

State Legislative Brief

KARNATAKA

The Draft Karnataka Platform based Gig Workers (Social Security and Welfare) Bill, 2024

Key Features

- A gig worker who sources work through a platform will be registered with a unique ID. A Welfare Board will oversee registration of gig workers and aggregators, create social security schemes, and monitor the schemes.
- A Social Security and Welfare Fund will be established. It will be funded by aggregators, gig workers, central and state governments.
- Aggregators will inform gig workers about work parameters, rating systems, worker categorisation, data use, and how automated monitoring and decision-making systems impact working conditions.

Key Issues and Analysis

- The definition of gig work does not consider certain conceptual features of such work and is based primarily on the manner of obtaining the work. In doing so, it may classify employees as gig workers.
- Social security benefits for gig workers will be funded by aggregators, gig workers and government. The question is who should fund social security.
- Details such as Fund utilisation, contributions to the Fund, and benefits available will be prescribed in the Rules. This may be excessive delegation.

The Draft Bill was circulated by the Labour Department, Government of Karnataka, on June 29, 2024. It seeks to provide for regulation of platform based gig work, and ensure protection of such gig workers.

PART A: HIGHLIGHTS OF THE DRAFT BILL

Context

In recent years, with the rise of technology and digital platforms, there has been a surge in gig work. Gig workers are typically those engaged in work outside of the traditional employer-employee arrangements.¹ NITI Aayog has estimated that in 2020-21, 77 lakh workers were engaged in the gig economy, constituting 1.5% of the total workforce in India.¹ By 2029-30, the gig workforce is expected to rise to 2.35 crore, forming 4.1% of the total workforce.¹

In 2020, Parliament passed the Code on Social Security, 2020, which provides for regulating gig workers and platform workers.² The Code defines a gig worker as someone who works and earns from such work outside a traditional employer-employee relationship. It also defines platform work as work that falls outside of a traditional employer-employee relationship, where consumers use online platforms to access organisations or individuals to solve problems or access services, in exchange for payment. The Code provides for the registration of all such workers. It empowers the Centre to set up a social security fund, and frame schemes for such workers. It provides for establishment of the National Social Security Board, to recommend and monitor schemes for these workers. Such schemes may be funded through a combination of contributions from the Centre, state governments and aggregators.

In 2023, Rajasthan passed the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023.³ It provides for registration of gig workers and aggregators, and establishing a Welfare Board to monitor schemes. It also provides for a Social Security and Welfare Fund to be funded by a welfare fee, grants from the state, and other sources (as prescribed). In July 2024, Jharkhand released a draft Bill to provide for the welfare of platform-based gig workers.⁴

The Karnataka Labour Department circulated the Draft Karnataka Platform Based Gig Workers (Social Security and Welfare) Bill, 2024 on June 29, 2024.⁵ It seeks to provide social security to platform based gig workers by creating a Welfare Board and a Welfare Fund. Presently, Karnataka has a State Unorganised Workers Social Security Board, which implements the Karnataka State Gig Workers Insurance Scheme.⁶ In 2024-25, the Board was allocated Rs 700 crore.⁷

Table 1: Karnataka State Gig Workers Insurance Scheme

Type of cover	Amount
Accidental death	Four lakh rupees (Accidental Insurance and Life Insurance of two lakh rupees each).
Permanent disability due to accident	Up to two lakh rupees
Reimbursement of hospital expenses for accident cases	Up to one lakh rupees
Life insurance	Two lakh rupees

Sources: Karnataka State Gig Workers Insurance Scheme; PRS.

Under the Gig Workers Insurance scheme, insurance benefit is provided to all gig workers in the state engaged in delivery work with e-commerce establishments.⁸ The insurance cover is provided for on-duty and off-duty accidents. To avail benefits, workers have to register on the Seva Sindhu portal and E-Shram portal. As of January 2024, 1,778 beneficiaries had registered under the scheme.⁹ In 2023-24, the scheme was allocated Rs 67 lakh, of which one lakh rupees had been spent (till January 2024).¹⁰

Key Features

- **Gig worker:** The draft Bill defines a gig worker as someone who engages in a contractual, piece-rate work arrangement through a platform. This work results in a given rate of payment, based on terms and conditions. The gig worker has a right to be registered with the state government under a unique ID applicable across all platforms. The gig worker will have access to social security schemes and a grievance redressal mechanism.
- **Aggregator:** The draft Bill defines an aggregator as a digital intermediary connecting the buyers and sellers of goods and services. It includes any entity that coordinates with one or more aggregators for providing services.
- **Responsibilities of aggregators:** The aggregators shall register the workers within 60 days from the date of commencement of this law and provide data of the registered gig workers to the Welfare Board. They must also register themselves with the Board during the same period.
- **Transparency in gig work:** The draft Bill mandates that aggregators must inform gig workers, in writing, about key parameters affecting their work, such as: (i) rating systems, (ii) worker categorisation, (iii) personal data usage, and (iv) any other relevant information. Additionally, aggregators must inform the workers about various parameters in the automated monitoring and decision-making systems which affect working conditions.
- **Termination of work:** The draft Bill requires that the contract between the aggregator and the gig worker include a detailed list of reasons for termination or deactivation. Additionally, the aggregator must provide valid reasons in writing and give a 14-day notice before terminating a gig worker.
- **Grievance redressal:** The state government will designate an officer for grievance redressal. Gig workers may file a petition with this officer, in relation to any grievances arising out of entitlements or payments. Procedure for disposal of such petitions will be prescribed. Appeals may be filed within 90 days of the order with the Appellate Authority (Member-Convener of the Welfare Board).
- **Gig Workers Welfare Fee:** A welfare fee will be collected from the aggregators. It will either be based on the rate of the pay of the gig worker per transaction, or on the annual state specific turnover of the aggregator.
- **Karnataka Gig Worker's Social Security and Welfare Fund:** The Fund will be set up for the assistance of registered platform based Gig Workers. It will be funded by: (i) welfare fee collected under this law, (ii) contributions by platform-based gig workers themselves, (iii) grants-in-aid from both central and state governments, (iv) grants, gifts, donations, or transfers, and (v) any other sources.
- **Dispute Resolution Mechanism:** Every aggregator with over 50 platform workers must establish an Internal Dispute Resolution Committee to address specific disputes. This Committee must resolve complaints within 30 days, with options for arbitration. Additionally, platform-based gig workers can seek dispute resolution through the Industrial Disputes Act, 1947.
- **Welfare Board:** The draft Bill provides for the establishment of a Gig Workers Welfare Board, to be appointed by the state government. The Board will oversee the registration process of aggregators and gig workers, recommend schemes and monitor them. It will also engage with gig worker unions and hold regular consultations with them. The Board will consist of: (i) state Labour Minister, (ii) secretaries from various government departments, (iii) a chief executive officer, (iv) two representatives of gig workers, (v) two representatives of aggregators, and (iv) a representative from civil society.

PART B: KEY ISSUES AND ANALYSIS

Defining gig work

The draft Bill defines a gig worker as someone who engages in a contractual, piece-rate work arrangement. This work is sourced through a platform and results in a given rate of payment, based on terms and conditions. There are some issues to consider with this definition, which we discuss below.

Challenge in defining gig work

In recent years, increasingly products and services are being obtained through digital platforms. Finding and performing jobs through such platforms is known as gig work.¹¹ The draft Bill uses a similar framework for defining gig work. However, a challenge with defining and regulating gig work is that it includes aspects of traditional

employer-employee roles, contract work, and freelance work, all of which are regulated differently (see Table 2). The International Labour Organisation (2021) noted that the line between employment and self-employment has blurred due to technology.¹² That is, it is not easy to distinguish between employment and self-employment in some cases.

With gig work, it is understood that: (i) gig workers are not employees, (ii) companies may not exert sufficient control over their work, (iii) workers have flexibility in carrying out work, and (iv) there may be a lack of mutual obligation between the parties.¹³ The Code on Social Security, 2020 defines gig worker as a person who works in an arrangement outside of a traditional employer-employee relationship. The definition of gig work in the draft Bill does not consider these conceptual features, and is based primarily on the manner of obtaining the work. In doing so, it may classify employees as gig workers.

Table 2: Comparison between different forms of work^{14,15,16,17}

Parameters	Employer-Employee	Contract labour	Freelance work	Gig work
Engagement for employment	Employment under a written contract, on a permanent basis.	Engaged through a contractor/ agency, on negotiated terms.	Engaged through online platforms, social media, referrals or directly.	Engaged through platforms, on terms negotiated with the aggregator.
Worker flexibility	No flexibility in choosing location of work, projects and working hours.	Limited flexibility in terms of deadlines, may choose their working hours (if not in a specific hourly role).	Flexibility to build a client base on their own. Can choose their working hours, pay and projects.	Can choose their working hours, location, projects. Platform may put constraints like performance ratings, commission, penalties.
Control by the employer	Direct control by employer, as per the employment agreement.	Supervisory control of the employer. Contractor has ultimate control.	Minimal control by the client.	Ways of control include: (i) performance ratings, (ii) pricing system, and (iii) keeping location on during work hours.
Primary source of income for employee/ worker	Remuneration by employer. Employees cannot work for competitors.	Can have multiple sources of income, if part-time contract.	Multiple sources of income from different projects.	Can have multiple sources of income if engaged with multiple platforms.

Sources: Contract Labour Act, 1970; Industrial Disputes Act, 1947; IAAI vs. International Air Cargo Workers' Union (2009); A Framework for modern employment, House of Commons; Gig Economy, House of Lords; Gig Economy, Congressional Research Service; Rasier Operations BV v. E TU Inc. (2024); Freelance Platform Work in the Russian Federation, ILO; PRS.

The contractual obligations often placed by companies on gig workers seem to go against these typical features of gig workers. For example, ride-sharing drivers are considered gig workers, with flexibility on work hours and areas of operation. However, the Karnataka High Court ruled that drivers using Ola (a ride sharing platform) would be considered employees of the company.¹⁸ The Court noted that the company controls all aspects of the service, including fares, routes, and the devices used.¹⁸ In some other countries, courts have decided the status of gig workers by going into details of the particular case, and the way a business actually operates.

Examples of other jurisdictions defining gig work

UK: The UK Supreme Court ruled that Uber drivers are workers, and not self-employed contractors, as Uber tightly controls the transportation service.¹⁹ In contrast, people working at Deliveroo (food delivery company) were not deemed workers because they had an unlimited right of substitution.²⁰ The right of substitution provides for any person to delegate their work to a substitute. This is an important right in determining the employment status.²¹

California, US: In 2020, California passed a law creating the ABC test to determine independent contractor status.^{22,23} It presumes that all workers who provide labour in exchange for remuneration are employees, unless proven otherwise. To classify someone as an independent contractor, the hiring entity must prove three conditions: (i) the worker is free from the entity's control, (ii) the work is outside the entity's usual business, and (iii) the worker is engaged in an independent trade or business of the same nature.²²

European Union: In December 2023, the European Union countries agreed on a Bill to regulate gig work. The Bill presumes an employer-employee relationship between a worker and a platform company, if the conditions of direction and control by the employer are met. The burden of proving that the contractual relationship in question is not an employment relationship is on the employer.^{24,25}

Australia: Australia classifies workers as employees and independent contractors. Originally, it classified gig workers as independent contractors. However, High Court decisions have highlighted the risk of misclassification of gig workers as independent contractors. It has stated that contracts will be given primacy for classifying gig workers.²⁶

Bill provides benefits only if gig work is obtained through platforms

The draft Bill specifies that the work performed by the gig worker must be sourced through a platform, and for certain services such as ride sharing, content and media services, or food delivery. Therefore, the draft Bill is drawing a distinction between persons who may be carrying out similar work, and extending benefits to individuals obtaining work only through an online platform. The question is if the work and work conditions are similar, why should social security benefits extend only if the work is obtained through an online platform (see Table 3).

Table 3: Workers carrying out similar tasks are likely to be treated differently

Case	Control by aggregator (platform)	Flexibility
Uber driver	Control on routes and fare; must keep location on during work hours	Cannot reject more than a specified number of ride requests
Taxi driver	Fare set by state government, expected to take the shortest route	Cannot refuse rides when on duty

Sources: “How much do drivers make?”, Uber, last accessed on December 24, 2024; Motor Vehicles Act, 1988; PRS.

Financing social security benefits

Draft Bill:
Clauses
20, 21

Under the draft Bill, a welfare fee will be collected from the aggregators, which will fund the Gig Worker’s Social Security and Welfare Fund. This Fund will also receive contributions from the workers, and the government. The question is who should bear the cost of funding social security for workers.

Across countries, social security financing models are a mix of the state, the employer and employee contributions (see Table 4 for some examples). In India, an example is the Employees’ Provident Fund, where the employer and employee jointly contribute a premium at a fixed percentage of the payroll.²⁷ Some countries have come up with social security benefits for gig workers, since they are not classified as employees and traditional social security models may not apply to them.²⁸

Table 4: International Comparison of financing models in relation to social security

Country	Funding of social security	Benefits for gig/platform workers	Funding of gig workers benefits
India	Contributions by employers, employees, and the government ^{27,29}	Should get social security benefits like maternity benefits, accident insurance, old age protections; benefit schemes to be notified by government ²	Contributions by gig workers, aggregators and the government
United Kingdom	National insurance contributions by employers, employees and tax revenue ³⁰	Benefits based on employment status, self-employed workers can get some benefits like maternity benefits, state pension	Self-employed gig workers pay certain types of national insurance contributions
USA	Contributions by employers, employees and self-employed, interest income from Social Security trust fund investments ³¹	Social security (includes old age and disability insurance) and Medicare (hospital insurance) for self employed	Contributions by self-employed under Self-Employment Contributions Act
Australia	Public funds for welfare of persons unable to support themselves due to age, unemployment; mandatory contribution by employer, employee for superannuation	Entitled to superannuation if worker meets definition of employee under superannuation law; self-employed entitled to pension and some income support payments	Platform required to make superannuation payments if worker meets the required definition.
Sweden	Contributions by employers, employees, and the government	Can receive benefits as self-employed (includes occupational injury insurance, and certain types of pension)	Social security contributions by self-employed persons
Singapore	Contributions by employers and employees, state contributes in some cases (like low wage workers)	Work injury compensation, housing and retirement adequacy through Central Provident Fund contributions	Contributions by platforms and workers to the Central Provident Fund

Sources: Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (India); Code on Social Security, 2020 (India); Social security rights in the UK, European Commission, 2011; Employment Status, Research Briefing, House of Commons Library, 2024; Social Security: The Trust Funds, Library of Congress, 2024 (USA); Self-employment tax (Social Security and Medicare taxes), USA; Australia’s social security system, Senate Standing Committee on Community Affairs, Parliament of Australia, 2024; Conditions and pay information for gig workers, Government of Victoria (Australia); Social Insurance Code (2010:110), Sweden, 2010; Thematic Report on Financing Social Protection: Sweden, European Commission, 2019; Platform Workers Act, 2024 (Singapore); Central Provident Fund Act, 1953 (Singapore); PRS.

Lack of clarity on welfare fee and entitlements to be provided

Draft Bill:
Clauses
20, 21

Under the draft Bill, a welfare fee will be collected from the aggregators, which will fund the Gig Worker’s Social Security and Welfare Fund. This Fund will also receive contributions from the workers, and the government.

Prescribing welfare entitlements in Rules may be excessive delegation

Under the draft Bill, several details will be notified by Rules. These include: (i) utilisation of the Fund, (ii) percentage of contributions to be made by gig workers and aggregators, (iii) benefits or welfare entitlements for gig workers, and (iv) factors on which the social security payouts will depend. The draft Bill also does not specify the purpose for which the fee will be used. This may be excessive delegation by the legislature.

The Code on Social Security, 2020 provides for benefits such as maternity, sickness and disablement benefits, and old age protection for gig and platform workers.³² It also specifies the minimum contribution to be made by aggregators.

Lack of clarity on turnover

The draft Bill requires aggregators to contribute a welfare fee linked as a percentage of the pay of the gig worker on each transaction, or a percentage of the annual turnover of the aggregator in the state. However, the draft Bill does not define *turnover*. There may be cases where gig workers are only involved in one part of an aggregator’s business. It is not clear whether the company will be required to pay them out of their entire company’s turnover or the turnover related to the specific part for which the gig worker is involved.

In the past, there have been issues with not defining such terms clearly. For example, under the National Telecom Policy, 1999, telecom companies must pay an annual license fee in the form of a revenue share to the Department of Telecommunication (DoT). This license fee was set at 8% of the company's gross revenue. Various telecom companies and the DoT filed a case before the Supreme Court asking it to interpret the definition of "Gross Revenue" in the license agreements. Telecom companies argued that the DoT had illegally included income sources in Gross Revenue which do not accrue from the operations under the license. The Supreme Court upheld the DoT's interpretation and directed the companies to pay the dues and penalties.³³

The term 'turnover' has been defined clearly in certain other laws. For example, the Competition Act, 2002 provides that the value of turnover will be determined by excluding intra-group sales, indirect taxes, trade discounts and all amounts generated through assets or business from customers outside India.³⁴

Offences and penalties

Internal disputes may also qualify as offences

The draft Bill provides that every aggregator with more than 50 gig workers must form an Internal Dispute Resolution Committee to resolve disputes specified in Schedule II of the Bill. These disputes will be resolved through arbitration. Disputes include not communicating changes to the algorithms to the gig worker, terminating work on grounds not specified in the contract, and failing to comply with occupational and safety standards prescribed by the government. These disputes would also qualify as offences under the Bill. The Supreme Court (2011) has held that disputes relating to rights and liabilities which arise out of criminal offences cannot be arbitrated.³⁵

Wide range for penalties

The penalties for contravening any provision of the draft Bill (or Rules) will extend from Rs 5,000 to one lakh rupees. The draft Bill does not provide any guidance for what level of penalty may be levied for what type of contravention. In the absence of any guiding principles or gradation of offences, the penalty range may be considered as wide.

Comparison of state laws

The table below provides a comparison of the draft Karnataka Bill, draft Jharkhand Bill and the Rajasthan Act.

Table 5: State wise comparison of gig workers laws

Feature	Karnataka (draft Bill)	Jharkhand (draft Bill)	Rajasthan (Act)
Definition of Gig Worker	Work through online platform, with pay determined by terms and conditions.	Worker falls outside the traditional employer-employee relationship. Work obtained via online platform, is contractual, and piece-rate.	Same as Jharkhand.
Rights of a Gig Worker	Registration, social security schemes and grievance redressal mechanism.	Same as Karnataka	Registration, social security schemes, grievance redressal mechanism, and participation in board discussions.
Registration of gig workers	Workers must be registered by aggregators within 60 days from commencement of the Act	Same as Karnataka	Same as Karnataka
Registration of aggregators	The aggregators must register themselves with the board within 60 days from commencement of the Act	Same as Karnataka	Same as Karnataka
Transparency in Algorithm	Aggregators must inform gig workers about key work parameters: (i) rating systems, (ii) worker classification, (iii) use of personal data, and explain algorithms affecting work conditions.	Same as Karnataka	No provision for transparency in automated monitoring and decision-making systems
Termination of Work	Reasons must be included in the contract, and a 14-day prior notice	Same as Karnataka	No provision for termination of work
Grievance Redressal	Grievances can be filed via a portal or an officer. Appeals within 90 days	Same as Karnataka	Same as Karnataka
Welfare Fee	Based on worker pay per transaction or aggregator turnover, paid quarterly	Percentage of transaction value, as specified by state government	Same as Jharkhand
Sources of Fund	(i) Welfare fee, (ii) contributions by platform-based gig workers, (iii) grants-in-aid from both Central and State Government, (iv) grants, bequests or transfers	Same as Karnataka	(i) Welfare fee, (ii) grants-in-aid from State Government, (iii) any other sources
Usage of fund	Prescribed by the state government	Prescribed by the state government	Prescribed by the state government

Sources: The Draft Karnataka Platform Based Gig Workers (Social Security and Welfare) Bill, 2024; The Draft Jharkhand Platform based Gig Workers (Registration and Welfare) Bill, 2024; Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023; PRS.

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