in mind the need to make them as representative as possible with the participation of institutions/organisations listed under section 27(1) of the Bill. WFC would perform the various functions as listed in section 27(2) of the Bill.

(iii) SSSWBs will negotiate with the insurance agency and other service providers with the help of NSSWF, the best possible terms for providing the prescribed benefits and also the selection of health care institutions.

(iv) SSSWBs would also set up their State Social Security and Welfare Fund (SSSWF) from sources specified in section 17, which would accumulate till they are transferred to the accounts of the beneficiaries held by the designated institutions such as Post Offices/ banks. National Social Security and Welfare Fund (NSSWF) contribution should also be deposited with SSSWF for being transmitted to the workers account once the scheme starts implementation.
Financing

The scheme would be financed by the National Social Security and Welfare Fund (NSSWF) through any of the sources as specified in section 8 of the Act. However, the share of contribution of the BPL workers, if any, would be borne by the Central Government.

The total outlay of the scheme proposed for agricultural workers when all of them are covered is estimated at Rs 19431 crore, which may be entirely borne by the Central Government. If however, the total cost is shared between the Centre and States in the ratio of 75:25, then, the Centre’s and the State Governments’ share is estimated at Rs 14573 crore and Rs 4858 crore respectively. The share of both Centre and States could be further reduced, if contributions of employers and workers or tax/cess as mentioned in section 8 are available.