

The Karnataka Platform Based Gig Workers (Social Security and Welfare) Bill 2024

July 09, 2024

To

Shri Siddaramaiah

Hon'ble Chief Minister
Government of Karnataka

Copy to:

Dr Rajneesh Goel
Chief Secretary
Government of Karnataka

Dr. Ekroop Caur
Secretary to Government
Department of Electronics Information
Technology Biotechnology and
Science & Technology
Government of Karnataka

Dear Shri Siddaramaiah,

We appreciate that the draft *The Karnataka Platform Based Gig Workers (Social Security and Welfare) Bill 2024 (the Bill)* aims to protect welfare and social security of platform gig workers. However, basis industry consultation, we have noted several serious concerns, and the same are highlighted below for your kind consideration.

1. At a conceptual level, the Bill proposes a parallel structure of social security law for platform gig workers, duplicating the central law – Code on Social Security, 2020 (**CoSS**). It does not propose a sunset clause-mechanism that will subsume the Bill into the CoSS when the same comes into force.
2. It assumes gig work to be a part of employer-employee relationship, even though gig work is entirely different. To illustrate, a key feature of a gig worker is being an 'independent contractors' and not an employee because of absence of elements like, degree of control, commitment and accountability. However, the Bill does not examine these elements and instead proposes a presumption that gig workers are like employees (contrary to the treatment in the CoSS). This assumption risks unsettling the conceptual and legal basis of gig work. **This assumption is core of the Bill and basis this, it prescribes several obligations which may be relevant only in an employer-employee relationship.**
3. It proposes a **parallel fee structure** as the aggregators who would contribute funds under the CoSS (once it is notified), would also contribute funds for similar purposes under this Bill. There are design level concerns. For instance, the Bill does not provide certainty whether the fee is to be calculated per transaction basis or turnover basis. It is left at the discretion of the executive. Similarly, the Bill leaves the percentage to be decided through executive notifications. The Bill gives an option to the department to levy the fee as a percentage of the turnover of the platform in the state, without any upper cap on this. This will lead to uncertainty and appears to be excessive delegation. **Further, this turnover based fee is not pegged in relation to the fees paid by the platforms to the gig workers, raising concerns that the fee could be akin to a form of taxation.**

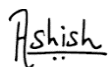
4. It lays down onerous and prescriptive obligations on aggregators like (*indicative*) **minimum notice period for termination, algorithmic disclosures**, monitoring and tracking mechanism (**Central Transaction Information and Management System**) and laying down **terms of template contract** with platform gig workers along with the **power to review such contracts**. These obligations are incompatible with the functioning of gig platforms and can adversely impact their operations in the State.
5. **It has serious gaps not only from an industry perspective but also from the gig workers perspective**, as it fails to state the end-use of fees/funds collected from aggregators/platforms.¹ The Bill does not contain safeguards to ensure the funds collected from platforms are spent in a time bound manner and only for sponsoring social security schemes designed for gig platform workers in the state of Karnataka.

As a result of balanced policy approach toward industry, workers and consumers, Karnataka remains a leader in India's technology sector, in terms of investments and exports. As per NITI Aayog, Karnataka is home to 400 of the Fortune 500 companies.²

As you will appreciate, any proposal that impacts industry would benefit from extensive consultations. Ideally, a Bill of this significance should also have the benefit of a detailed study being published by the state government to document the gaps that it seeks to address. In the absence of the above, and the fact that any proposal by Karnataka could also be an important precedent for other States, we request that:

1. **The public consultation period should be extended to at least forty-five (45) working days (from ten working days) for a meaningful consultation.**
2. **As part of the consultation, the government may convene an inter-departmental meeting (involving the Department of Labour, Department of Electronics Information Technology Biotechnology and Science & Technology and Department of Commerce and Industries). Such meeting should invite participation of platform businesses operating in Karnataka, industry associations and other relevant stakeholders.**

Sincerely



Ashish Aggarwal

Vice President & Head Public Policy

Encl.: Annexure 1: Clause-wise submission on the Bill

(Rationale for each recommendation along with proposed amended text in red.)

¹ Unlike the Bill, the central law, CoSS, explicitly states that the cess collected would be spent to design welfare schemes for life and disability cover; accident insurance; health and maternity benefits; old age protection; crèche, etc.

² Invest India Snapshot, Ranked No. 1 in NITI Aayog's Innovation Index, Karnataka is home to 400 out of Fortune 500 companies, <https://www.investindia.gov.in/state/karnataka#:~:text=Karnataka%20is%20the%204th%20largest%20contributor%20to%20electronic%20industrial%20output,85%20fabless%20chip%20design%20houses.>

Annexure 1: Clause-wise submission on the Bill

Clause	Current text in the Bill	Proposed text	Rationale
2(b)	<p>Definitions: “Aggregator” means a digital intermediary for a buyer of goods or user of a service to connect with the seller or the service provider and includes any entity that coordinates with one or more aggregators for providing the services.</p>	<p>“Aggregator” means a digital intermediary for a buyer of goods or user of a service to connect with the seller or the service provider and includes any entity that coordinates with one or more aggregators for providing the services.</p>	<p>The phrase "any entity that coordinates with one or more aggregators for providing the services" in the definition of "aggregator" under Section 2(b) is ambiguous. The definition seems to suggest that an "aggregator" extends beyond just the primary digital platforms that directly connects buyers/users with sellers/service providers and can potentially bring any other entities that coordinate with these primary digital platforms to provide the services within the ambit of this definition.</p> <p>For instance, technology companies that provide tech support to the aggregators, companies providing payment gateway services to the aggregators, or even the numerous numbers of sellers involved on platforms can be potentially brought within the fold of the definition. Having such a broad definition goes beyond the ambit of the objective of the Bill itself and should be deleted.</p>
2(e)	<p>Definitions: "Gig worker" means a person who performs work or participates in a work arrangement that results in a given rate of payment, based on terms and conditions laid down in such contract and includes all piece-rate work, and whose work is sourced through a platform, in the services specified in the Schedule-I</p>	<p>2(e)"gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship;</p>	<p>To align the state Bill with CoSS - Section 2(35) of which defines gig workers.</p> <p>It is well understood that Gig work is different from employment. However, the Bill proposes a definition of gig workers as "not as an arrangement outside of traditional employer and employee relationship" (unlike CoSS) which alters the fundamental concept and legal basis of gig work.³ On this basis, the Bill proposes a</p>

³ Clause 2(e) of the Bill: "**Gig worker**" means a person who performs work or participates in a work arrangement that results in a given rate of payment, based on terms and conditions laid down in such contract and includes all piece-rate work, and whose work is sourced through a platform, in the services specified in the Schedule-I.

Clause	Current text in the Bill	Proposed text	Rationale
			<p>right to seek redressal under the Industrial Disputes Act, 1947 which specifically applies to “workman”, a protected class of employees under Indian labour laws. Under the Industrial Disputes Act, 1947 --- the definition of workman explicitly uses term like “employed in any industry” and “terms of employment”.⁴</p> <p>The Bill, if passed, would not only make the status of gig workers ambiguous under Indian laws (<i>i.e., whether gig workers fall within the scope of employer-employee relationship</i>), but could also lead to absurd situations against the dynamics of gig economy.</p> <p>Given that the nature of arrangement with gig workers is on a different footing, clarity in the definition of gig workers under this Bill will directly impact how the Bill is interpreted and implemented.</p>
<p>6</p>	<p>Powers and functions of the Board. - The powers and functions of the Board shall be as follows, namely: -</p> <p>(i).....</p> <p>(x) seek aggregated data from the aggregators and platforms on the work done via their platform.</p>	<p>A proviso to be added to Clause X that:</p> <p>Provided, such ‘aggregated data’ shall not include personal data of gig workers or any confidential data or information pertaining to the business operations of aggregators and platforms.</p>	<p>While the intention of the Bill is not to seek personal data of gig workers or confidential data of platforms/aggregators, it is better to state it explicitly in the Bill to avoid any future uncertainty.</p>

⁴ Section 2(s) of Industrial Disputes Act, 1947.

Clause	Current text in the Bill	Proposed text	Rationale
7	<p>Rights of platform-based Gig Worker -</p> <p>Ä platform-based Gig worker shall have the right to -</p> <p>(a) be registered with the State Government on being onboarded on any platform, irrespective of the duration of the work, and be provided a Unique ID applicable across all platforms;</p> <p>(b) have access to general and specific social security schemes based on contributions made by them as may be notified by the State Government;</p> <p>(c) access a grievance redressal mechanism as specified in Section 23;</p> <p>Provided that, nothing in this Act shall affect any benefit or protection accorded to platform-based Gig workers under any other law for the time being in force.</p>	<p>Ä platform-based Gig worker shall have the right to -</p> <p>(a) be registered with the State Government on being onboarded on any platform, irrespective of the duration of the work, and be provided a Unique ID applicable across all platforms;</p> <p>Provided that a platform-gig worker shall be eligible for registration as mentioned in clause (a) above if such worker has been engaged as platform gig worker, for not less than ninety days during the preceding twelve months.</p> <p>(b) have access to general and specific social security schemes based on contributions made by them as may be notified by the State Government;</p> <p>(c) access a grievance redressal mechanism as specified in Section 23;</p> <p>Provided that, nothing in this Act shall affect any benefit or protection accorded to platform-based Gig workers under any other law for the time being in force.</p>	<p>Mandating perpetual registration for gig workers creates an unnecessary administrative and financial burden on aggregators. This is also unfair for gig workers because even the inactive pool of gig workers would be eligible to receive social security benefits.</p> <p>Under CoSS, only those gig workers are considered eligible for benefits who have worked for at least 90 days in a year with all aggregators combined.</p> <p>Based on the industry inputs, there is a prevalent trend of people registering and onboarding themselves on gig economy portals to keep the option of performing gig work available. However, this does not always translate to the registered personnel actively engaging in gig work.</p> <p>Further, there can be numerous instances of people with a regular job undertaking gig work in spare time to earn supplementary income, who maybe already covered under other social security benefits such as provident fund, insurance coverage, old age pension etc.</p> <p>Therefore, the ratio of active versus registered gig workers engaged with each platform/aggregator is variable and depends on various factors such as job loss, seasonal demand including on account of festivals, limited period higher payout offer from aggregators etc.</p> <p>Moreover, there is a constant churn in the gig economy where the composition of active gig workers keeps changing every week. It is common that within a timeframe of every six months period, gig workers</p>

Clause	Current text in the Bill	Proposed text	Rationale
10(1), (2) & (3)	<p>Registration of gig workers –</p> <p>(1) The aggregators shall provide to the Board its database of all gig workers onboarded or registered with them within sixty days from the date of commencement of this Act in such manner as may be specified in the regulations.</p> <p>(2) All platform-based Gig workers onboarded or registered with any Platform after the commencement of this Act shall be electronically registered by the Board, within sixty days of their being so onboarded or registered. The aggregators shall update the Board about any changes, i.e., increase or decrease in numbers of gig workers in the data provided under sub-section (1) in such manner as may be specified in the regulations.</p> <p>(3) The Board shall maintain a database of gig workers in the State along with the details of their employment with one or more aggregators, and notwithstanding the duration or time of engagement with any platform.</p>	<p>(1) The aggregators shall provide to the Board its database of all gig workers onboarded or registered with them within sixty days from the date of commencement of this Act in such manner as may be specified in the regulations.</p> <p>The platform-based gig workers operating in Karnataka will register themselves on a portal established by the Government of Karnataka in such a manner as may be specified in the regulations.</p> <p>(2) All platform-based Gig workers onboarded or registered with any Platform after the commencement of this Act shall be electronically registered by the Board, within sixty days of them registering on the portal. The aggregators Board may gauge any changes, i.e., increase or decrease in numbers of gig workers from the portal in such manner as may be specified in the regulations.</p> <p>(3) The Board shall maintain a database of gig workers in the State along with the details of their</p>	<p>comprising the active database may undergo a change in the range of 40-80%.</p> <p>Self-duty of gig worker to register</p> <p>It should be the duty of each gig worker to self-register on the state government’s portal. This obligation is aligned with the duty cast upon each unorganised worker, gig worker and platform worker under the CoSS (section 113). Further, proviso to section 113(2) states that:</p> <p><i>Provided that the system of electronic registration maintained by the appropriate Government shall also provide for self-registration by any such worker in such manner as may be prescribed by the Central Government.</i></p> <p>Moreover, gig workers are data principals of their own data and have the sole agency over how long they want to participate in gig work. An aggregator will not be best placed to give accurate information about gig workers and will also not know when a gig worker has exited gig work (i.e. they will not be able to clearly identify ‘increase’ or ‘decrease’ as gig workers log in as and when they want).</p> <p>Therefore, the Bill should provide for a process of collection of personal data through either the e-shram portal or any other state level self-declaratory data collection portal, through the gig-workers directly.</p> <p>Additionally, insofar as the Board has non-government members such as representatives from civil society, gig workers unions and other aggregators, information on gig</p>

Clause	Current text in the Bill	Proposed text	Rationale
		<p>employment engagement with one or more aggregators, and notwithstanding the duration or time of engagement with any platform.</p>	<p>workers cannot be shared as it is commercially as well as price sensitive.</p> <p>Self-enrolment will allow gig workers to authenticate their identity directly, thereby reducing the scope of false registrations.</p> <p>Moreover, under the CoSS which also aims to ensure social welfare and security of gig workers does not require platforms/aggregators to provide database of gig workers onboarded or registered with them.</p> <p>Updating gig workers database Since gig workers actively switch platforms/may turn inactive for extended time periods, the aggregator database is very dynamic and subject to constant change. Aggregators cannot ensure the correctness of the data at any point in time. Hence, it will be a difficult proposition to provide accurate information about the increase and decrease in the numbers of gig workers, on a periodic basis.</p> <p>The word ‘employment’ in clause 10(3) may have been written inadvertently and needs to be deleted for reasons already stated in clause 2(e).</p>
<p>12</p>	<p>Obligation to enter into fair contracts - (3) Once the contract has been entered into, the aggregator shall notify the platform-based Gig worker of any change in the terms of the contract not less than fourteen days before the</p>	<p>(3) Once the contract has been entered into, the aggregator shall notify the platform-based Gig worker of any change in the terms of the contract not less than fourteen days within a reasonable time</p>	<p>Right to receive 14 days prior notice While the Bill can prescribe for a reasonable time period, it should avoid prescribing the number of days which directly goes into core operational decisions of firms. Different businesses will require different periods of time to communicate any change in the contract. 14</p>

Clause	Current text in the Bill	Proposed text	Rationale
	<p>proposed change, and the platform-based Gig worker shall have the option to accordingly terminate the contract, without any adverse consequences for their existing entitlements under the previous contract.</p> <p>(4) A platform-based Gig worker may refuse or reject, with reasonable cause, a specified number of Gig work requests per week, as shall be provided in the contractual agreement between the platform-based Gig worker and the aggregator, without any adverse consequences.</p>	<p>before the proposed change, and the platform-based Gig worker shall have the option to accordingly terminate the contract, without any adverse consequences for their existing entitlements under the previous contract.</p> <p>Provided that, no such prior notice shall be given to the platform-based gig worker in the event of misconduct or legal violations by such worker.</p> <p>(4) A platform-based Gig worker may refuse or reject, with reasonable cause, a specified number of Gig work requests per week, as shall be provided in the contractual agreement between the platform-based Gig worker and the aggregator, without any adverse consequences.</p>	<p>days is a long period in the gig economy as gig work is dynamic in its essence.</p> <p>Moreover, the Bill does not even allow for exceptions in cases of serious misconduct or legal violations (physical violence, theft, etc.) by gig and platform workers where termination cannot be done with prior notice.</p> <p>Right to reject work Any rejection that is done prior to accepting the gig work is already permitted. Gig workers have ample options to accept or reject a request for service. They can simply switch off the application and choose not to take work. In many cases, they can also decline specific work. In other models, unless they choose to accept, the work automatically gets assigned to someone else who has opted to take it up.</p> <p>To illustrate, on ride sharing applications, gig workers are provided information of rider destination, payment type and the fare they will receive upon completion of the trip. They are also reimbursed with a cancellation fee in case the rider cancels.</p> <p>Gig work is only done as per the availability and willingness of the gig worker. Therefore, this right to reject work appears to be a redundant proposal.</p> <p>The Bill also fails to understand the market realities that gig workers may be engaged with multiple aggregators and rejection of a gig may lead to loss of business from the aggregator, but the gig worker may be accepting</p>

Clause	Current text in the Bill	Proposed text	Rationale
			<p>another gig from a competing aggregator at the same time.</p> <p>Denial post display of availability or post-acceptance to undertake gig work is against consumer interest.</p>
13	<p>Contract guidelines and templates -</p> <p>(1)The State Government shall publish sector specific guidelines for contracts from time to time.</p> <p>(2)The State Government may review contract templates sent by aggregators, on request, in order to ensure fair contracts with platform based Gig worker.</p>	<p>(1)The State Government shall publish sector specific guidelines for contracts from time to time.</p> <p>(2)The State Government may review contract templates sent by aggregators, on request, in order to ensure fair contracts with platform based Gig worker.</p>	<p>The gig economy is diverse, with different sectors requiring different types of contracts to suit their specific needs. Government-mandated templates may not adequately reflect the unique requirements of various gig work arrangements, resulting in rigid and impractical contract terms. This lack of flexibility could stifle the ability of aggregators to tailor contracts to fit the specific nature of the services provided. The government does not typically intervene in contract terms for other industries.</p>
14.	<p>Transparency in respect of Automated Monitoring and Decision Making Systems.-</p> <p>(1) The aggregator must communicate the following information regarding the respective platform-based Gig worker, in writing, in Kannada, English or any other language listed in the Eighth Schedule of the Constitution known to the platform</p>	<p>1(iv) the personal data of the respective Gig worker available with the aggregator, such personal data which is processed by the aggregator, including the purposes for which such personal data is processed;</p> <p>The rest of clause 1 needs serious discussion with stakeholders.</p>	<p>Obligation related to personal data of gig workers</p> <p>This is a redundant obligation because it is already covered under the Digital Personal Data Protection Act, 2023 (DPDPA). Under the DPDPA, data fiduciary is required to obtain prior consent of data principal and give notice of the purpose of processing. Given gig workers are independent contractors and not employees, prior consent would be required for processing their data. DPDPA only permits employers to process employee data for the purposes of employment, without consent.⁵</p> <p>Algorithmic disclosures</p>

⁵ Section 7(i) of DPDPA.

Clause	Current text in the Bill	Proposed text	Rationale
	<p>based Gig worker, as and when sought by him —</p> <p>(i) the main parameters which, either individually or collectively, are the most important for determining the allocation of work, the distribution of work, the assessment of work carried out, and the grounds for denial of work</p> <p>(ii) the rating system, if any, set up by the aggregator;</p> <p>(iii) categorisation of Gig workers, on the basis of the quality of service rendered, log-in time, or any other criteria, where such categorisation is employed by the aggregator;</p> <p>(iv) the personal data of the respective Gig worker available with the aggregator, such personal data which is processed by the aggregator, including the purposes for which such personal data is processed;</p> <p>(v) any other information that may be prescribed by the State Government</p> <p>(2) The aggregator must inform the platform based Gig worker, in simple language and in Kannada, English or any other language listed in the Eighth Schedule of the Constitution known to the Gig worker, regarding the procedure to seek information in respect of the automated monitoring and decision</p>	<p>(3) The aggregator shall take measures to prevent discrimination on the basis of religion, race, caste, gender, or place of birth by the automated monitoring and decision-making systems employed by it.</p>	<p>Providing such information on an aggregator’s internal processes can compromise its proprietary information. These gig-workers may be engaged simultaneously with multiple aggregators, thereby leading to leakage of information to competing entities.</p> <p>However, if there are serious concerns regarding such ADMS which are impacting the working conditions and earnings of gig workers, this needs to be discussed with stakeholders to work out feasible solutions before prescribing such obligations across the board.</p> <p>Duty not to discriminate</p>

Clause	Current text in the Bill	Proposed text	Rationale
	<p>making systems employed by the aggregator, which have an impact on their working conditions, including fares, earnings, customer feedback and allied information.</p> <p>(3) The aggregator shall take measures to prevent discrimination on the basis of religion, race, caste, gender, or place of birth by the automated monitoring and decision-making systems employed by it.</p>		
<p>15(1) & (2)</p>	<p>Termination of work</p> <p>(1) The contractual agreement entered into between the aggregator and the platform based Gig worker shall contain an exhaustive list of grounds for termination of contract by the aggregator or deactivation of the Gig worker from the platform.</p> <p>(2) An aggregator shall not terminate a Gig worker without giving valid reasons in writing and with prior notice of fourteen days.</p>	<p>Section 15</p> <p>(1) The contractual agreement entered into between the aggregator and the platform based Gig worker shall contain an exhaustive list of grounds for termination of contract by the aggregator or deactivation of the Gig worker from the platform.</p> <p>(2) An aggregator shall not terminate a Gig worker without giving valid reasons in writing and with prior notice of fourteen days.</p> <p>Schedule II [see section 24] Disputes raisable by gig worker</p> <p>4. Aggregator terminates work on grounds not mentioned in the</p>	<p>Exhaustive grounds of termination in contract</p> <p>In dynamic and fast-paced environments like the gig economy, flexibility is a must to address unforeseen circumstances promptly. Mandating an exhaustive list can limit the ability of platforms to respond to new risks and challenges, potentially leaving gaps that can be exploited. Safety incidents and cases of fraud require immediate action to protect users and other workers, and such rigid provisions could hinder swift responses.</p> <p>Moreover, in a rapidly changing gig economy, new forms of misconduct or breaches of platform policies may arise that are not anticipated when drafting the contractual arrangement.</p> <p>Most platforms already have comprehensive community guidelines and terms of service that clearly outline the grounds for deactivation, designed to maintain high standards of safety and service.</p>

Clause	Current text in the Bill	Proposed text	Rationale
		<p>contract, in violation of sub-section (1) of section 15;</p> <p>5. Aggregator terminates work without violation of sub-section (2) of section, 15</p>	<p>These guidelines are periodically updated to adapt to emerging threats and operational needs.</p> <p>Even labour laws which apply to employees are not prescriptive about the grounds of termination.</p> <p>Imposing additional contractual requirements for an exhaustive list and a 14-day notice period will only lead to inefficiencies and can delay necessary actions that safeguard the platform's integrity and user trust.</p> <p>Termination of work Termination as a concept is applicable to traditional employer-employee scenario and not applicable to gig-workers who already have the flexibility to do short-term work, mark their own calendar for their availability, and may work for multiple platforms at one time. Further, unlike employment, there is no concept of handover, which requires prior notice period and other formalities. A gig worker can switch off an application and move on to another platform for work.</p> <p>Moreover, the Bill does not even allow for exceptions in cases of serious misconduct or legal violations (physical violence, theft, etc.) by gig and platform workers where termination cannot be done with prior notice.</p>
<p>21</p>	<p>Gig Workers Welfare Fee</p> <p>(1) There shall be charged, from an aggregator, a welfare fee known as “The Platform Based Gig Workers Welfare</p>	<p>(1) There shall be charged, from an aggregator a welfare fee known as “The Platform Based Gig Workers Welfare Fee”, which shall be at such rate not exceeding two per</p>	<p>The recommended text is aligned with the provisions of CoSS (section 114).</p> <p>We have listed below some of the challenges with the current text and why it needs to be changed:</p>

Clause	Current text in the Bill	Proposed text	Rationale
	<p>Fee”, which shall be at such rate (percent) of the pay of the platform-based gig worker in each transaction or on the annual State specific turnover as may be notified by the State Government.</p> <p>(2) Such fee shall be collected by the State Government in such manner and within such time as may be prescribed.</p> <p>(3) The aggregator may deposit the welfare fee levied under this Act at the end of each quarter in such manner as may be prescribed.</p>	<p>cent, but not less than one per cent, as may be notified by the State Government, of the annual turnover of every such aggregator who falls within a category of aggregators:</p> <p><i>Provided that the contribution by an aggregator shall not exceed five per cent of the amount paid or payable by platform-based gig workers.</i></p> <p>Please note: <i>While we have made the above recommendation, based on industry inputs, we also submit that this one-size-fit all formula of calculating welfare fee based on 1-2% of annual turnover as prescribed under the CoSS may not be suitable for all aggregator business models and could create a situation of uneven playing field. Therefore, the manner of calculation of welfare fee needs more examination and consultation after duly considering sectoral requirements.</i></p> <p>(2) Such fee shall be collected by the State Government in such</p>	<p>Critical aspect which can have huge financial obligations is left to be decided through rules i.e., a matter of executive discretion - with the Bill proposing that the fee could be imposed either per transaction basis or on the annual turnover.</p> <p>The Bill neither specifies the percentage of fee to be charged from platforms nor provides a cap on such welfare fee. The Bill gives an option to the department to levy the fee as a percentage of the turnover of the platform in the state, again without any upper cap on this. This turnover based fee is not pegged in relation to the fees paid by the platforms to the gig workers, raising concerns that the fee could be akin to a form of taxation.</p> <p>In effect, the fee method as well as the rate is left to the departmental notifications and can vary from time to time, without requiring an amendment to the primary law.</p> <p>This is in contrast to the manner in which similar provisions are drafted in the CoSS (primary law) where both the rates and the upper limit as well as relation to the payments to gig workers is taken into consideration.</p> <p>Cessation of state level welfare fee post CoSS Once CoSS comes into operation, state level welfare fees should be discontinued to avoid duplicate fee structure and unnecessary financial burden on entities in the state of Karnataka.</p>

Clause	Current text in the Bill	Proposed text	Rationale
		<p>manner and within such time as may be prescribed.</p> <p>(3) The aggregator may deposit the welfare fee levied under this Act at the end of each quarter financial year in such manner as may be prescribed.</p>	<p>Deposit of fee on annual basis Given welfare fee is to be calculated on annual turnover, the fee cannot feasibly be deposited quarterly.</p>
22(1), (2)& (3)	<p>Central Transaction Information Management System –</p> <p>(1) All payments ' generated on platforms shall be mapped on to a Central Transaction Information and Management System (CTIMS) administered by the State Government and monitored by the Board.</p> <p>(2) Every payment made to Gig workers and the welfare fee deducted shall be recorded on the Central Transaction Information and Management System (CTIMS) for each transaction related to platform-based Gig worker in such manner as may be prescribed.</p> <p>(3) The details of welfare fee collected and spent at the Gig workers level shall be disclosed and made available on the Central Transaction Information and Management System (CTIMS).</p>	<p>Central Transaction Information Management System- (1) All payments ' generated on platforms shall be mapped on to a Central Transaction Information and Management System (CTIMS) administered by the State Government and monitored by the Board.</p> <p>(2) Every payment made to Gig workers and the welfare fee deducted shall be recorded on the Central Transaction Information and Management System (CTIMS) for each transaction related to platform-based Gig worker in such manner as may be prescribed.</p> <p>(3) The details of welfare fee collected and spent at the Gig workers level shall be disclosed and made available on the Central</p>	<p>Given such data is proprietary information of the aggregators and confidential in nature, the Bill fails to provide any rationale for creating such intrusive mechanism.</p> <p>Moreover, sharing the same with a Board that has non-government members (including other aggregators who are competitors) is both unfair and unwarranted.</p> <p>For the reason stated above, all references to CTIMS in this Bill should be deleted.</p> <p>Alternative to CTIMS Aggregators can submit annual audited statement to corroborate whether the welfare fees are being duly calculated and deposited.</p>

Clause	Current text in the Bill	Proposed text	Rationale
		<p>Transaction Information and Management System (CTIMS):</p> <p>The aggregators shall furnish annual audited statement to establish the correctness of calculation and deposit of welfare fee into the Karnataka Gig Worker's Social Security and Welfare Fund in a format and manner as may be prescribed in the regulations.</p>	
<p>24</p>	<p>Resolution of disputes against aggregator. (4) Notwithstanding anything contained in this section, a platform-based Gig worker may seek resolution of his disputes through the mechanism under the Industrial Disputes Act, 1947 (Central Act 14 of 1947).</p>	<p>(4) Notwithstanding anything contained in this section, a platform-based Gig worker may seek resolution of his disputes through the mechanism under the Industrial Disputes Act, 1947 (Central Act 14 of 1947):</p>	<p>The Bill proposes a right to seek redressal under the Industrial Disputes Act, 1947 which specifically applies to “workman”, a protected class of employees under Indian labour laws. Under the Industrial Disputes Act, 1947 --- the definition of workman explicitly uses term like “employed in any industry” and “terms of employment”.⁶</p> <p>As discussed above in Clause 2(e), this would be in direct conflict with the central laws.</p> <p>Even the Industrial Relations Code which would subsume the Industrial Disputes Act, 1947, once it is notified, does not include gig workers within the definition of workman.</p>

⁶ Section 2(s) of Industrial Disputes Act, 1947.

Clause	Current text in the Bill	Proposed text	Rationale
30	<p>Submission of Quarterly Returns –</p> <p>The aggregators must submit quarterly returns in such form as may be prescribed by the State Government.</p>	<p>The aggregators must submit quarterly annual returns in such form as may be prescribed by the State Government.</p>	<p>Since the welfare fee is to be calculated based on annual turnover, the return to be submitted would be on an annual basis.</p> <p>For the reason stated above, any other reference to quarterly return in the Bill should be deleted and be substituted with ‘annual’.</p>
34	<p>Power to make rules.-</p> <p>(1) The State Government may make rules for carrying out the purposes of this Act.</p> <p>(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:</p> <p>(iv) The rate (percent) of the value of each transaction chargeable as welfare fee as per sub-section (1) of section 21.</p> <p>(x) The form in which payment made to platform-based Gig workers and the welfare fee deducted shall be recorded on the Central Transaction Information and Management System (CTIMS) for each transaction under section 22.</p>	<p>(1) The State Government may make rules for carrying out the purposes of this Act.</p> <p>(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:</p> <p>(iv) The rate (percent) of the value of each transaction chargeable as welfare fee as per sub-section (1) of section 21.</p> <p>(x) The form in which payment made to platform-based Gig workers and the welfare fee deducted shall be recorded on the Central Transaction Information and Management System (CTIMS) for each transaction under section 22.</p>	<p>We have suggested above:</p> <p>Percentage of welfare fee We have recommended that the percentage of welfare fees be calculated based on the annual turnover of aggregator as per the rate and subject to cap, mentioned in the CoSS. Please refer Clause 21.</p> <p>Alternative to CTIMS We have suggested submission of annual audited statement as an alternative to CTIMS to corroborate whether the welfare fees are being duly calculated and deposited into the Karnataka Gig Worker's Social Security and Welfare Fund.</p>

Clause	Current text in the Bill	Proposed text	Rationale
38	At present there is no sunset clause in the Bill.	<p>Repealing clause:</p> <p>This Act shall stand repealed with immediate effect once Chapter IX and section 141 of the Code on Social Security, 2020 come into effect from the date as notified by the central government.</p>	Given a central law is better suited to provide for universal welfare and social security of platform gig workers in India and to avoid creating a parallel structure and complications where both the legislations intend to meet the same goal, the state law, <i>if passed</i> , namely, the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2024 should stand repealed with immediate effect once the CoSS comes into operation.

For any queries related to this representation, please contact:

Ashish Aggarwal (asaggarwal@nasscom.in) or Sudipto Banerjee (sudipto@nasscom.in) with a copy to policy@nasscom.in.

About nasscom

Nasscom is the premier trade body and chamber of commerce of the Tech industry in India and comprises over 3000 member companies including both Indian and multinational organisations that have a presence in India. Established in 1988, nasscom helps the technology products and services industry in India to be trustworthy and innovative across the globe. Our membership spans across the entire spectrum of the industry from start-ups to multinationals and from products to services, Global Service Centres to Engineering firms. Guided by India’s vision to become a leading digital economy globally, nasscom focuses on accelerating the pace of transformation of the industry to emerge as the preferred enablers for global digital transformation. For more details, kindly visit www.nasscom.in