

Karnataka's proposed bill for enhancing rights and protection of platform-based gig workers

On June 29, 2024, the Labour Department, Government of Karnataka released the Karnataka Platform based Gig Workers (Social Security and Welfare) Bill, 2024 ("**Draft Bill**"), which aims to protect the rights of platform-based gig workers and imposes obligations on aggregators in relation to their welfare, social security, occupational health, safety and working conditions in Karnataka. Stakeholders have been encouraged to submit suggestions or objections on the Draft Bill by July 12, 2024. Key aspects of the Draft Bill are summarised below.

Applicability of the Draft Bill

The Draft Bill applies to an aggregator (i.e., a digital intermediary connecting buyers and sellers of goods or services including an entity that coordinates with one or more aggregators for providing services) in Karnataka providing services in ride sharing services, food and grocery delivery services, logistics services, e-commerce market places¹, professional services provider, healthcare, travel and hospitality and content and media services ("**Specified Services**"). A 'gig-worker' under the Draft Bill means a person who performs work or participates in a work arrangement that results in a contractual rate of payment, inclusive of piece-rate work or work arrangements sourced through digital platforms within the Specified Services.

The Code on Social Security, 2020 ("**Social Security Code**") which is awaiting implementation recognises both 'gig workers' and 'platform workers' as distinct categories of workers. Its primary objective is to provide an array of benefits to them. In contrast, the Draft Bill extends in applicability specifically to 'platform-based' gig workers. This approach is largely similar to provisions of the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 passed by the Government of Rajasthan in 2023. The Draft Bill aims to provide for the following:

1. **Constitution of Karnataka Platform Based Gig Workers Welfare Board ("**Welfare Board**")**: The Draft Bill aims to establish the Welfare Board to safeguard welfare of gig workers. It further prescribes duties and functions for the Welfare Board, which *inter alia* include: (a) registration of gig workers and aggregators in the state; (b) setting up a monitoring mechanism to certify collection of welfare fees; (c) ensuring implementation of social security schemes based on contributions made, and disbursing social security benefits through individual social security accounts linked to the unique identifications ("**Unique IDs**") allocated to each gig worker; (d) constituting a committee to provide recommendations to the state for the formulation, review and implementation of schemes; and (e) ensuring that workers, including women and persons with disabilities have access to benefits as per the schemes.

¹ Business-to-business/business-to-consumer

2. **Registration of all aggregators and gig workers:** The Draft Bill mandates aggregators to register themselves with the Welfare Board and provide latest data of all gig workers engaged by them within 60 (sixty) days from the enactment date of the law. All platform-based gig workers onboarded or registered with any platform will have to be registered with the Welfare Board by the aggregators, valid in perpetuity, irrespective of the duration or time of engagement. Each such platform-based gig-worker will be provided a Unique ID by the Welfare Board.
3. **Welfare fees and the Karnataka Gig Worker's Social Security and Welfare Fund ("Welfare Fund"):** The Draft Bill envisages establishment of the Welfare Fund for the benefit of registered platform-based gig workers, which is supposed to include sums received from welfare fees, contributions by individual platform-based gig workers, sums received as grant-in-aid from the State Government, all sums through grants, gifts, benefactions, bequests, donations or transfers and such other prescribed sums, and would be held, utilised and managed for the benefit of the registered platform-based gig workers. Every aggregator would be required to quarterly deposit a welfare fee known as the 'The Platform Based Gig Workers Welfare Fee', at such rate (in percentage) of the pay of the platform-based gig worker in each transaction or on the annual state specific turnover as prescribed by the State Government. All payments generated on platforms is required to be mapped to a 'Central Transaction Information and Management System' administered by the State Government and monitored by the Welfare Board.
4. **Grievance redressal mechanism:** The Draft Bill grants rights to registered platform-based gig workers to file a petition in person before the grievance redressal officer designated by the State Government or submit a petition through the web portal for grievances arising out of entitlements, payments and other benefits. Furthermore, it directs aggregators with more than fifty (50) registered gig workers to establish an 'Internal Dispute Resolution Committee'. This committee is expected to resolve complaints within thirty (30) days. Gig workers also have the option to seek dispute resolution through mechanisms under the Industrial Disputes Act, 1947 ("**IDA**"), in addition to internal procedures.
5. **Transparency and fair contracts:** The Draft Bill mandates aggregators to enter into written contracts with gig workers using clear language understood by them and notify them of any changes to these contracts. Aggregators are restricted from terminating a gig worker without providing valid reasons in writing with a prior notice of 14 (fourteen) days. Aggregators are obligated to: (a) disclose to gig workers details about work allocation, distribution processes, performance assessment criteria, rating systems, personal data processing practices and reasons for work denial upon request; and (b) maintain transparency regarding automated monitoring and decision-making systems that impact gig workers' working conditions, including factors such as fares, earnings and customer feedback.
6. **Penalties:** For violations by aggregators, the Draft Bill sets out substantial monetary fines extending up to INR 1,00,000 (Indian Rupees one lakh), with an additional penalty extendable up to INR 5,000 (Indian Rupees five thousand) for each day of continuing contravention.

Notably, the Karnataka State Gig Workers Insurance Scheme, 2023 complements the Draft Bill by emphasising the State's commitment in addressing the unique challenges faced by gig workers and providing them with essential financial protection in the event of accidents. Under this scheme, gig workers engaged in delivery professions with platforms such as Swiggy, Zomato, Amazon, Flipkart and others operating within Karnataka are eligible for comprehensive insurance coverage, which includes an accidental death benefit of INR 4,00,000 (Indian Rupees four lakh) comprising of INR 2,00,000 (Indian Rupees two lakh) in accidental insurance and INR 2,00,000 (Indian Rupees two lakh) in life insurance. Additionally, gig workers are entitled up to INR 2,00,000 (Indian Rupees two lakh) for permanent disability due to accidents and reimbursement of hospital expenses up to INR 1,00,000 (Indian Rupees one lakh). To avail these benefits, eligible gig workers aged between 18 (eighteen) to 60 (sixty) years are required to register on the Seva Sindhu Portal, with submission of documents including Aadhaar number and proof of identity.

Impact and Conclusion

Overall, the Draft Bill introduces groundbreaking measures to enhance gig worker welfare in the state, although focused on the subset of platform-based gig workers. Once enacted, Karnataka will follow Rajasthan in becoming the

second Indian State implementing regulations tailored to the welfare of these workers. While aggregators would be bound by onerous compliance requirements and additional cost obligations, other procedural aspects may also be demanding – for instance, dispute resolution mechanism under the Draft Bill, and the interplay between these provisions and those under the IDA. Since the IDA traditionally governs employer-workman employee relationships, potential challenges and/or inconsistencies in adapting its framework to the aggregator-gig worker dynamics is likely.

Additionally, it is important to note that the Karnataka State Government already mandates contribution obligations on eligible employers towards the State fund constituted under the Karnataka Labour Welfare Fund Act, 1965. In this context, it would be critical to examine the efficacy and appropriate management of the proposed Welfare Fund under the Draft Bill, and the aggregators' associated liabilities, which may likely result in duplication of contribution obligations on the aggregators.

Nonetheless, the Draft Bill signifies a move towards collective bargaining and enhancing greater protections for (platform-based) gig workers in Karnataka, reflecting the evolving landscape of labor rights in India. Stakeholders' feedback during the comment period will play a crucial role in refining and finalising this Draft Bill and its alignment with industry realities.

Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimize associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees.

This Prism has been prepared by:



Gerald Manoharan
Partner



Sonakshi Das
Partner



Muskan Jain
Associate

		
<p>18 Practices and 25 Ranked Lawyers</p>	<p>14 Practices and 38 Ranked Lawyers</p>	<p>Recognised in World's 100 best competition practices of 2024</p>
		
<p>19 Practices and 19 Ranked Lawyers</p>	<p>12 Practices and 42 Ranked Partners IFLR1000 APAC Rankings 2023 ----- Banking & Finance Team of the Year ----- Fintech Team of the Year ----- Restructuring & Insolvency Team of the Year</p>	<p>Among Top 7 Best Overall Law Firms in India and 11 Ranked Practices ----- 11 winning Deals in IBLJ Deals of the Year ----- 12 A List Lawyers in IBLJ Top 100 Lawyer List</p>
		
<p>Employer of Choice 2024 ----- Energy and Resources Law Firm of the Year 2024 ----- Litigation Law Firm of the Year 2024 ----- Innovative Technologies Law Firm of the Year 2023 ----- Banking & Financial Services Law Firm of the Year 2022</p>	<p>7 Ranked Practices, 16 Ranked Lawyers ----- Elite – Band 1 - Corporate/ M&A Practice ----- 3 Band 1 Practices ----- 4 Band 1 Lawyers, 1 Eminent Practitioner</p>	<p>Ranked #1 The Vahura Best Law Firms to Work Report, 2022 ----- Top 10 Best Law Firms for Women in 2022</p>  <p>7 Practices and 3 Ranked Lawyers</p>

For more details, please contact km@jsalaw.com

www.jsalaw.com



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This prism is not an advertisement or any form of solicitation and should not be construed as such. This prism has been prepared for general information purposes only. Nothing in this prism constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this prism disclaim all and any liability to any person who takes any decision based on this publication.