पंजीकरण संख्या–UA/GD/DDN/38/2024-2026



सरकारी गजट, उत्तराखण्ड

उत्तराखण्ड सरकार द्वारा प्रकाशित

असाधारण

दैहरादून, मंगलवार, 25 अगस्त, 2026 ई0

भाद्रपद 03, 1948 शक सम्वत्

उत्तराखण्ड शासन

श्रम अनुभाग

संख्या– 1117 / VIII-1 / 2026–39(श्रम)2018

दैहरादून, 25 अगस्त, 2026

अधिसूचना

चूंकि औद्योगिक संबंध संहिता, 2020 (संख्या 35 वर्ष 2020) की धारा 99 के अधीन सशक्षित सरकार (राज्य सरकार) को उक्त संहिता के उपबन्धों को प्रभावशील करने के लिए, राजपत्र में अधिसूचना द्वारा तथा उक्त अधिनियम की धारा 99 की उपधारा (1) के अधीन पूर्व प्रकाशन की शर्तों के अधीन रहते हुए नियम बनाने की शक्ति प्राप्त है;

और चूंकि उक्त संहिता की धारा 99 की उपधारा (1) की अपेक्षानुसार "उत्तराखण्ड औद्योगिक संबंध नियमावली, 2026" का प्रस्तावित प्रारूप श्रम अनुभाग, उत्तराखण्ड शासन की अधिसूचना संख्या 511/VIII–1/2026–39(श्रम)2018 दिनांक 30 अप्रैल, 2026 द्वारा पूर्व प्रकाशित किया गया था;

और चूंकि उक्त प्रारूप नियमावली के संबंध में जनसामान्य और हितधिकारियों से अभ्यावेदन एवं आपत्तियों पर राज्य सरकार द्वारा विचार कर लिया गया है;

अतएव, अब राज्यपाल औद्योगिक संबंध संहिता, 2020 की धारा 99 द्वारा प्रदत्त शक्ति का प्रयोग करते हुए निम्नलिखित नियमावली बनाये जाने की सहर्ष स्वीकृति प्रदान करते है; अर्थात् –

उत्तराखण्ड औद्योगिक संबंध नियमावली, 2026

अध्याय 1

प्रारंभिक

संक्षिप्त नाम, विस्तार और प्रारंभ

1. (1) इस नियमावली का संक्षिप्त नाम उत्तराखण्ड औद्योगिक संबंध नियमावली, 2026 है।

(2) इसका विस्तार संपूर्ण उत्तराखण्ड राज्य पर होगा।

(3) यह शासकीय राजपत्र में प्रकाशन की दिनांक से प्रवृत्त होगी।

परिभाषाएं

2. (1) जब तक कि विषय या संदर्भ में कोई बात प्रतिकूल न हो, इस नियमावली में–

(क) 'संहिता' से औद्योगिक संबंध संहिता 2020 अभिप्रेत है;

(ख) 'धारा' से औद्योगिक संबंध संहिता 2020 की धारा अभिप्रेत है;

(ग) 'इलैक्ट्रॉनिक रूप से' से कोई सूचना जिसे ई–मेल द्वारा प्रस्तुत किया गया हो अथवा जिसे विनिर्दिष्ट पोर्टल पर अपलोड किया गया हो अथवा संहिता के प्रयोजन किसी भी रूप में डिजिटल भुगतान करना अभिप्रेत है;

(घ) 'प्रपत्र' से नियमावली में संलग्न प्रपत्र से अभिप्रेत है;

(ङ) 'राज्य सरकार' से उत्तराखण्ड राज्य की सरकार अभिप्रेत है;

(2) उन शब्दों और पदों के जो इसमें प्रयुक्त हैं और परिभाषित नहीं हैं, किन्तु औद्योगिक संबंध संहिता, 2020 परिभाषित है, के वही अर्थ होंगे जो संहिता में है।

अध्याय 2

समझौता

समझौता ज्ञापन

3. (1) सुलह की कार्यवाही के दौरान किया गया समझौता या नियोजक और कर्मकार के बीच सुलह की कार्यवाही के अलावा किसी अन्य तरीके से किया गया लिखित समझौता प्रपत्र–क में होगा।

(2) समझौते पर निम्नलिखित द्वारा हस्ताक्षर किए जाएंगे,–

(क) नियोजक द्वारा या उसके अधिकृत प्रतिनिधि द्वारा, या जहां नियोजक कोई निगमित कंपनी या अन्य निगमित निकाय है, वहां ऐसी कंपनी या ऐसे अन्य निगमित निकाय के प्रतिनिधि, प्रबंधक या अन्य प्रमुख अधिकारी द्वारा; और

(ख) कर्मकारों की ओर से, व्यवसाय संघ के निम्नलिखित किसी पदाधिकारी द्वारा, अर्थात्:–

(i) अध्यक्ष; या

(ii) उपाध्यक्ष; या

(iii) सचिव (महासचिव सहित); या

(iv) संयुक्त सचिव; या

(v) व्यवसाय संघ का कोई अन्य पदाधिकारी जिसे संघ के अध्यक्ष और सचिव द्वारा इस निमित्त प्राधिकृत किया गया हो;
या

(vi) इस प्रयोजन के लिए आयोजित कर्मकारों की बैठक में इस संबंध में विधिवत् प्राधिकृत कर्मकारों के पांच प्रतिनिधि।

(3) किसी कर्मकार और नियोजक के बीच औद्योगिक विवाद की स्थिति में, समझौते पर नियोजक और संबंधित कर्मकार द्वारा हस्ताक्षर किए जाएंगे।

(4) जहां सुलह की कार्यवाही के दौरान समझौता हो जाता है, वहां सुलह अधिकारी, विवाद के पक्षकारों द्वारा हस्ताक्षरित समझौता ज्ञापन की एक प्रति के साथ राज्य सरकार को इसकी रिपोर्ट भेजेगा।

(5) जहां नियोजक और उसके कर्मकार के बीच, सुलह की कार्यवाही की प्रक्रिया के अलावा किसी अन्य तरीके से समझौता हो जाता है, तो समझौते के पक्षकार संयुक्त रूप से उसकी एक प्रति इलैक्ट्रॉनिक रूप में या स्पीड पोस्ट या पंजीकृत डाक द्वारा श्रम आयुक्त और सुलह अधिकारी को भेजेंगे।

(6) सुलह अधिकारी अपने अधिकार क्षेत्र के अंतर्गत आने वाले क्षेत्र में औद्योगिक विवादों के संबंध में संहिता के अंतर्गत किए गए सभी समझौतों को इलैक्ट्रॉनिक रूप से या अन्य बनाए गए रजिस्टर में दर्ज करेगा।

(7) उपनियम (6) में निर्दिष्ट रजिस्टर में क्रम संख्या, उद्योग का नाम, समझौते के पक्षकार, समझौते की तारीख, टिप्पणियों और यह जानकारी कि क्या समझौता, सुलह अधिकारी के हस्तक्षेप के बाद या आपसी बातचीत से हुआ था, सहित ब्यौरे शामिल होंगे,

परन्तु यह कि समझौते पर सुलह अधिकारी के हस्ताक्षर आवश्यक नहीं होंगे, यदि समझौता सुलह प्रक्रिया के बाहर किया गया हो;

परन्तु यह और कि इस नियमावली की कोई बात कर्मकार या कर्मकारों या व्यवसाय संघ और किसी नियोजक के बीच पारस्परिक रूप से सहमत शर्तों पर समझौते को प्रतिबंधित नहीं करेगी और ऐसे समझौते प्रपत्र क के अलावा किसी अन्य प्रारूप में भी हो सकते है। सुलह प्रक्रिया से बाहर किये गये समझौते की प्रति सुलह अधिकारी को अनिवार्य रूप से प्रेषित की जायेगी।

अध्याय–3

द्वि–पक्षीय मंच

कार्य समिति का गठन एवं इससे संबंधित मामले

4. (1) प्रत्येक नियोजक, जिसके संबंध में धारा 3 की उपधारा (1) के अधीन राज्य सरकार द्वारा आदेश किया गया है, नियोजक और कर्मकारों के बीच सौहार्द और अच्छे संबंधों को सुरक्षित और संवर्द्धित करने, सामान्य हित एवं सरोकार के मामलों में टिप्पणी करने के लिए नियमावली में निर्दिष्ट तरीके से तत्काल एक कार्य समिति (इसके पश्चात् इस नियम में समिति के रूप में संदर्भित) का गठन करेगा।

(2) सदस्यों की संख्या

(i) समिति के सदस्यों की संख्या इस प्रकार प्रकार निर्धारित की जाएगी कि औद्योगिक प्रतिष्ठान में और उसके अनुभागों, विभागों में लगे कर्मकारों की विभिन्न श्रेणियों, समूहों और वर्गों को प्रतिनिधित्व मिल सके।

(ii) समिति के सदस्यों की कुल संख्या बीस से अधिक नहीं होगी।

(iii) समिति में कर्मकारों के प्रतिनिधियों की संख्या, उसमें नियोजक के प्रतिनिधियों की संख्या से कम नहीं होगी:

परन्तु यह जिन औद्योगिक प्रतिष्ठान में महिला कर्मकार नियोजित हैं, वहां कार्य समिति में महिला कर्मकारों का पर्याप्त प्रतिनिधित्व होगा और ऐसा प्रतिनिधित्व औद्योगिक प्रतिष्ठान में नियोजित कुल महिला कर्मकारों के अनुपात से कम नहीं होगा।

(3) नियोजक का प्रतिनिधित्व — इस नियम के उपबंधों के अध्यधीन समिति में नियोजक के प्रतिनिधि, नियोजक द्वारा नामित किए जाएंगे और जहां तक संभव हो, वे औद्योगिक प्रतिष्ठान के कार्य से सीधे संपर्क में रहने वाले या उसमें संबद्ध अधिकारी होंगे।

(4) ट्रेड यूनियन के साथ परामर्श — जहां औद्योगिक प्रतिष्ठान के कर्मकार किसी रजिस्ट्रीकृत व्यवसाय संघ या रजिस्ट्रीकृत व्यवसाय संघों के सदस्य हैं, वहां नियोजक ऐसे रजिस्ट्रीकृत व्यवसाय संघ या रजिस्ट्रीकृत व्यवसाय संघों से लिखित रूप से उसे सूचित करने के लिए कहेगा कि–

(क) ऐसे कर्मकारों की संख्या जो रजिस्ट्रीकृत व्यवसाय संघ या व्यवसाय संघों के सदस्य हैं; और

(ख) यदि नियोजक के पास यह विश्वास करने का कारण है कि रजिस्ट्रीकृत व्यवसाय संघ या ट्रेड यूनियनों द्वारा उसे दी गई सूचना मिथ्या है, तो वह ऐसे रजिस्ट्रीकृत व्यवसाय संघ या व्यवसाय संघों को सूचित करने के पश्चात् मामले को उप रजिस्ट्रार/संयुक्त रजिस्ट्रार/अपर रजिस्ट्रार को संदर्भित करेगा, जो पक्षों को सुनने के बाद एक रिपोर्ट श्रम आयुक्त/रजिस्ट्रार को प्रेषित करेगा, जो पक्षों को सुनने के बाद मामले का निर्णय करेगा और उसका निर्णय अंतिम होगा।

(5) कर्मकार प्रतिनिधियों का चयन — उपनियम (4) के अधीन मांगी गई सूचना के प्राप्त होने तक, नियोजक निम्नलिखित रीति से समिति के लिए कर्मकार प्रतिनिधि के चयन की व्यवस्था करेगा, अर्थात्:–

(क) धारा 14 की उपधारा (2) या उपधारा (3) के अधीन वार्ताकारी संघ के मामले में, ऐसी वार्ताकारी संघ समिति के लिए कर्मकार प्रतिनिधियों को नामित करेगा;

(ख) धारा 14 की उपधारा (4) के अधीन वार्ताकारी परिषद के मामले में, गणांकन इस प्रकार किया जाएगा कि वार्ताकारी परिषद में प्रतिनिधित्व करने वाले प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ का समिति में प्रतिनिधित्व उस औद्योगिक प्रतिष्ठान के उन कर्मकारों की संख्या के अनुपात में होगा जो ऐसे व्यवसाय संघ के सदस्य हैं;

(ग) जहां खंड (क) और (ख) में निर्दिष्ट मान्यताप्राप्त कोई वार्ताकारी यूनियन या वार्ताकारी परिषद् नहीं है, वहां औद्योगिक प्रतिष्ठान के कर्मकार आपस में से समिति के कर्मकार प्रतिनिधियों का चुनाव करेंगे:

परन्तु यह कि नियोजक, सूचना प्रौद्योगिकी अनुप्रयोग, ऑनलाइन प्लेटफॉर्म या ऐसे किसी अन्य प्लेटफॉर्म पर चुनाव प्रक्रिया का आयोजन करने के लिए एक इलैक्ट्रॉनिक प्लेटफॉर्म तैयार कर सकता है ताकि यह सुनिश्चित किया जा सके कि इस खण्ड के अंतर्गत समिति के लिए कर्मकारों के प्रतिनिधियों का चुनाव कैसे किया जाएगा:

परन्तु यह और कि जहां रजिस्ट्रीकृत व्यवसाय संघ उपनियम (4) के अधीन मांगी गई सूचना, मांगी जाने की तारीख से एक माह के भीतर प्रस्तुत करने में असफल रहता है, तो ऐसे व्यवसाय संघ को इस नियम के प्रयोजन के लिए, ऐसे माना जाएगा मानो वह अस्तित्व में ही न हो:

परन्तु यह भी कि जहां नियोजक द्वारा उपनियम (4) के अधीन कोई निर्देश दिया गया है, वहां उससे संबंधित कर्मकार के प्रतिनिधि को चुनने की प्रक्रिया, श्रम आयुक्त का निर्णय प्राप्त होने पर की जाएगी।

(छ) निर्वाचन क्षेत्र — यदि नियोजक उचित समझे तो वह निर्देश दे सकता है कि कर्मकार, समूहों, अनुभागों, दुकानों या विभागों के माध्यम से मतदान करेंगे।

(7) चुनाव के लिए उम्मीदवारी की अर्हता

कोई भी कर्मकार, जिसकी आयु उन्नीस वर्ष के कम न हो और जिसने औद्योगिक प्रतिष्ठान में कम से कम एक वर्ष की सेवा की हो, यदि इस निमम में यथा उपबंधित, नामित किया गया हो, तो वह समिति के कर्मकार प्रतिनिधि के रूप में चुनाव के लिए उम्मीदवार हो सकता है:

परन्तु यह कि ऐसी सेवा अर्हता किसी औद्योगिक प्रतिष्ठान के प्रथम चुनाव पर लागू नहीं होगी, जो एक वर्ष से कम समय से अस्तित्व में है।

स्पष्टीकरण– इस उपनियम के प्रयोजन के लिए, कोई कर्मकार जिसने एक ही नियोजक के दो या अधिक औद्योगिक प्रतिष्ठानों में कम से कम एक वर्ष तक निरन्तर सेवा की है, यह समझा जाएगा कि उसने इसमें विनिर्दिष्ट सेवा अर्हता पूरी कर ली है।

(8) मतदाताओं के लिए अर्हता

सभी कर्मकार जिनकी आयु अठारह वर्ष से कम नहीं है और जिन्होंने औद्योगिक प्रतिष्ठान में कम से कम छह महीने की निरंतर सेवा की है, समिति के कर्मकार प्रतिनिधि के चुनाव में मतदान करने के हकदार होंगे।

स्पष्टीकरण– इस उपनियम के प्रयोजनों के लिए, कोई कर्मकार जिसने एक ही नियोजक के दो या अधिक औद्योगिक प्रतिष्ठानों में कम से कम छह माह की निरंतर सेवा की है, यह समझा जाएगा कि उसने इसमें विनिर्दिष्ट सेवा अर्हता पूरी कर ली है।

(9) चुनाव के लिए कार्यक्रम का निर्धारण

(i) नियोजक, समिति के कर्मकार प्रतिनिधियों के रूप में चुनाव के लिए उम्मीदवारों से नामांकन प्राप्त करने की अंतिम तारीख के रूप में तारीख निर्धारित करते समय अन्य अपेक्षित विवरणों के साथ नामांकन दाखिल करने के लिए कम से कम तीन कार्य दिवसों की न्यूनतम समय अवधि प्रदान करेगा।

(ii) खंड (i) में निर्दिष्ट चुनाव कराने के लिए नियोजक द्वारा निर्धारित तारीख नामांकन प्राप्त करने की अंतिम तारीख के तीन दिन से पहले और पंद्रह दिन के बाद नहीं होगी।

(iii) खण्ड (i) के अंतर्गत निर्धारित की गई चुनाव की तारीख, संबंधित कर्मकारों को कम से कम सात दिन पहले अधिसूचित की जाएगी और ऐसी सूचना, जिसमें निर्वाचित होने वाली सीटों की संख्या निर्दिष्ट की जाएगी, औद्योगिक प्रतिष्ठान के नोटिस बोर्ड या इलैक्ट्रॉनिक नोटिस बोर्ड पर प्रदर्शित की जाएगी और कर्मकारों के बीच पर्याप्त प्रचार किया जाएगा।

(10) चुनाव के लिए उम्मीदवारों का नामांकन

(i) समिति में कर्मकार प्रतिनिधि के रूप में निर्वाचन के लिए प्रत्येक नामांकन, नियोजक द्वारा उपलब्ध कराए जाने वाले नामांकन पत्र पर किया जाएगा तथा नियोजक द्वारा उसकी प्रतियां आवश्यकता पड़ने पर कर्मकारों को उपलब्ध कराई जाएंगी।

(ii) खण्ड (i) में निर्दिष्ट प्रत्येक नामांकन पत्र पर उस उम्मीदवार द्वारा हस्ताक्षर किया जाएगा, जिनसे वह संबंधित है और उस समूह, अनुभाग, दुकान या विभाग से संबंधित कम से कम दो अन्य मतदाताओं द्वारा सत्यापित किया जाएगा, जिसका प्रतिनिधित्व निर्वाचन चाहने वाला अभ्यर्थी करता है, और उसे नियोजक को दिया जाएगा।

(11) नामांकन पत्रों की जांच

(i) नामांकन पत्र दाखिल करने के लिए निर्धारित अंतिम दिन के अगले दिन नियोजक द्वारा

उम्मीदवारों और संस्थापन करने वाले व्यक्तियों की उपस्थिति में नामांकन पत्रों की जांच की जाएगी और जो नामांकन वैध नहीं होंगे उन्हें अस्वीकार कर दिया जाएगा।

(ii) किसी नामांकन पत्र को इस उपनियम के अधीन वैध नहीं माना जाएगा, यदि–

(क) नामित उम्मीदवार उपनियम (7) के अधीन उम्मीदवार होने के लिए अपात्र है, या

(ख) उपनियम (10) की अपेक्षाओं का अनुपालन नहीं किया गया है:

परन्तु यह कि जहां कोई उम्मीदवार या संस्थापनकर्ता व्यक्ति, जांच के समय उपस्थित होने में असमर्थ हो, तो वह इस प्रयोजन के लिए विधिवत् प्राधिकृत व्यक्ति को भेज सकेगा।

(12) उम्मीदवार का नाम वापस लेना: कोई भी उम्मीदवार जिनका निर्वाचन के लिए नामांकन स्वीकार कर लिया गया है, नामांकन पत्रों की जांच पूरी होने के 48 घंटे के भीतर अपना नाम वापस ले सकता है।

(13) चुनाव में मतदान

(i) यदि समिति के कर्मकार प्रतिनिधि के रूप में चुनाव के लिये वैध रूप से नामांकित उम्मीदवारों की संख्या सीटों के बराबर है, तो उम्मीदवार को तुरंत विधिवत निर्वाचित घोषित किया जाएगा।

(ii) जहां किसी औद्योगिक प्रतिष्ठान में समिति के कर्मकार प्रतिनिधि के निर्वाचन के लिए वैध रूप से नामांकित उम्मीदवारों की संख्या, उसे आवंटित सीटों की संख्या से अधिक है, वहां मतदान निर्वाचन के लिए नियत दिन पर होगा।

(14) समिति के पदाधिकारी

(i) समिति के पदाधिकारियों में एक अध्यक्ष, एक उपाध्यक्ष और एक सचिव और एक संयुक्त सचिव होगा।

(ii) नियोजक द्वारा समिति का अध्यक्ष समिति के नियोजक के प्रतिनिधियों में से नामित किया जाएगा और वह, जहां तक संभव हो, औद्योगिक प्रतिष्ठान का प्रमुख होगा।

(iii) उपाध्यक्ष का चुनाव कर्मकारों का प्रतिनिधित्व करने वाले समिति सदस्यों द्वारा अपने बीच में किया जाएगा:

परन्तु यह कि उपाध्यक्ष के चुनाव में मत बराबर होने की स्थिति में मामले का निर्णय लॉटरी द्वारा किया जाएगा।

(iv) समिति के सचिव और संयुक्त सचिव का चुनाव प्रत्येक वर्ष किया जाएगा।

(v) समिति, सचिव और संयुक्त सचिव का चुनाव करेगी बशर्ते कि जहां सचिव का चुनाव नियोजकों के प्रतिनिधियों में से किया जाना है, वहीं संयुक्त सचिव का चुनाव कर्मकारों के प्रतिनिधियों में से किया जायेगा और इसके विपरीत:

परन्तु यह कि सचिव या संयुक्त सचिव का पद जैसा भी मामला हो, नियोजक या कर्मकारों के किसी प्रतिनिधि द्वारा लगातार तीन वर्षों तक धारण नहीं किया जाएगा:

परन्तु यह और भी नियोजक के प्रतिनिधि सचिव या संयुक्त सचिव, जैसा मामला हो, के चुनाव में भाग नहीं लेंगे और केवल कर्मचारी के प्रतिनिधि ही सचिव या संयुक्त सचिव के पद के लिए चुनाव में मतदान करने के हकदार होंगे:

परन्तु यह और भी इस उपनियम के अधीन चुनाव में मतों की बराबरी की स्थिति में, मामले का निर्णय लॉटरी द्वारा किया जाएगा।

(15) पदावधि:

(i) आकस्मिक रिक्ति को भरने के लिए चुने गए सदस्य को छोड़कर समिति के सदस्यों की पदावधि तीन वर्ष होगी।

(ii) आकस्मिक रिक्ति को भरने के लिए चुना गया प्रत्येक सदस्य अपने पूर्ववर्ती के कार्यकाल की शेष अवधि के लिए पद धारण करेगा।

(iii) यदि कोई सदस्य समिति से अनुमति प्राप्त किए बिना समिति की लगातार तीन बैठकों में उपस्थित नहीं होता है तो उसकी सदस्यता समाप्त हो जाएगी।

(16) रिक्तियां यदि कर्मकार का प्रतिनिधि, उपनियम (15) के खंड (iii) के अधीन सदस्य नहीं रह जाता है या औद्योगिक प्रतिष्ठान में नियोजित नहीं रहता है या उसके त्यागपत्र, मृत्यु या अन्यथा की स्थिति में, समिति की शेष अवधि के लिए इस नियम के उपबंधों के अनुसार उसके उत्तराधिकारी का चयन उसी समूह से किया जाएगा जिससे पद खाली करने वाला सदस्य संबंधित था।

(17) सहयोजित करने की शक्ति समिति को परामर्शी क्षमता में चर्चा के अधीन किसी मामले का विशेष या विशिष्ट ज्ञान रखने वाले औद्योगिक प्रतिष्ठान में नियोजित व्यक्तियों को सहनियोजित करने का अधिकार होगा और ऐसा सहयोजित सदस्य मत देने का हकदार नहीं होगा और केवल उस अवधि के लिए बैठकों में उपस्थित रहेगा, जिसके दौरान विशेष प्रश्न समिति के समक्ष हो।

(18) बैठकें

(i) समिति आवश्यकतानुसार जितनी बार बैठक कर सकेगी, किन्तु तीन माह में एक बार से कम नहीं होगी।

(ii) समिति अपनी पहली बैठक में अपनी स्वयं की प्रक्रिया विनिश्चित करेगी।

(19) बैठकों आदि के लिए सुविधाएं आदि

(i) नियोजक समिति की बैठकें आयोजित करने के लिए बैठक स्थल उपलब्ध कराएगा तथा समिति और उसके सदस्यों की समिति का कार्य संचालित करने के लिए सभी आवश्यक सुविधाएं भी उपलब्ध कराएगा।

(ii) समिति की बैठक, सामान्यतः किसी भी कार्य दिवस पर संबंधित औद्योगिक प्रतिष्ठान के कार्य अवधि के दौरान होगी तथा बैठक में उपस्थित होने पर कर्मकारों के प्रतिनिधियों को ड्यूटी पर माना जाएगा।

(iii) समिति का सचिव, अध्यक्ष की पूर्व सहमति से, औद्योगिक प्रतिष्ठान के नोटिस बोर्ड पर समिति के कार्यों के संबंध में सूचना लगाएगा।

(20) वार्षिक रिटर्न — नियोजक, व्यावसायिकजन्य सुरक्षा, स्वास्थ्य और कार्य स्थिति संहिता, 2020 (2020 का 37) के अधीन इस संबंध में बनाए गए नियमों में प्रदान की गई एकीकृत वार्षिक रिटर्न के एक भाग के रूप में समिति के गठन और कामकाज का विवरण प्रस्तुत करेगा।

(21) कार्य समिति का विघटन — राज्य सरकार या उसकी ओर से प्राधिकृत अधिकारी ऐसी जांच करने के पश्चात्, जैसा वह उचित समझे, किसी भी समिति को किसी भी समय, लिखित रूप में कारण दर्ज करके एक आदेश द्वारा यह समाधान हो जाने पर भंग कर सकेगा कि समिति का गठन इस नियम के उपबंध के अनुसार नहीं किया गया है या कर्मकारों के प्रतिनिधियों की संख्या के कम से कम दो-तिहाई सदस्य बिना किसी उचित औचित्य के समिति की लगातार तीन बैठकों में उपस्थित होने में विफल रहे हैं या समिति ने किसी अन्य कारण से कार्य करना बंद कर दिया है:

परन्तु यह कि जहां समिति इस उपनियम के अधीन विघटित कर दी जाती है, वहां नियोजक और यदि ऐसा अपेक्षित हो, राज्य सरकार यथास्थिति ऐसे अधिकारी द्वारा इस नियम के अनुसार समिति का पुनर्गठन करने के लिए कदम उठा सकेगी।

धारा 4 की उपधारा 5. (2) के अधीन शिकायत निवारण समिति के लिए नियोजकों और कर्मकारों में से सदस्यों का चयन

(1) बीस या अधिक कर्मकारों को नियोजित करने वाले औद्योगिक प्रतिष्ठान में शिकायत निवारण समिति (जहां इसके पश्चात् इस नियम में शिकायत समिति के रूप में संदर्भित) में नियोजक और श्रमिकों का प्रतिनिधित्व करने वाले सदस्यों की संख्या समान होगी जो दस से अधिक नहीं होगी।

(2) शिकायत समिति में नियोजक के प्रतिनिधियों को नियोजक द्वारा नामित किया जाएगा और जहां तक संभव हो, ऐसे प्रतिनिधि औद्योगिक स्थापन के कामकाज के साथ सीधे संपर्क में होंगे या उससे संबंधित अधिकारी होंगे। औद्योगिक स्थापन के प्रमुख विभागों के प्रमुखों को प्राथमिकता दी जानी चाहिए।

(3) शिकायत समिति में कर्मकार प्रतिनिधियों का चयन निम्नलिखित रीति से किया जाएगा, अर्थात्:–

(क) जहां धारा 14 की उपधारा (2) या उपधारा (3) के अधीन मान्यताप्राप्त संघ है, वहां यथास्थिति, ऐसे मान्यताप्राप्त संघ या मान्यताप्राप्त परिषद्, शिकायत समिति में कर्मकार प्रतिनिधियों को नामित करेगा;

(ख) धारा 14 की उपधारा (4) के अधीन मान्यताप्राप्त परिषद के मामले में, नामांकन इस प्रकार किया जाएगा कि मान्यताप्राप्त परिषद में प्रतिनिधित्व करने वाले प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ का प्रतिनिधित्व, शिकायत समिति में औद्योगिक प्रतिष्ठान के उन कर्मकारों की संख्या के अनुपात में होगा जो ऐसे व्यवसाय संघ के सदस्य हैं;

(ग) जहां खंड (क) और (ख) में निर्दिष्ट मान्यता प्राप्त कोई वार्ताकारी संघ या वार्ताकारी परिषद् नहीं है, वहां औद्योगिक प्रतिष्ठान के कर्मकार आपस में से शिकायत समिति के कर्मकार प्रतिनिधियों का चुनाव करेंगे:

परन्तु यह कि नियोजक इस खण्ड के अंतर्गत सूचना प्रौद्योगिकी एप्लीकेशन, ऑनलाइन प्लेटफॉर्म या ऐसे अन्य प्लेटफॉर्म नियोजित कर सकता है;

परन्तु और यह कि शिकायत समिति में महिला कर्मकारों का पर्याप्त प्रतिनिधित्व होगा और ऐसा प्रतिनिधित्व औद्योगिक प्रतिष्ठान में नियोजित कुल कर्मकारों में महिला कर्मकारों के अनुपात से कम नहीं होगा।

(4) शिकायत समिति के सदस्यों का कार्यकाल तीन वर्ष का होगा।

(5) जहां कोई मान्यता प्राप्त वार्ताकारी संघ या वार्ताकारी परिषद् नहीं है और शिकायत समिति में कर्मकार के प्रतिनिधि के चयन के संबंध में कोई विवाद उत्पन्न होता है, तो मामला श्रम आयुक्त को भेजा जा सकता है, जो पक्षों को सुनने के पश्चात् मामले का निर्णय करेगा, जिसका निर्णय अंतिम होगा।

धारा 4 की उपधारा (5) के अधीन शिकायत निवारण समिति के समक्ष आवेदन

6. (1) कोई भी व्यथित कर्मकार/अधिक शिकायत निवारण समिति के समक्ष अपना नाम, पदनाम, कर्मचारी कोड, विभाग जहां नियुक्त है, सेवा की अवधि वर्षों में, पत्राचार के लिए पता, कर्मकार की श्रेणी, मोबाइल नंबर, शिकायतों का विवरण और जो राहत मांगी गई है के विवरणों के साथ इलैक्ट्रॉनिक या अन्यथा रूप में आवेदन दायर कर सकते हैं।

(2) उपनियम (1) में संदर्भित आवेदन, इलैक्ट्रॉनिक रूप से या किसी और तरीके से भेजा जा सकता है।

(3) उपनियम (1) में संदर्भित आवेदन, ऐसे विवाद का कारण उत्पन्न होने की तारीख से एक वर्ष के भीतर दायर किया जाएगा।

धारा 4 की उपधारा (8) के अधीन शिकायत निवारण समिति के निर्णय के

7. कोई भी कर्मकार/कर्मचारी जो शिकायत निवारण समिति के निर्णय से असंतुष्ट है या जिसकी शिकायत का समाधान आवेदन प्राप्त होने के तीस दिनों के भीतर शिकायत समिति द्वारा नहीं किया जाता है, शिकायत निवारण समिति के निर्णय की तारीख

विरुद्ध सुलह अधिकारी को शिकायत के माध्यम से आवेदन दाखिल करने की रीति

या उस तारीख से जिस पर धारा 4 की उपधारा (5) में निर्दिष्ट अवधि समाप्त हो जाती है, दो सात दिनों की अवधि के भीतर जैसी भी स्थिति हो व्यवसाय संघ के माध्यम से जिसमें वह एक सदस्य है अथवा व्यक्तिगत रूप से संबंधित क्षेत्र के सुलह अधिकारी को रजिस्ट्रीकृत डाक या स्पीड पोस्ट या माध्यम से आवेदन दाखिल कर सकता है:

परन्तु यह कि ऐसे आवेदन को मैनुअल रूप से या रजिस्ट्रीकृत या स्पीड पोस्ट के माध्यम से प्राप्त होने पर, सुलह अधिकारी आवेदन को डिजिटलीकृत करेगा तथा संबंधित कर्मकार के आवेदन की विशिष्टियों को ऑनलाइन प्रणाली में प्रविष्ट करेगा और इसकी सूचना सम्बन्धित कर्मकार को देगा।

अध्याय–4

व्यवसाय संघ

धारा 7 के खण्ड (घ) के अधीन अंशदान

8. व्यवसाय संघ के सदस्यों द्वारा अंशदान, निम्न होगा–

(i) रू0 200.00 प्रति वर्ष प्रति असंगठित क्षेत्र के कर्मकार

(ii) रू0 300.00 प्रति वर्ष प्रति संगठित क्षेत्र के कर्मकार

(iii) अंशदान की राशि राज्य सरकार द्वारा आवश्यकतानुसार समय समय पर सामान्य आदेश के संशोधित की जा सकेगी।

(iv) सदस्यों के अतिरिक्त किसी बाहरी व्यक्ति से इलेक्ट्रॉनिक/डिजिटल माध्यम से रू0 5000.00 तक का वार्षिक चन्दा लिया जा सकेगा। इस हेतु संबंधित व्यक्ति को चन्दा दिये जाने की दिनांक से एक सप्ताह की अवधि में संबंधित संघ के अध्यक्ष अथवा इस हेतु अधिकृत अन्य पदाधिकारी द्वारा रसीद उपलब्ध करायी जाएगी।

धारा 7 के खण्ड (ञ) के अधीन वार्षिक लेखा परीक्षण की रीति

9. (1) उपनियम (2) में दिए गए प्रावधानों के अलावा, व्यवसाय संघ का वार्षिक लेखा परीक्षा भारतीय कम्पनी अधिनियम, 2013 की धारा 141 की उपधारा (1) सहपठित अन्य लेखापरीक्षक द्वारा की जाएगी।

(2) यदि किसी वित्तीय वर्ष के दौरान किसी भी समय व्यवसाय संघ की सदस्यता 2500 से अधिक नहीं हुई है, तो संघ का वार्षिक लेखा परीक्षण–

(क) राजकीय सेवा में कार्यरत स्थानीय लेखा परीक्षक द्वारा;

(ख) किसी ऐसे व्यक्ति जोकि राजकीय लेखा सेवा में लेखा परीक्षक के पद पर कार्यरत रहा हो;

(ग) किसी सहकारी समिति के लेखा परीक्षण हेतु नियुक्त लेखा परीक्षक द्वारा, या

(घ) रजिस्ट्रार सहकारी समिति या इस प्रयोजन से राजकीय मान्यता प्राप्त किसी राज्य सहकारी संगठन के द्वारा किया जा सकेगा।

(3) उपनियम (1) में किसी बात के होते हुए भी कोई भी व्यक्ति जिसे वर्ष के दौरान किसी भी समय निधि के किसी भाग या व्यवसाय संघ की प्रतिभूतियों के कार्य को सौंपा गया हो, उस व्यवसाय संघ के लेखों के परीक्षण करने के लिये अर्ह नहीं होगा।

(4) नियमों के अनुसार नियुक्त लेखा परीक्षक या लेखा परीक्षकों को व्यवसाय संघ की सभी पुस्तकों तक पहुंच दी जाएगी और वार्षिक विवरण का, सम्बन्धित हिसाब किताब और बीजकों के साथ मिलान कर सत्यापन करेगा और उसके उपरांत प्रपत्र–ख में अलग से इंगित करते हुए यह या ये एक विवरणी जिसमें उनके द्वारा त्रुटिपूर्ण विवरण, बिना बीजक के या संहिता के अनुसार न पाये जाने का उल्लेख करते हुए हस्ताक्षर करेंगे। इस विवरणी में निम्नानुसार विवरण दर्शाये जायेंगे :–

(क) प्रत्येक भुगतान जो व्यवसाय संघ के नियमों या संहिता के प्रावधानों के विपरीत हो,

(ख) धनराशि की कमी या हानि जो किसी व्यक्ति की लापरवाही या कदाचार के द्वारा किया जाना प्रतीत हो,

(ग) धनराशि जो किसी व्यक्ति द्वारा खाते में लाई जानी चाहिए थी, लेकिन नहीं लाई गयी।

राजनीतिक निधि का लेखा परीक्षण

10. रजिस्ट्रीकृत व्यवसाय संघ की राजनीतिक निधि का लेखा परीक्षण सामान्य निधि के लेखा परीक्षण के साथ–साथ उसी लेखा परीक्षक या परीक्षकों द्वारा किया जाएगा।

निरीक्षण

11. (1) व्यवसाय संघों की धारित पंजिका का निरीक्षण किसी भी व्यक्ति द्वारा शुल्क रू0 50.00 का भुगतान पर किया जा सकेगा।

(2) रजिस्ट्रार के पास मौजूद किसी भी रजिस्ट्रीकृत व्यवसाय संघ से प्राप्त दस्तावेजों का निरीक्षण उस संघ के किसी भी सदस्य द्वारा प्रत्येक दस्तावेज के लिए पचास रूपये का शुल्क देकर कर सकता है।

(3) रजिस्ट्रार के कार्यालय में किसी भी कार्य दिवस को रजिस्ट्रार द्वारा इस उद्देश्य हेतु निश्चित कार्य के घण्टों के दौरान दस्तावेजों का निरीक्षण किया जा सकेगा।

(4) रजिस्ट्रार द्वारा रजिस्ट्रीकृत व्यवसाय संघ या उसके सदस्य को रू० 2.00 प्रति पृष्ठ के भुगतान पर किसी भी दस्तावेज की सत्यापित प्रति दी जा सकती है।

धारा 9 की उपधारा (1) के अधीन रजिस्ट्रीकरण आवेदन का प्रारूप

12. (1) किसी व्यवसाय संघ के रजिस्ट्रीकरण के लिये प्रत्येक आवेदन, रजिस्ट्रार को प्रपत्र–ग में इलैक्ट्रॉनिक रूप से या अन्यथा किया जायेगा और उसके साथ निम्नलिखित संलग्न किये जायेंगे–

(क) शपथ पत्र द्वारा प्रपत्र–ग की अनुसूची–1 के अनुसार प्रतिवेदक, नाम, आयु, पता एवं व्यवसाय की घोषणा;

(ख) व्यवसाय संघ के नियमों की प्रति के साथ ऐसे नियम अंगीकृत करने वाले व्यवसाय संघ के सदस्यों के द्वारा संकल्प की प्रति। विभिन्न मामलों के लिए नियम बनाने के प्रावधानों की संख्या प्रपत्र–ग की अनुसूची–2 के अनुसार होगी;

(ग) व्यवसाय संघ के सदस्यों द्वारा रजिस्ट्रीकरण के आवेदन करने के लिये प्राधिकृत आवेदकों द्वारा अंगीकृत प्रस्ताव की प्रति;

(घ) व्यवसाय संघ के रजिस्ट्रीकरण के लिए देय शुल्क रू० 2000 अथवा राज्य सरकार द्वारा समय–समय पर सामान्य आदेश से जारी किये जाने वाला संशोधित शुल्क।

(ङ) व्यवसाय संघ के फेडरेशन या व्यवसाय संघों के केन्द्रीय संगठन, होने के मामले में, फेडरेशन या व्यवसाय संघों के केन्द्रीय संगठन की पृथक बैठक में प्रत्येक सदस्य, व्यवसाय संघ के सदस्यों द्वारा अंगीकृत प्रस्ताव जिसमें व्यवसाय संघों के परिसंघ या केन्द्रीय संगठन गठित करने के अंगीकृत प्रस्ताव की प्रति।

स्पष्टीकरण : इस खंड के प्रयोजन के लिये, व्यवसाय संघों के सदस्यों द्वारा अंगीकृत प्रस्ताव, से व्यवसाय संघ के फेडरेशन या व्यवसाय संघों के केन्द्रीय संगठन,

होने के मामले में, प्रत्येक सदस्य व्यवसाय संघ के सदस्यों द्वारा पृथक बैठक में अंगीकृत प्रस्ताव अभिप्रेत है।

(2) जहां व्यवसाय संघ रजिस्ट्रीकरण के आवेदन की दिनांक से एक वर्ष से अधिक से अस्तित्व में है, वहां आवेदन के साथ रजिस्ट्रार को व्यवसाय संघ की परिसम्पत्तियों और दायित्वों का सामान्य विवरण प्रस्तुत किया जाएगा, जो प्रपत्र–ग की अनुसूची–3 में तैयार किया गया हो।

(3) रजिस्ट्रार स्वयं का यह समाधान करने के लिए कि आवेदन, संहिता के उपबंधों के अनुसार है और व्यवसाय संघ इस संहिता के अधीन रजिस्ट्रीकरण का हकदार है, प्रकरण से संबंधित अतिरिक्त सूचना की मांग कर सकता है तथा ऐसी सूचना प्रस्तुत किये जाने तक व्यवसाय संघ को पंजीकृत करने से इंकार कर सकता है :

परन्तु यह कि रजिस्ट्रार, आवेदन प्राप्त होने के 120 दिन के भीतर व्यवसाय संघ का पंजीकरण करने अथवा न करने के संबंध में अंतिम निर्णय लेगा

परन्तु यह और कि प्रस्तावित संघ के आवेदन की जांच हेतु अधिकृत कोई अधिकारी ऐसे अधिकृत होने की दिनांक से 60 दिन के भीतर अपनी आख्या रजिस्ट्रार के समक्ष प्रस्तुत करेगा।

(4) ऐसा नाम, जिसके अन्तर्गत व्यवसाय संघ, संघ का पंजीयन करने का प्रस्ताव करता है, यदि वह किसी विद्यमान पंजीकृत व्यवसाय संघ के समरूप है जिससे कि ऐसा नाम जिससे जन सामान्य या किसी भी व्यवसाय संघ के सदस्यों में भ्रम उत्पन्न होने की सम्भावना हो तो रजिस्ट्रार आवेदन करने वाले व्यक्तियों से व्यवसाय संघ के नाम को परिवर्तित करने को निर्देशित करेगा और जब तक ऐसा परिवर्तन नहीं किया जाता है व्यवसाय संघ का रजिस्ट्रीकरण करने से इंकार कर सकता है।

धारा 9 की उपधारा (2) के अधीन रजिस्ट्रीकरण प्रमाण पत्र

13. (1) जहां, रजिस्ट्रार, किसी व्यवसाय संघ के रजिस्ट्रीकरण का आदेश करता है वहां वह, प्रपत्र–ध में आवेदक व्यवसाय संघ को एक पंजीयन प्रमाण पत्र निर्गत करेगा, जो इस बात का निश्चायक साक्ष्य होगा कि व्यवसाय संघ इस संहिता के अधीन पंजीकृत कर लिया गया है।

(2) यदि रजिस्ट्रार द्वारा व्यवसाय संघ को रजिस्ट्रीकरण प्रमाण पत्र निर्गत किया गया है तो व्यवसाय संघ के नाम और अन्य विवरणों को, इस निमित्त प्रपत्र–ङ में बनाये गये रजिस्टर में प्रविष्ट किया जाएगा।

(3) संहिता के प्रारम्भ होने की दिनांक से पूर्व, व्यवसाय संघ अधिनियम, 1926 (1926 का संख्या 16) के अन्तर्गत रजिस्ट्रीकृत प्रत्येक व्यवसाय संघ, जिसका इस संहिता के प्रारंभ होने की दिनांक के तुरंत पूर्व विधिमान्य रजिस्ट्रीकरण है, को संहिता के अधीन रजिस्ट्रीकृत किया हुआ समझा जायेगा :

परन्तु यह कि ऐसा व्यवसाय संघ, रजिस्ट्रार के पास विवरण उपलब्ध कराएगा कि व्यवसाय संघ की कार्यपालिका का गठन संहिता के अनुसरण में है, जिसके साथ व्यवसाय संघ के नियम संहिता की धारा 7 के अनुसरण में अद्यतन है, और रजिस्ट्रार अपने अभिलेखों में तद्नुसार संशोधित करेगा।

धारा 9 की उपधारा (3) के अधीन व्यवसाय संघ का रजिस्ट्रीकरण

14. रजिस्ट्रार, यह समाधान हो जाने पर कि व्यवसाय संघ द्वारा, रजिस्ट्रीकरण हेतु इस अध्याय में उल्लिखित आवश्यक उपबंधों का अनुपालन कर दिया गया है, आवेदन पत्र के साथ प्राप्त व्यवसाय संघ से संबंधित विवरणों को प्रपत्र–ङ में प्रविष्टि के द्वारा व्यवसाय संघ का रजिस्ट्रीकरण करेगा।

धारा 9 की उपधारा (5) के अन्तर्गत रजिस्ट्रीकरण का निरस्त अथवा वापस लिया जाना

15. व्यवसाय संघ के रजिस्ट्रीकरण प्रमाण पत्र को रजिस्ट्रार द्वारा आवेदन/सूचना प्राप्ति के 45 दिवसों के अंदर वापस लिया या रद्द किया जा सकता है :–

(क) उप/संयुक्त/अपर रजिस्ट्रार से इस पर जांच कराने के पश्चात्, या

(ख) व्यवसाय संघ द्वारा संहिता या उसके अधीन बनाये गये नियमों या अपने गठन या नियमों के उपबंधों के उल्लंघन के संबंध में सूचना प्राप्त होने पर, या

(ग) यदि वह संतुष्ट है कि व्यवसाय संघ के सदस्यों की संख्या कुल कर्मकारों की संख्या के दस प्रतिशत से कम अथवा 100 कर्मकार, जो भी कम हो, है, वापस लिया जा सकेगा या निरस्त किया जा सकेगा:

परन्तु यह कि व्यवसाय संघ के आवेदन से अन्यथा रजिस्ट्रीकरण प्रमाण पत्र रद्द किये जाने से पूर्व व्यवसाय संघ का रजिस्ट्रीकरण प्रमाण पत्र रद्द करने के प्रस्ताव के आधारों को विनिर्दिष्ट करते हुये रजिस्ट्रार द्वारा व्यवसाय संघ को सात दिन से अन्यून की पूर्व सूचना दी जायेगी।

धारा 10 की उपधारा (1) के अन्तर्गत अपील दायर करने की अवधि

16. किसी व्यवसाय संघ का, धारा 9 के अधीन रजिस्ट्रीकरण करने से रजिस्ट्रार के इंकार करने या उक्त धारा की उपधारा (5) के अधीन रजिस्ट्रीकरण प्रमाणपत्र रद्द किये जाने से व्यथित कोई व्यक्ति, ऐसे निर्णय/इन्कार/रजिस्ट्रीकरण निरस्त किये जाने के आदेश की दिनांक से पैंतालीस दिवसों के भीतर क्षेत्राधिकार वाले न्यायाधिकरण को अपील कर सकता है:

परन्तु यह कि यदि अपीलार्थी न्यायाधिकरण को यह समाधान कर देता है कि ऐसा विलंब पर्याप्त कारण से या अपरिहार्य परिस्थितियों के कारण हुआ है, तो न्यायाधिकरण, इस नियम के अधीन अपील करने की परिसीमा के पश्चात् भी अपील ग्रहण कर सकेगा।

धारा 11 के अधीन संसूचनाएं और नोटिस

17. (1) किसी रजिस्ट्रीकृत व्यवसाय संघ को सभी संसूचनायें और नोटिस, रजिस्ट्रार द्वारा रखे गये रजिस्टर में यथाप्रविष्ट व्यवसाय संघ के मुख्यालय के पते पर इलेक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक से भेजे जायेंगे।

(2) यदि व्यवसाय संघ के सदस्यों की संख्या कुल कर्मकारों की संख्या के दस प्रतिशत या एक सौ से कम होती है, तो ऐसे परिवर्तन/तथ्यों के प्रकट होने के 21 दिनों के भीतर इलेक्ट्रॉनिक रूप से अथवा रजिस्ट्रीकृत डाक से व्यवसाय संघ, रजिस्ट्रार को, सूचित करेगा।

(3) व्यवसाय संघ रजिस्ट्रार को रजिस्ट्रीकरण के लिये दिये गये आवेदन, दी गयी विशिष्टियों में और उसके गठन या नियमों, में किसी परिवर्तन की सूचना, ऐसे परिवर्तन प्रभावी होने की दिनांक से पैंतालीस दिवसों के भीतर रजिस्ट्रार को इलेक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक से सूचित करेगा।

औद्योगिक प्रतिष्ठान में कार्यकारी संघ या कार्यकारी परिषद् और नियोजक के बीच वार्ता के मामले

18. धारा 14 की उपधारा (1) के अन्तर्गत कर्मकारों से संबंधित निम्नलिखित मामलों पर औद्योगिक स्थापना के नियोजक द्वारा कार्यकारी संघ या कार्यकारी परिषद् द्वारा वार्ता की जायेगी:—

(i) कर्मकारों के ग्रेडों और वर्गों का श्रेणीकरण;

(ii) औद्योगिक स्थापना में लागू स्थायी आदेशों के अंतर्गत नियोजक द्वारा पारित आदेश;

(iii) वेतन अवधि, महंगाई भत्ता, बोनस, वेतन वृद्धि, परम्परागत छूट या विशेषाधिकार, प्रतिपूरक या अन्य भत्तों सहित कर्मकारों का वेतन;

(iv) कर्मकारों के कार्य घंटे, सप्ताह के विश्राम दिवस, सप्ताह में कार्य दिवसों की संख्या, विश्राम अंतराल, पालियों की कार्यशीलता;

(v) वेतन सहित छुट्टी और अवकाश;

(vi) पदोन्नति एवं स्थानांतरण नीति और अनुशासनिक कार्य विधि;

(vii) कर्मकारों के लिए वर्क्स (आवास) आवंटन विधि;

(viii) सुरक्षा, स्वास्थ्य और कार्यदशाएं और संबंधी मानक;

(ix) सेवा की शर्तों और रोजगार के नियंत्रण से संबंधित अन्य विषय जो पूर्वोक्त खंडों में शामिल नहीं है; और

(x) औद्योगिक स्थापना के नियोजक तथा कार्यकारी संघ या परिषद् यथास्थिति के बीच सहमत अन्य कोई विषय।

धारा 14 की उपधारा 19. (2) के अन्तर्गत कर्मकारों की एक मात्र कार्यकारी संघ के रूप में कर्मकारों की पंजीकृत एकल यूनियन को मान्यता देने का मापदंड

जहां पर किसी औद्योगिक स्थापना में केवल एक रजिस्ट्रीकृत संघ काम कर रही है, जिसके औद्योगिक स्थापना में नियोजित कुल कर्मकारों के कम से कम तीस प्रतिशत सदस्य है, तब ऐसे औद्योगिक स्थापना का नियोजक ऐसी व्यवसाय संघ को कर्मकारों की एक मात्र कार्यकारी संघ के रूप में मान्यता देगा।

धारा 14 की उपधारा (3) और (4) के अन्तर्गत औद्योगिक स्थापना में ट्रेड यूनियनों की सदस्यता के सत्यापन की रीति

20. (1) (क) राज्य सरकार औद्योगिक स्थापना में व्यवसाय संघों की सदस्यता के सत्यापन के लिए एक सत्यापन अधिकारी(इस नियम में इसे इसके बाद सत्यापन अधिकारी के रूप में उल्लेख किया गया है) नियुक्ति करेगी, जिसका औद्योगिक स्थापना में किसी भी व्यवसाय संघ में कोई हित नहीं होगा जिनकी सदस्यता का सत्यापन उसके द्वारा किया जाना है:

परंतु कार्यकारी संघ या कार्यकारी परिषद्, जैसी भी स्थिति हो, की मान्यता देने की प्रक्रिया संहिता के अन्तर्गत नियोजक द्वारा मान्यता प्राप्त कार्यकारी संघ या कार्यकारी परिषद्, जैसा भी मामला हो, की मौजूदा मान्यता अवधि की समय सीमा की समाप्ति के तीन महीने से पहले प्रारंभ की जाएगी।

(ख) सत्यापन अधिकारी सदस्यता सत्यापन के कार्य की मात्रा के आधार पर अपनी सहायता के लिए अतिरिक्त अधिकारियों की सेवा का उपयोग कर सकता है।

(ग) सत्यापन अधिकारी राज्य सरकार द्वारा निर्धारित समय सीमा में औद्योगिक स्थापना में सदस्यता सत्यापन का कार्य करेगा।

(2) औद्योगिक स्थापना का नियोजक उपनियम (1) के अंतर्गत व्यवसाय संघ की सदस्यता के सत्यापन के संबंध में व्यय का वहन और व्यवस्था करेगा।

(3) (क) जो व्यवसाय संघ निम्नलिखित शर्तों को पूरा करेगी, वे औद्योगिक प्रतिष्ठान के नियोजक को वार्ताकारी संघ या वार्ताकारी परिषद्, जैसा भी मामला हो, के प्रतिनिधियों का दर्जा प्रदान करने के लिए आवेदन प्रस्तुत कर सकता है, अर्थात् ऐसी संघ को पारा व्यवसाय संघ अधिनियम, 1926 अथवा औद्योगिक संबंध संहिता, 2020 (2020) का 35) जैसी भी स्थिति हो, के अंतर्गत, वैध पंजीकरण होना चाहिए, और

(ख) व्यवसाय संघ में मान्यता के आवेदन के साथ पंजीकरण प्रमाण-पत्र की प्रति, सदस्यों की सूची की प्रति, सदस्यता विवरण और ट्रेड यूनियन रजिस्ट्रार के पास जमा कराई गई व्यवसाय संघ की नवीनतम वार्षिक विवरणी की प्रति और अन्य कोई संगत प्रलेख, लगाने होंगे जिसे व्यवसाय संघ अपने दावे के समर्थन में प्रस्तुत करना चाहती है।

(4) यदि संहिता के अंतर्गत वार्ताकारी संघ अथवा वार्ताकारी परिषद्, जैसी भी स्थिति हो, गठित की गई है तो औद्योगिक स्थापना का नियोजक, वार्ताकारी संघ अथवा वार्ताकारी परिषद्, जैसी भी स्थिति हो, के पदाधिकारी के कार्यकाल की समाप्ति से पूर्व किन्तु तीन महीने से अधिक नहीं, वार्ताकारी संघ अथवा वार्ताकारी परिषद्, जैसी भी स्थिति हो, के पदाधिकारी के कार्यकाल की समाप्ति से पूर्व कार्रवाई शुरू करेगा:

(5) व्यवसाय संघों की सदस्यता के प्रयोजनार्थ तारीख की गणना औद्योगिक स्थापना के सत्यापन अधिकारी द्वारा निर्धारित की जाएगी

(6) स्थापना का नियोजक व्यवसाय संघों द्वारा प्रस्तुत किए गए प्रलेखों और अभिलेखों को सत्यापन अधिकारी के पास भेजेगा।

(7) प्रलेखों और अभिलेखों के प्राप्त होने पर सत्यापन अधिकारी व्यवसाय संघ के पंजीकरण की प्रतिलिपि और संबंधित मामलों को अभिनिश्चित करने के लिए ट्रेड यूनियन द्वारा प्रस्तुत किए गए अभिलेखों या प्रलेखों की जांच करेगा।

(8) सत्यापन अधिकारी औद्योगिक स्थापना के नियोजक और सभी प्रतिभागी संघों के प्रतिनिधियों के साथ गुप्त मतदान के माध्यम से व्यवसाय संघों की सदस्यता की प्रक्रिया के बारे में निर्णय करने के लिए बैठक आयोजित करेगा।

(9) नियोजक सत्यापन अधिकारी के परामर्श से सूचना प्रौद्योगिकी अनुप्रयोग, ऑनलाइन प्लेटफॉर्म या इसी प्रकार की अन्य प्लेट फार्म पर चुनाव प्रक्रिया कराने के लिए इलैक्ट्रॉनिक प्रक्रिया का उपयोग कर सकता है।

(10) गुप्त मतदान के माध्यम से व्यवसाय संघों की सदस्यता का सत्यापन–

(i) सत्यापन अधिकारी वास्तविक मतदान की तारीख से कम से कम 60 दिन पूर्व निम्नलिखित पर निर्णय करने के लिए औद्योगिक स्थापना में कार्यरत सभी पंजीकृत व्यवसाय संघों के प्रतिनिधियों की एक बैठक आयोजित करेगा–

(क) मतदाता सूची का प्रकाशन;

(ख) मतदान की तारीख, समय, विधि, मतदान का स्थान;

(ग) मतगणना की तारीख, समय और गणना स्थान; और

(घ) गुप्त मतदान से संबंधित अन्य नीति

(ii) सत्यापन अधिकारी बैठक के कार्यवृत्त को तैयार कराएगा और सभी प्रतिभागी व्यवसाय संघों से हस्ताक्षर कराएगा। सभी प्रतिभागी ट्रेड

यूनियनों को इसी बैठक में निशान आवंटित किए जाएंगे। यदि तारीख, समय, मतदान की विधि, मतदान के स्थान, निशान के आवंटन, गणना की तारीख, समय और स्थान तथा इसी प्रकार के विषयों पर बैठक में कोई निर्णय नहीं लिया जाता है तब सत्यापन अधिकारी का निर्णय और वह ऐसे गुप्त मतदान की समय सूची, कार्यक्रम कार्य विधि को प्रकाशित करेगा,

(iii) सभी कर्मकार, जिनके नाम गणना की तारीख में औद्योगिक स्थापना के मस्टर रोल पर लिखे गए हैं, अपना वोट देने के लिए पात्र होंगे,

(iv) औद्योगिक स्थापना के नियोजक द्वारा खंड (iii) में संदर्भित मस्टर रोल में दर्ज श्रमिकों के नामों के आधार पर मतदाता सूची तैयार की जायेगी। इस मतदाता सूची में श्रमिक का नाम, पिता का नाम, पदनाम, नियोजक द्वारा जारी श्रमिक क्रमांक/पहचान पत्र क्रमांक और कार्यस्थल का नाम शामिल होगा। सत्यापन अधिकारी की स्वीकृति प्राप्त करने के बाद नियोजक द्वारा अंतिम मतदाता सूची प्रकाशित की जाएगी और इसे औद्योगिक स्थापना के मुख्य प्रवेश द्वार पर स्थित सूचना बोर्ड और वेबसाइट (यदि कोई हो) पर प्रदर्शित किया जाएगा। ऐसी मतदाता सूची की एक प्रति प्रतिभागी व्यवसाय संघों को दस्ती द्वारा, पंजीकृत डाक द्वारा अथवा इलैक्ट्रौनिक साधन द्वारा भी भेजी जाएगी,

(v) सत्यापन अधिकारी, सूची को अंतिम रूप दिए जाने के दो दिन के भीतर प्रतिभागी ट्रेड यूनियनों के नाम की सूची और उनको आवंटित निशान, औद्योगिक स्थापना के प्रवेश द्वार पर नोटिस बोर्ड और वेबसाइट, यदि है तो, पर प्रदर्शित करेगा:

(vi) मतदान और वोटों की गिनती सत्यापन अधिकारी के पर्यवेक्षण में सत्यापन अधिकारी द्वारा निर्धारित तारीख, समय और स्थान पर की जाएगी और गिनती के दौरान सभी प्रतिभागी व्यवसाय संघों के एजेंटों को उपस्थित रहने की अनुमति होगी;

(vii) वोटों की अंतिम गिनती होने के बाद सत्यापन अधिकारी द्वारा परिणाम घोषित किया जाएगा। परिणाम शीट में चुनाव में सभी प्रतिभागी व्यवसाय संघों के नामों, डाले गए वोटों की कुल संख्या और प्रत्येक व्यवसाय संघ, जिसने चुनाव में भाग लिया है, के पक्ष में डाले गए वोटों की संख्या का उल्लेख होगा।

(11) नियोजक को सत्यापन रिपोर्ट प्रस्तुत करना– सत्यापन अधिकारी औद्योगिक प्रतिष्ठान के नियोजक को परिणाम–शीट के साथ सत्यापन रिपोर्ट प्रस्तुत करेंगे।

वार्ताकारी संघ या वार्ताकारी परिषद् के घटक के रूप में ट्रेड यूनियन को मान्यता प्रदान करना

21. (1) सत्यापन अधिकारी द्वारा प्रस्तुत की गई सत्यापन रिपोर्ट के आधार पर औद्योगिक प्रतिष्ठान के नियोजक, व्यवसाय संघ को संहिता की धारा 14 की उपधारा (3) या उपधारा (4) जैसा भी मामला हो, के प्रावधानों के अनुसार वार्ताकारी संघ या वार्ताकारी परिषद् के घटक के रूप में मान्यता प्रदान करेगा।

(2) वार्ताकारी संघ या वार्ताकारी परिषद के रूप में कोई भी मान्यता, मान्यता या गठन की तारीख से तीन वर्षों तक वैध होगी अथवा ऐसी आगामी किसी अवधि तक, कुल 5 वर्ष से अनधिक अवधि के लिए, जैसा कि नियोजक और वार्ताकारी संघ या वार्ताकारी परिषद् मान्यता दे जैसा भी मामला हो, आपस में निर्णय करें, वैध होगी।

धारा 14 की उपधारा (7) के अन्तर्गत वार्ताकारी संघ या वार्ताकारी परिषद् को औद्योगिक प्रतिष्ठान द्वारा प्रदान की जाने वाली सुविधाएं

22. किसी औद्योगिक प्रतिष्ठान में, जहां एक वार्ताकारी संघ या वार्ताकारी परिषद् है, जैसा भी मामला हो, ऐसे औद्योगिक प्रतिष्ठान के नियोजक द्वारा वार्ताकारी संघ या वार्ताकारी परिषद् जैसा भी मामला हो, को निम्नलिखित सुविधाएं प्रदान करेंगे, अर्थात्:–

(i) वार्ताकार संघ या वार्ताकारी परिषद् जैसा भी मामला हो, की गतिविधियों से संबंधित सूचना प्रदर्शित करने के प्रयोजनार्थ नोटिस बोर्ड;

(ii) औद्योगिक प्रतिष्ठान के नियोजक और वार्ताकारी संघ या वार्ताकारी परिषद् के बीच तय की जाने वाली सूची और एजेंडा के अनुसार, वार्ताकारी संघ या वार्ताकारी परिषद् द्वारा चर्चा आयोजित करने के लिए स्थल और आवश्यक सुविधाएं;

(iii) वार्ताकारी संघ के सदस्यों या वार्ताकारी परिषद् के घटकों, जैसा भी मामला हो, के बीच चर्चा के लिए आयोजन स्थल और आवश्यक सुविधाएं;

(iv) कर्मकारों की कामकाजी परिस्थितियों से संबंधित मामलों का पता लगाने के प्रयोजनार्थ औद्योगिक प्रतिष्ठान में वार्ताकारी संघ या वार्ताकारी परिषद् जैसा भी मामला हो, के पदाधिकारियों के प्रवेश की सुविधा;

(v) औद्योगिक स्थापना का नियोजक कर्मकार की लिखित सहमति के आधार पर व्यवसाय संघों के सदस्यों के अंशदान की कटौती करेगा;

(vi) वार्ताकारी संघ या वार्ताकारी परिषद् के जैसा भी मामला हो, के पदाधिकारी नियोजक और ऐसे पदाधिकारियों के बीच सहमत कार्यक्रम के अनुसार नियोजक के साथ बैठकें आयोजित करते हैं, तब ऐसे नियोजित पदाधिकारियों को काम पर होने के रूप में माना जाएगा; और

(vii) औद्योगिक प्रतिष्ठान, जिसमें तीन सौ या उससे अधिक कर्मकार हैं, के नियोजक वार्ताकारी संघ या वार्ताकारी परिषद् के जैसा भी मामला हो, को उपर्युक्त कार्यालय स्थल के साथ आवश्यक सुविधाएं प्रदान करेगा।

धारा 15 के अन्तर्गत साधारण निधि के उद्देश्य एवं उपयोग

23. (1) किसी रजिस्ट्रीकृत व्यवसाय संघ की साधारण निधियों को ऐसे उद्देश्यों जिनका उल्लेख व्यवसाय संघ के उपविधि में किया गया है और जो संबंधित क्षेत्र के व्यवसाय संघ पर रजिस्ट्रार द्वारा लागू होते हैं, से भिन्न किन्हीं अन्य उद्देश्यों पर खर्च नहीं किया जाएगा।

(2) कोई रजिस्ट्रीकृत व्यवसाय संघ पृथक रूप से उद्ग्रहित किये गये अभिदाय या उक्त निधि में किये गये अभिदाय से संबंधित क्षेत्र के उप/संयुक्त/ अपर रजिस्ट्रार के सत्यापन करने पर एक पृथक निधि का गठन कर सकेगा, जिससे ऐसे उद्देश्य, जैसा कि रजिस्ट्रीकृत व्यवसाय संघ के उपविधि में उल्लिखित है, को अग्रसर करने के लिये उसके सदस्यों के आर्थिक और राजनीतिक हितों के संवर्धन करने के लिये संदाय किया जा सकेगा।

धारा 22 की उपधारा (1) के अधीन न्यायाधिकरण के समक्ष आवेदन दायर किये जाने की रीति

24. (1) रजिस्ट्रीकृत व्यवसाय संघ की दशा में, जहां निम्न प्रकार से विवाद हो–

(क) एक व्यवसाय संघ और दूसरे व्यवसाय संघ के मध्य, या

(ख) एक या अधिक कर्मकार जो व्यवसाय संघ के सदस्य हैं और व्यवसाय संघ के मध्य व्यवसाय संघ के रजिस्ट्रीकरण, प्रशासन या प्रबंध या पदाधिकारियों के निर्वाचन के संबंध में कोई विवाद है, या

(ग) एक या अधिक ऐसे कर्मकार, जिन्हें सदस्य के रूप में प्रवेश से इंकार किया गया है और व्यवसाय संघ के मध्य, या

(घ) जहां कोई विवाद किसी ऐसे व्यवसाय संघ से संबंधित है, जो व्यवसाय संघों का परिसंघ है और इस निमित्त व्यवसाय संघ द्वारा प्राधिकृत प्रतिनिधियों के मध्य है

यहां ऐसे सभी विवादों के प्रकरणों में विवाद से प्रभावित होने वाले पक्षकार/पक्षकारों द्वारा क्षेत्राधिकार रखने वाले न्यायाधिकरण के समक्ष विवाद उत्पन्न होने की दिनांक से अधिकतम एक माह की अवधि के भीतर विवाद के विवरण के साथ प्रपत्र–च में आवेदन किया जा सकेगा।

(2) न्यायाधिकरण से भिन्न किसी सिविल न्यायालय को उपनियम (1) में निर्दिष्ट किसी विवाद के संबंध में कोई वाद या अन्य कार्यवाहियां ग्रहण करने की शक्ति नहीं होगी।

धारा 24 के अधीन नाम परिवर्तन एवं समामेलन

25. (1) कोई रजिस्ट्रीकृत व्यवसाय संघ उपनियम (3) के उपबंधों के अधीन रहते हुए तथा अपने सदस्यों की कुल संख्या के दो तिहाई से अन्यून की सहमति से अपना नाम परिवर्तित कर सकेगा।

(2) कोई दो या अधिक रजिस्ट्रीकृत व्यवसाय संघ समामेलित हो सकेंगे।

(3) नाम परिवर्तन और विलय की प्रत्येक सूचना लिखित में दी जाएगी। नाम परिवर्तन के मामले में, नाम बदलने वाले व्यवसाय संघ के सचिव और सात सदस्यों द्वारा और विलय के मामले में, उसमें शामिल प्रत्येक व्यवसाय संघ के सचिव और सात सदस्यों द्वारा इस पर हस्ताक्षर किये जाएंगे। यह सूचना पंजीकृत डाक अथवा ईमेल के माध्यम से रजिस्ट्रार को भेजी जाएगी। यदि विलयित व्यवसाय संघ का मुख्यालय किसी अन्य राज्य में स्थित है, तो सूचना उस राज्य के रजिस्ट्रार को भेजी जाएगी।

साथ ही नाम परिवर्तन या विलय के संबंध में लिए गए निर्णय पर हस्ताक्षर करने वाले सभी सदस्यों का विवरण भी भेजा जाएगा। यह सूचना निर्णय को अंतिम रूप दिए जाने और संबंधित सदस्यों द्वारा हस्ताक्षर किए जाने के एक माह के भीतर भेजी जाएगी।

(4) यदि प्रस्तावित नाम वही है, जिसमें कोई अन्य विद्यमान व्यवसाय संघ रजिस्ट्रीकृत हुआ है या रजिस्ट्रार की राय में ऐसे नाम के इतना अधिक सदृश है कि उससे जनता का या उन व्यवसाय संघों के किसी के भी सदस्यों को धोखे में पड़ जाना संभाव्य है तो रजिस्ट्रार उस नाम के परिवर्तन को रजिस्ट्रीकृत करने से इंकार कर देगा।

(5) उपनियम (4) में यथा उपबंधित के सिवाय रजिस्ट्रार, यदि उसका यह समाधान हो जाता है कि नाम परिवर्तन के बारे में संहिता/नियमावली के उपबंधों का अनुपालन हो गया है, तो वह नाम का परिवर्तन धारा 9 की उपधारा (3) में निर्दिष्ट रजिस्टर में रजिस्ट्रीकृत करेगा और नाम का परिवर्तन ऐसे रजिस्ट्रीकरण की तारीख से प्रभावी होगा।

(6) जिस राज्य में सम्मेलित व्यवसाय संघ का प्रधान कार्यालय स्थित है, उसके रजिस्ट्रार का समाधान हो जाता है कि सम्मेलन के बारे में संहिता/ नियमावली के उपबंधों का अनुपालन हो गया है और जो व्यवसाय संघ तद्द्वारा बना है वह धारा 9 के अधीन रजिस्ट्रीकृत किए जाने का हकदार है, उस व्यवसाय संघ को रजिस्ट्रीकृत करेगा और सम्मेलन ऐसे रजिस्ट्रीकरण की तारीख से प्रभावी होगा।

(7) रजिस्ट्रीकृत व्यवसाय संघ के नाम में किया गया परिवर्तन, व्यवसाय संघ के किन्हीं अधिकारों के दायित्वों पर प्रभाव नहीं डालेगा और न ही उस व्यवसाय संघ द्वारा या उसके विरुद्ध की गयी किसी विधिक कार्यवाही को ही त्रुटिपूर्ण बनाएगी और कोई भी ऐसी विधिक कार्यवाही जो उसके पूर्व नाम में उसके द्वारा या उसके विरुद्ध चालू रखी जा सकती थी या प्रारंभ की जा सकती थी, उसके नए नाम में उसके द्वारा या उसके विरुद्ध चालू रखी जा सकेगी या प्रारंभ की जा सकेगी।

(ङ) दो या अधिक रजिस्ट्रीकृत व्यवसाय संघों का समामेलन ऐसे व्यवसाय संघों में से किसी के अधिकार पर या उनमें से किसी के लेनदार के अधिकार पर प्रतिकूल प्रभाव नहीं डालेगा।

धारा 25 की उपधारा 26. (1) जब कोई रजिस्ट्रीकृत व्यवसाय संघ विघटित किया जाता है तब विघटन की सूचना जिस पर उस व्यवसाय संघ के सात सदस्यों और उसके सचिव के हस्ताक्षर होंगे विघटन के चौदह दिन के भीतर रजिस्ट्रार को भेजी जाएगी और यदि उसका यह समाधान हो जाता है कि विघटन व्यवसाय संघ के नियमों के अनुसार किया गया है तो वह सूचना उसके द्वारा रजिस्ट्रीकृत की जाएगी और विघटन ऐसे रजिस्ट्रीकरण की तारीख से प्रभावी होगा।

(2) जहां किसी रजिस्ट्रीकृत व्यवसाय संघ का विघटन रजिस्ट्रीकृत हो गया है और व्यवसाय संघ के नियम विघटन पर व्यवसाय संघ की निधियों के वितरण के लिए उपबंध नहीं करते हैं, वहां रजिस्ट्रार उन निधियों को सदस्यों के बीच, सदस्यों द्वारा सदस्यता की अवधि में जमा किये गये अंशदान के अनुपात में वितरित करेगा।

धारा 26 की उपधारा 27. (1) प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ–

(क) रजिस्ट्रार को प्रपत्र–ख में वार्षिक विवरणी, जिसमें व्यवसाय संघ द्वारा 31 दिसम्बर को समाप्त होने वाले वर्ष के दौरान प्राप्ति एवं व्यय ऐसी रीति से तथा ऐसे व्यक्ति जैसा विहित किया जाय के द्वारा संप्रेक्षित विवरण एवं 31 दिसम्बर को विद्यमान परिसम्पत्तियों और देनदारियों का विवरण दिया गया हो, अगले वर्ष की 31 जनवरी या इससे पूर्व तक प्रेषित करेगा।

(ख) खण्ड (क) में निर्दिष्ट साधारण विवरण के साथ रजिस्ट्रार को एक ऐसा विवरण, जिसमें उस वर्ष के दौरान जिसके प्रति ऐसा साधारण विवरण निर्दिष्ट है, व्यवसाय संघ द्वारा किए गए पदाधिकारियों के परिवर्तन दर्शित की जाएंगी, के साथ व्यवसाय संघ के नियमों की एक प्रतिलिपि भी उक्त रजिस्ट्रार को, जो प्रेषित करने की तारीख तक शुद्ध की हुई होगी, अग्रेषित करेगी।

(2) औद्योगिक संबंध संहिता, 2020 की धारा 99 के अन्तर्गत किसी व्यवसाय संघ के नियमों में परिवर्तन के लिए किए गए आवेदन की प्रति प्राप्त होने पर, रजिस्ट्रार, यदि उसे यह मानने का कोई कारण न हो कि परिवर्तन इन नियमों में निर्धारित तरीके से नहीं किया गया है, तो इस उद्देश्य के लिये रखे गए रजिस्टर में परिवर्तन को दर्ज करेगा और व्यवसाय संघ के सचिव को इसकी सूचना देगा। नियमों में परिवर्तन के लिए पंजीकरण के लिये देय शुल्क एक साथ लिए गए प्रत्येक परिवर्तन के लिए 200 रुपये होगा।

(3) रजिस्ट्रार या उसके द्वारा साधारण या विशेष आदेश द्वारा प्राधिकृत कोई अधिकारी उपनियम (1) के खण्ड (ग) तथा (घ) तथा उपनियम (2) में निर्दिष्ट दस्तावेजों की परीक्षा करने के प्रयोजन के लिए, व्यवसाय संघ से सम्बन्धित रजिस्ट्रीकरण प्रमाण पत्र, लेखा बहियों, रजिस्टरों और अन्य दस्तावेजों का निरीक्षण उसके रजिस्ट्रीकरण कार्यालय में सभी सुविधायुक्त समयों पर कर सकेगा।

अध्याय–5

स्थायी आदेश

धारा 30 कि सपभारा (3) के अधीन प्रमाणक अधिकारी को सूचना अग्रेषित करने की रीति

28. (1) यदि नियोजक अपने औद्योगिक स्थापन या उपक्रम से संबंधित मामलों के संबंध में धारा 29 में निर्दिष्ट केंद्र सरकार के आदर्श स्थायी आदेशों को अपनाता है, तो वह संबंधित प्रमाणक अधिकारी को औद्योगिक स्थापन/उपक्रम के प्रारंभ होने की दिनांक से छः माह के भीतर इलैक्ट्रॉनिक या रजिस्ट्रीकृत डाक से उस विशिष्ट दिनांक से जिसमें से आदर्श स्थाई आदेश के प्रावधान जो उसकी स्थापना हेतु प्रासंगिक है, को अपनाया गया है, सूचित करेगा।

(2) उपनियम (1) में जानकारी प्राप्त होने पर, ऐसे प्राप्त होने से 30 दिनों की अवधि के भीतर प्रमाणकर्ता अधिकारी नियोजक को संलिखित प्रासंगिक प्रावधानों को सम्मिलित करने हेतु निर्देशित करेगा तथा मॉडल के उन प्रासंगिक प्रावधानों को इंगित करेगा जिन्हें अपनाया नहीं गया है तथा नियोजक को इस संबंध की निर्देश की प्राप्ति की तारीख से तीस दिनों की अवधि के भीतर जोड़, विलोपन या संशोधन के माध्यम से स्थायी आदेश में संशोधन करने का निर्देश भी देगा

तथा केवल उन प्रावधानों के संबंध में अनुपालन रिपोर्ट मांगेगा जो प्रमाणक अधिकारी को आदेश संशोधित करने हेतु चाहिए तथा इस तरह की रिपोर्ट को नियोजक द्वारा इलेक्ट्रॉनिक या रजिस्ट्रीकृत डाक से भेजा जाएगा।

(3) यदि उपनियम (1) और (2) में निर्दिष्ट जानकारी की प्राप्ति के तीस दिनों की अवधि के भीतर प्रमाणक अधिकारी द्वारा कोई टिप्पणी नहीं की जाती है, तो, स्थायी आदेश को नियोजक द्वारा अपनाया गया माना जाएगा।

प्रमाणकर्ता अधिकारी द्वारा नोटिस जारी करने हेतु औद्योगिक प्रतिष्ठान के श्रमिकों के प्रतिनिधियों के चुनाव की रीति जहाँ धारा 30 के उपधारा (6) के खण्ड (ii) के अधीन कोई व्यवसाय संघ परिचालन में नहीं है

29. जहाँ धारा 30 की उपधारा (6) के खंड (ii) में उल्लिखित ऐसा कोई व्यवसाय संघ नहीं है, तो, प्रमाणकर्ता अधिकारी चार प्रतिनिधियों को चुने जाने के लिए निरीक्षक–सह–सुकरकर्ता को निर्देशित करेगा, जिसे वह ऐसे चुने जाने पर आपत्तियों हेतु स्थायी आदेश की एक प्रति प्रतिनिधियों को भेजेगा, यदि कोई है जिसे कर्मचारी स्थायी आदेश के मसौदे में बनाने की इच्छा करे, नोटिस प्राप्त होने के पंद्रह दिनों के भीतर प्रस्तुत करना होगा।

प्रमाणित स्थायी आदेशों के प्रमाणीकरण की रीति

30. धारा 30 की उपधारा (8) के अनुसरण में प्रमाणित स्थायी आदेश, स्थायी आदेशों में संशोधन, या धारा 33 की उपधारा (1) के अधीन अपीलीय प्राधिकारी के आदेश की प्रतिया जैसा भी मामला हो, प्रमाणनकर्ता अधिकारी या अपीलीय प्राधिकारी द्वारा प्रमाणित की जाएंगी, तथा सभी संबंधितों को इलेक्ट्रॉनिक या रजिस्ट्रीकृत/स्पीड पोस्ट से एक सप्ताह के भीतर भेजा जाएगा, परंतु धारा 30 की उपधारा (3) के अधीन डीम्ड प्रमाणीकरण के मामले में प्रमाणन की कोई आवश्यकता नहीं होगी तथा ऐसे मामले में जहां नियोजक ने मॉडल स्थायी आदेश को अपनाने की प्रमाणित किया गया हो।

धारा 30 की उपधारा (6) के अधीन प्रारूप स्थायी आदेशों के साथ दिया जाने वाला विवरण

31. (1) प्रारूप स्थायी आदेश में विवरण जैसे कि औद्योगिक स्थापन या संबंधित उपक्रम का नाम, पता, ई–मेल पता, संपर्क नंबर व उसमें काम करने वाले श्रमिकों का विवरण तथा व्यवसाय संघ का विवरण जिससे ऐसे श्रमिक संबंधित हैं। तथा

(2) विद्यमान प्रारूप स्थायी आदेशों में संशोधन में ऐसे स्थायी आदेशों के विवरण शामिल होंगे जिन्हें एक सारणीबद्ध विवरण के साथ संशोधित करने का प्रस्ताव है, जिसमें स्थायी आदेश के प्रत्येक प्रासंगिक प्रावधान का विवरण, प्रस्तावित संशोधन का विवरण व उसके

कारण शामिल है तथा ऐसे कथन पर औद्योगिक स्थापन या उपक्रम द्वारा अधिकृत व्यक्ति द्वारा हस्ताक्षर किए जाएंगे।

धारा 30 की उपधारा (10) के अधीन नियोजकों के समूह द्वारा सामान प्रतिष्ठान में प्रारूप स्थायी आदेश प्रस्तुत करने की शर्तें

32. समान औद्योगिक प्रतिष्ठान में लगे नियोजक के समूह के मामलों में धारा 30 के अधीन तथा संबंधित व्यवसाय संघ या कर्मकारों के प्रतिनिधियों, यदि वहां कोई संघ नहीं है, से परामर्श के बाद उपधाराओं (1), (5), (6), (8) और (9) में निर्दिष्ट कार्यवाही के उद्देश्य के लिए एक संयुक्त स्थायी आदेश प्रारूप प्रस्तुत कर सकते हैं

धारा 32 के अधीन अपीलीय प्राधिकारी द्वारा अपील के निराकरण की रीति–

33. (1) नियोजक या व्यवसाय संघ या कर्मकार, जो अपील करने का इच्छुक है, धारा 30 की उपधारा (5) के अधीन दिए गए प्रमाणकर्ता अधिकारी के आदेश के विरुद्ध आदेश की प्राप्ति के साठ दिनों के भीतर लिखितबद्ध रूप में अपील का एक ज्ञापन जिसमें स्थायी आदेशों के ऐसे प्रावधान जिन्हें परिवर्तित या संशोधित या हटाए जाने या जोड़े जाने की आवश्यकता है तथा कारणों को अपीलीय प्राधिकारी को इलैक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक/स्पीड पोस्ट द्वारा भेजा जाएगा।

(2) अपीलीय प्राधिकारी अपील की सुनवाई हेतु एक तारीख निश्चित करेगा तथा इसके लिए निम्नांकित को सूचना देने हेतु निर्देश देगा–

(क) जहां अपील नियोजक या कर्मकार द्वारा दायर की जाती है, वहां औद्योगिक स्थापन के कर्मकारों के व्यवसाय संघ, नियोजक को, अथवा संबंधित कर्मकारों के प्रतिनिधि, जैसा भी मामला हो, को;

(ख) जहां अपील एक व्यवसाय संघ द्वारा दायर की जाती है, तो नियोजक तथा औद्योगिक स्थापन के कर्मकारों के अन्य व्यवसाय संघों को, तथा

(ग) जहां अपील कर्मकारों के प्रतिनिधि द्वारा दायर की जाती है, नियोजक को एवं अन्य ऐसे कर्मकारों को जिन्हें अपील प्राधिकारी प्रथाकार के रूप में सम्मिलित करें।

(3) अपीलार्थी प्रत्येक उत्तरदाता को अपील के ज्ञापन की एक प्रति प्रस्तुत करेगा।

(4) अपीलीय प्राधिकारी कार्यवाही के किसी भी दौर पर, किसी भी ऐसे साक्ष्य की मांग कर सकता है, जो अपील के निराकरण हेतु आवश्यक है।

(5) अपील की सुनवाई हेतु उपनियम (2) के अधीन नियत तारीख को, अपीलीय प्राधिकारी साक्ष्यों को पत्रावली का भाग बनाने के उपरांत और पक्षकारों को सुनने के पश्चात् अपील प्राप्त होने के साठ दिवसों के भीतर आदेश पारित करेगा।

(6) अपीलीय प्राधिकारी उपनियम (5) के अन्तर्गत पारित आदेश को सात दिवसों के भीतर उसकी प्रति प्रमाणनकर्ता अधिकारी, नियोजक और व्यवसाय संघ या कर्मकारों के नियत प्रतिनिधियों को प्रेषित करेगा।

(7) इस अध्याय के उद्देश्य के लिए प्रमाणनकर्ता अधिकारी एवं अपीलीय अधिकारी राज्य सरकार द्वारा अधिसूचना के माध्यम से नामित किये जाएंगे।

धारा 33 के अधीन स्थायी आदेश को बनाए रखने की भाषा एवं रीति

34. (1) प्रमाणकर्ता अधिकारी द्वारा अंतिम रूप से प्रमाणित स्थायी आदेश धारा 30 के अधीन डीम्ड प्रमाणीकरण के मामले को छोड़कर इलैक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक/स्पीड पोस्ट द्वारा भेजा जाएगा।

(2) अंतिम रूप से प्रमाणित या प्रमाणित माने गये या अंगीकृत मॉडल स्थायी आदेश के रूप में स्थायी आदेश की भाषा नियोजक द्वारा हिंदी तथा अंग्रेजी भाषा में रखा जाएगा और स्थापन के किसी कर्मकार द्वारा आवेदन किए जाने पर, आवेदन प्राप्ति के एक सप्ताह के भीतर रू0 2.00 प्रति पेज के भुगतान पर उसे उपलब्ध कराया जाएगा।

धारा 34 के अधीन स्थायी आदेश की अंतिम प्रमाणित प्रति हेतु रजिस्टर एवं प्रमाणित प्रति उपलब्ध कराने के लिए शुल्क

35. (1) प्रमाणकर्ता अधिकारी इलैक्ट्रॉनिक रूप से या हस्तलिखित एक रजिस्टर प्रपत्र-ज पर बनाए रखेगा, जो परस्पर सभी औद्योगिक स्थापनों के स्थापित किये गये स्थायी आदेश या प्रमाणित माने गये या अंगीकृत आदर्श स्थायी आदेशों का है, जिसमें अन्य के साथ-साथ निम्नलिखित विवरण होगा:-

(क) प्रत्येक स्थायी आदेश को दी गयी विशिष्ट संख्या;

(ख) औद्योगिक स्थापन का नाम;

(ग) औद्योगिक स्थापन की प्रकृति;

(घ) प्रत्येक स्थापन अथवा उपक्रम द्वारा प्रमाणन की दिनांक अथवा मानद प्रमाणन की दिनांक अथवा आदर्श स्थायी आदेश को अंगीकृत करने की दिनांक;

(ङ) औद्योगिक स्थापन के संचालन का क्षेत्र; तथा

(घ) स्थायी आदेशों को पुनः प्राप्त करने के लिए प्रासंगिक एवं सहायक कोई अन्य विवरण तथा ऐसे सभी स्थायी आदेशों के डेटा बेस का निर्माण करना।

(2) प्रमाणित करने वाला अधिकारी, आवेदन करने वाले प्रत्येक व्यक्ति को प्रमाणित आदेशों अथवा मानक प्रमाणित स्थायी आदेशों, जैसा भी मामला हो, की प्रति पृष्ठ दो रुपये की दर से भुगतान करने पर उसकी प्रति उपलब्ध कराएगा। इस प्रयोजनार्थ भुगतान इलैक्ट्रॉनिक माध्यम से भी किया जा सकता है।

धारा 35 के अन्तर्गत स्थायी आदेश के संशोधन हेतु आवेदन

36. (1) धारा 35 की उपधारा (2) के अन्तर्गत विद्यमान स्थायी आदेश में संशोधन के लिए आवेदन प्रपत्र-अ में सारणीबद्ध सूचिका, जिसमें प्रवृत्त स्थायी आदेशों के प्रासंगिक उपबंधों का विवरण तथा उनमें प्रस्तावित संशोधन, उनके कारण तथा इसके अन्तर्गत कार्यरत रजिस्ट्रीकृत व्यवसाय संघों के विवरण सहित, संशोधन के लिए प्रस्तावित ऐसे स्थायी आदेश के विवरण शामिल होंगे तथा ऐसे विवरण पर औद्योगिक स्थापन अथवा उपक्रम द्वारा प्राधिकृत व्यक्ति द्वारा हस्ताक्षर किये जाएंगे, इलैक्ट्रॉनिक या रजिस्ट्रीकृत डाक/स्पीड पोस्ट से भेजा जाएगा। प्रमाणकर्ता अधिकारी स्थायी आदेशों के संशोधन हेतु आवेदन प्राप्ति के सात दिवसों के भीतर आदेश निर्गत करेगा।

(2) जहां संशोधन हेतु कोई आवेदन कर्मकार से प्राप्त होता है, प्रमाणकर्ता अधिकारी औद्योगिक स्थापन के जहां कर्मकारों के एक से अधिक व्यवसाय संघ विद्यमान हैं, प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ के एक प्रतिनिधि को सम्मिलित करेगा। यदि कोई रजिस्ट्रीकृत व्यवसाय संघ नहीं है, तो नियम 37 में दी गयी प्रक्रिया का अनुसरण कर कर्मकार के प्रतिनिधि का चुनाव किया जाएगा।

(3) कर्मकार से संशोधन हेतु आवेदन प्राप्त होने पर इसे संघ के प्रतिनिधि या चुने गये प्रतिनिधि, जैसा भी मामला हो, को सच जानने के लिए भेजा जाएगा।

(4) संशोधन के वांछित प्रस्तावन की कार्यवाही केवल इस सीमा तक कि संशोधन व्यवसाय संघ के प्रतिनिधियों या चुने गये प्रतिनिधियों, जैसा भी मामला हो, के द्वारा अनुमोदित है और ऐसा व्यवसाय संघ या प्रतिनिधि प्रस्तावन की कार्यवाही के दौरान प्रतिनिधित्व कर रहे हों, संशोधन स्वीकार किया जाएगा।

(5) संहिता और नियम के अन्तर्गत सभी नोटिस, अभिसूचनाएं और आदेश सम्बन्धित पक्षकारों को रजिस्ट्रीकृत पावती पत्र या इलैक्ट्रॉनिक मेल या विशेष सन्देश वाहक द्वारा भेजे जाएंगे। बाद के मामले में अन्य संबंधित पक्ष या सम्बन्धित पक्ष की ओर से पहुंच की प्राप्ति, प्राप्तकर्ता से लिखित पावती ली जाएगी।

अध्याय–6

परिवर्तन की सूचना

धारा 40 के खण्ड (j) के अधीन प्रस्तावित परिवर्तन हेतु नोटिस देने की रीति

37. (1) कोई भी नियोजक इस संहिता की तीसरी अनुसूची में विनिर्दिष्ट किसी भी मामले के संबंध में किसी भी कर्मकार हेतु लागू सेवा की शर्तों में कोई बदलाव करना चाहता है, तो इस तरह के परिवर्तन से प्रभावित ऐसे कर्मकार को प्रपत्र–अ में नोटिस देगा:

परन्तु प्रस्तावित परिवर्तन का नोटिस दिये जाने से पूर्व नियोजक द्वारा प्रभावित होने वाले कर्मकारों के साथ कम से कम एक बैठक आहूत की जायेगी गयी, जिसमें प्रस्तावित परिवर्तन के संबंध में कर्मकारों को विस्तृत रूप से समझाया जायेगा।

(2) उपनियम (1) में सन्दर्भित नोटिस को नियोजक द्वारा औद्योगिक स्थापन के मुख्य प्रवेश द्वार के सदृश्य स्थान पर हिन्दी तथा अंग्रेजी में नोटिस बोर्ड तथा औद्योगिक स्थापन से संबंधित प्रबंधक के कार्यालय में लगाया जायेगा:

परन्तु जहां औद्योगिक स्थापन से संबंधित एक रजिस्ट्रीकृत व्यवसाय संघ या एक से अधिक रजिस्ट्रीकृत व्यवसाय संघ है, ऐसे नोटिस की प्रति भी ऐसे व्यवसाय संघ के सचिव या ऐसे संघों के प्रत्येक सचिवों को भी दी जाएगी।

अध्याय–7

मध्यस्थता हेतु विवादों का संदर्भन

धारा 42 की उपधारा (3) के अधीन मध्यस्थम करार का प्ररूप एवं उसकी रीति

38. (1) जहां नियोजक और कर्मकार विवाद को मध्यस्थम हेतु संदर्भित करने के लिए सहमत हो जाते हैं, वहां मध्यस्थम करार प्रपत्र–ब में होगा तथा करार के पक्षों द्वारा इस पर हस्ताक्षर किये जाएंगे। करार के साथ मध्यस्थम अथवा मध्यस्थता की लिखित अथवा इलैक्ट्रॉनिक सहमति होगी।

(2) उपनियम (1) में सन्दर्भित माध्यस्थम करार पर हस्ताक्षर किए जाएंगे:–

(i) नियोजक के मामले में, नियोजक द्वारा स्वयं, या जब नियोजक एक निगमित कंपनी या अन्य नियमित निकाय कॉर्पोरेट है, वहां ऐसे प्रयोजन हेतु प्राधिकृत निगम के अभिकर्ता, प्रबन्धक अथवा अन्य अधिकारियों द्वारा;

(ii) कर्मकारों के मामले में, इस संबंध में प्राधिकृत रजिस्ट्रीकृत व्यवसाय संघ के अधिकारी द्वारा अथवा ऐसे प्रयोजन हेतु आयोजित संबंधित कर्मकारों की बैठक में इस संबंध में प्राधिकृत कर्मकारों के तीन प्रतिनिधियों द्वारा;

(iii) व्यक्तिगत कर्मकार के मामले में, कर्मकार द्वारा स्वयं या रजिस्ट्रीकृत व्यवसाय संघ के अधिकारी द्वारा, जिसका कर्मकार सदस्य है;

स्पष्टीकरण– इस नियम में 'अधिकारी' से निम्नलिखित में से कोई अधिकारी अभिप्रेत है: –

(क) अध्यक्ष;
(ख) उपाध्यक्ष;
(ग) सचिव (महासचिव सहित);
(घ) संयुक्त सचिव; तथा
(ङ) व्यवसाय संघ का कोई अन्य अधिकारी, जो संघ के अध्यक्ष और सचिव द्वारा इस संबंध में प्राधिकृत है।

धारा 42 की उपधारा (5) के अधीन अधिसूचना जारी करने की रीति

39. जहां किसी औद्योगिक विवाद को माध्यस्थम् हेतु संदर्भित किया गया है एवं राज्य सरकार का यह समाधान हो गया है कि संदर्भ करने वाले सक्षम प्रत्येक पक्ष के बहुमत का प्रतिनिधित्व करते हैं, वह आधिकारिक गजट में इस आशय की अधिसूचना प्रकाशित करेगी। जहां इस प्रकार की अधिसूचना जारी की जाती है एवं नियोजकों और ऐसे कर्मकारों जो माध्यस्थम् करार के पक्षकार नहीं हैं, किन्तु विवाद से संबंध रखते हैं, द्वारा माध्यस्थम् के समक्ष अपना पक्ष रखने की इच्छुक है वह अधिसूचना जारी होने के अधिकतम 45 दिनों की अवधि में इलैक्ट्रॉनिक/रजिस्टर्ड /स्पीड डाक से आवेदन करेंगे।

श्रमिकों के प्रतिनिधियों के चुनाव की रीति जहां कोई व्यवसाय संघ नहीं है

40. जहां व्यवसाय संघ नहीं है, श्रमिकों के प्रतिनिधि को धारा 42 के उपधारा (5) के खण्ड (i) के उपखण्ड (ग) के अनुसरण में माध्यस्थम् या माध्यस्थमों के समक्ष उनका मामला प्रस्तुत करने हेतु कर्मकारों के प्रतिनिधियों का चयन सम्बन्धित कर्मकारों के बहुमत द्वारा प्रपत्र–ए में धारित प्रस्ताव द्वारा किया जाएगा जिसमें

उन्हें मामले के प्रतिनिधित्व करने के लिए प्राधिकृत किया जाएगा। ऐसे कर्मकार, प्रतिनिधियों के क्रियाकलापों द्वारा बाध्य होंगे जिन्हें यथास्थिति या यथास्थितियों, जैसा भी मामला हो, के सम्मुख प्रतिनिधित्व करने हेतु प्राधिकृत किया गया हो।

अध्याय–6

औद्योगिक विवादों के निपटान हेतु तन्त्र

धारा 53 की उपधारा (1) के अधीन सुलह कार्यवाही करने की रीति, उपधारा (4) के अधीन पूर्ण रिपोर्ट, तथा उपधारा (5) के अधीन आवेदन का प्रपत्र एवं इस आवेदन पर निर्णय लेने की रीति

41. (1) (1) जहां कोई औद्योगिक विवाद विद्यमान हो या जहां विवाद होने की आशंका हो या धारा 62 के अन्तर्गत नोटिस दिया गया हो, वहां सुलह अधिकारी ऐसे आवेदन की प्राप्ति के 15 दिन की अवधि के भीतर आवेदन की जांच करेगा और यदि वह उचित समझे तो संबंधित पक्षों को नोटिस जारी करेगा जिसमें यह घोषित किया जाएगा कि वह सुलह संबंधी कार्यवाही आरम्भ करने का इरादा रखता है।

(2) पहली बैठक में नियोजक या कर्मकार के प्रतिनिधि कथित विवाद के मामले से संबंधित अपने-अपने विवरण प्रस्तुत करेंगे।

(3) सुलह अधिकारी द्वारा विवाद के निपटान के प्रयोजनार्थ सुलह संबंधी कार्य किए जाएंगे और ऐसे सभी कार्य कर सकता है जिन्हें वह पक्षों को एक उचित और सौहार्दपूर्ण समझौते के लिए उपयुक्त समझता है।

(4)(i) किसी औद्योगिक विवाद पर सुलह अधिकारी के समक्ष संचालन कार्यवाही या न्यायाधिकरण/अधिकरण के समक्ष औद्योगिक विवाद की कार्यवाही लम्बित रहने के दौरान कोई नियोजक :–

(क) विवाद से जुड़े संबंधित मामले में ऐसे विवाद से संबंधित कर्मकारों पर ऐसी कार्यवाही प्रारम्भ होने से ठीक पूर्व लागू सेवा शर्तों में प्रतिकूल परिवर्तन नहीं करेगा,

(ख) प्राधिकारी जिसके समक्ष कार्यवाही लम्बित हो, की लिखित अनुमति को छोड़कर विवाद से सम्बन्धित कर्मकार को किसी कदाचार के कारण बर्खास्तगी या किसी अन्य कारण से हटाने या डिस्चार्ज करने की कार्यवाही नहीं करेगा।

(ii) ऐसी कार्यवाही लंबित रहने के दौरान, ऐसे विवादों पर, नियोजक कर्मकारों पर लागू स्थायी आदेशों के अनुसार कार्यवाही कर सकता है :-

(क) ऐसे मामलों जो कि विवाद से सम्बन्धित न हों, में ऐसी कार्यवाही के प्रारम्भ के ठीक पूर्व किसी कर्मकार पर लागू, ऐसा शर्तों के अनुसार परिवर्तन, या

(ख) किसी ऐसे कदाचार जोकि विवाद से संबंधित न हो, के कारण कर्मकार को हटाना या दण्डित करना, चाहे बर्खास्तगी या अन्यथा :

परन्तु यह कि ऐसे कर्मकार को तब तक हटाया या बर्खास्त नहीं किया जाएगा जब तक उसे, उस माह का वेतन और नियोजक द्वारा एक आवेदन जिस सुलह अधिकारी जिसके समक्ष कार्यवाही लम्बित है, को नियोजक द्वारा की गयी कार्यवाही की स्वीकृति हेतु न दे दिया गया है।

(iii) उपरोक्त उपखण्ड (ii) में किसी बात के होते हुए भी किसी औद्योगिक विवाद के लंबित रहने के दौरान विवाद के संबंधित संरक्षित कर्मकार के विरुद्ध, नियोजक कोई कार्यवाही नहीं करेगा।

(क) किसी संरक्षित कर्मकार के प्रति ऐसी कार्यवाही प्रारम्भ होने से ठीक पूर्व उस पर लागू सेवा शर्तों में प्रतिकूल परिवर्तन द्वारा

(ख) ऐसे संरक्षित कर्मकार को बर्खास्त करना या अन्य कार्यवाही द्वारा हटाना या दण्डित करना। ऐसे प्राधिकारी जिसके समक्ष कार्यवाही लंबित है, की लिखित अनुमति को छोड़कर।

(iv) जहां नियोजक द्वारा उपरोक्त उपखण्ड (ii) के उपबंध के अन्तर्गत अधिकरण को उसके द्वारा पूर्व कार्यवाही की स्वीकृति हेतु आवेदन किया गया है, संबंधित प्राधिकारी ऐसे आवेदन पर बिना विलम्ब के सुनवाई करेगा और उस आवेदन प्राप्ति के तीस दिवसों के भीतर, जैसा उचित समझे, आदेश पारित करेगा।

(v) न्यायाधिकरण/अधिकरण के समक्ष कार्यवाही लंबित रहने के दौरान जहां नियोजक उपखण्ड (iii) के उपबंधों का उल्लंघन करता है, तो ऐसे उल्लंघन से

व्यथित कोई भी कर्मकार न्यायाधिकरण/अधिकरण को विहित रीति से लिखित शिकायत कर सकता है जैसी भी स्थिति हो और शिकायत प्राप्त होने पर न्यायाधिकरण/अधिकरण उसे सम्बन्धित विवाद या लंबित विवाद की संहिता के अनुसार न्याय/निर्णयन की कार्यवाही करेगा और संहिता के अन्तर्गत अधिनिर्णय राज्य सरकार को प्रेषित करेगा।

(3)(1)(i) जहां नियोजक से किसी कर्मकार को किसी समझौते या अधिनियम या न्याय निर्णायक द्वारा दिये गये अधिनिर्णय के अधीन या राज्य सरकार द्वारा संहिता के अन्तर्गत नियुक्त या गठित राज्य औद्योगिक न्यायाधिकरण/अधिकरण द्वारा दिये गये अधिनिर्णय के द्वारा धनराशि देय है, तो बिना किसी पूर्वाग्रह के वसूली हेतु एक आवेदन पत्र राज्य सरकार को देगा, और यदि राज्य सरकार को समाधान हो जाता है कि यह धनराशि देय है, तो वह उस धनराशि का वसूली प्रमाण पत्र कलेक्टर को जारी करेगी, जोकि उसे भू-राजस्व की भांति वसूली करने की कार्यवाही करेगा।

(ii) जहां कर्मकार नियोजक से कोई लाभ जोकि धनराशि के रूप में संगणनीय है, ऐसी धनराशि की गणना राज्य सरकार द्वारा विनिर्दिष्ट अधिकरण द्वारा अवधारित की जाएगी और यह अवधारित धनराशि उपरोक्त खण्ड (i) के अनुसार वसूल की जा सकेगी।

(iii) लाभ की धनराशि की गणना के प्रयोजन से न्यायाधिकरण/अधिकरण यदि उचित समझे, तो विहित रीति से किसी आयुक्त को नियुक्त कर सकेगा। जोकि ऐसे आवश्यक साक्ष्यों के आधार पर रिपोर्ट न्यायाधिकरण को देगा और न्यायाधिकरण आयुक्त की रिपोर्ट और वाद की अन्य परिस्थितियों पर विचार करने के उपरांत धनराशि अवधारित करेगा।

(2) कोई भी विवाद जो सुलह कार्यवाही के दौरान सुलझाया नहीं जाता है, तो, संबंधित पक्षकार में से कोई भी न्यायाधिकरण/अधिकरण के समक्ष प्रपत्र-ङ में या उपनियम (2) के अधीन रिपोर्ट की तारीख से 30 दिनों के भीतर रजिस्ट्रीकृत डाक के माध्यम से आवेदन कर सकता है।

(a) ऐसे औद्योगिक विवाद के मामले में, जिसे सुलह की कार्यवाही के दौरान सुलझाया नहीं गया है, अभिनिर्णय हेतु संबंधित पक्षकारों में से किसी एक पक्षकार द्वारा न्यायाधिकरण/अधिकरण के समक्ष एक आवेदन किया जा सकता है। न्यायाधिकरण/अधिकरण विवाद उठाने वाले पक्षकार को निर्देश देगा कि प्रासंगिक दस्तावेजों, सहायक दस्तावेजों की सूची तथा साक्ष्यों व जिस तारीख पर आवेदन दायर किया गया है, उससे तीस दिनों के भीतर पूरे विवरण के साथ दावे का विवरण दर्ज करे। विवाद में दोनों पक्षकारों में से प्रत्येक को ऐसे बयान की एक प्रति इलैक्ट्रौनिक या रजिस्ट्रीकृत डाक द्वारा भेजी जा सकती है।

(4) न्यायाधिकरण/अधिकरण यह सुनिश्चित करने के बाद कि दावे के विवरण की प्रतियां और अन्य संबंधित दस्तावेज विवाद उठाने वाले पक्ष द्वारा अन्य पक्ष को दे दिये गये हैं, न्यायाधिकरण/अधिकरण पहली सुनवाई की तारीख जल्द से जल्द तय करेगा और आवेदन प्राप्ति की दिनांक से एक माह के भीतर सुनवाई की पहली दिनांक सुनिश्चित करेगा। प्रतिवादी पक्षकार या पक्षकार अपने लिखित बयान को समर्थन के दस्तावेजों और उसकी सूची तथा साक्ष्यों की सूची, यदि कोई हो, सुनवाई की पहली तारीख से तीस दिनों की अवधि के भीतर दाखिल करेंगे और साथ साथ उसकी एक प्रति, प्रतिवादी पक्ष या पक्षों को अग्रेषित करेंगे।

(5) जहां न्यायाधिकरण/अधिकरण यह पाता है कि विवाद उठाने वाला पक्ष उसके निर्देशों के बावजूद, दावे के विवरण की एक प्रति और अन्य दस्तावेज प्रतिवादी पक्षकार या पक्षकारों को प्रेषित नहीं की गयी है, यदि न्यायाधिकरण/अधिकरण दावे के विवरण और अन्य दस्तावेज समयान्तर्गत दाखिल न किए जाने के पर्याप्त कारण पाता है, तो न्यायाधिकरण, संबंधित पक्षकार को विवरण की प्रति, पन्द्रह दिवसों के अन्दर प्रतिवादी पक्षकार या पक्षकारों को देने के निर्देश देगा।

(6) साक्ष्य या तो औद्योगिक न्यायाधिकरण में दर्ज किए जाएंगे या शपथपत्र पर दायर किए जा सकते हैं, किन्तु शपथपत्र के मामले में प्रतिवादी पक्ष को शपथपत्र दाखिल करने वाले प्रत्येक शपथकर्ता से प्रतिपरीक्षा करने का अधिकार होगा। जहां प्रत्येक साक्षी की मौखिक परीक्षा हो गयी हो वहां न्यायाधिकरण/

अधिकरण दिये गये साक्ष्य का सार का ज्ञापन बनाएगा। मौखिक साक्ष्य दर्ज करते समय न्यायाधिकरण, सिविल प्रक्रिया, 1908 (1908 का 5) के लिए पहली अनुसूची के आदेश XVIII के नियम 5 में निर्धारित प्रक्रिया का पालन करेगा।

समझौता रजिस्ट्रीकरण आवेदन हेतु के 42.

सुलह अधिकारी के समक्ष सुलह कार्यवाही से हुए समझौते के रजिस्ट्रीकरण हेतु आवेदन समझौते के पक्षकारों द्वारा या उनमें से किसी एक को समझौता होने की दिनांक से एक माह के भीतर, क्षेत्र के सम्बन्धित सुलह अधिकारी को पावती सहित रजिस्ट्रीकृत डाक से या दस्ती प्रेषित किया जाएगा। समझौते के ज्ञापन की एक प्रति समझौते के पक्षकारों द्वारा सम्बन्धित स्थापन के प्रवेश द्वार या द्वारों के निकट लगे नोटिस बोर्ड पर चस्पा की जाएगी और यह समझौते के रजिस्ट्रीकरण के आवेदन की दिनांक के पूर्व सात दिवसों की अवधि तक चस्पा रहेगा।

समझौते रजिस्ट्रीकरण प्रक्रिया के की 43.

समझौते के रजिस्ट्रीकरण के लिए आवेदन प्राप्त होने पर सुलह अधिकारी या राज्य सरकार द्वारा इस संबंध में अधिसूचित प्राधिकारी, यदि वह, यह आवश्यक समझता है, तो इसकी जांच करा सकता है। यदि जांच के बाद सुलह अधिकारी या संबंधित प्राधिकारी समझौते के रजिस्ट्रीकरण का निर्णय करता है, तो समझौता का पंजीयन प्रपत्र-च में दर्ज करेगा और समझौते के रजिस्ट्रीकरण का प्रमाण पत्र प्रपत्र-छ में समझौते के सभी पक्षकारों को, रजिस्ट्रीकरण के लिए आवेदन पत्र प्राप्त होने के तीस दिवसों के अन्दर निर्गत किया जाएगा। यदि रजिस्ट्रीकरण प्राधिकारी समझौते का रजिस्ट्रीकरण करने से इन्कार करता है, तो इस संबंध में रजिस्ट्रीकरण से इन्कार करने के कारणों सहित, समझौते के सभी पक्षकारों को रजिस्ट्रीकरण के आवेदन प्राप्ति की दिनांक के, जो तीस दिवस से अधिक न हो, के भीतर, एक सूचना दी जाएगी। समझौता रजिस्ट्रीकरण के लिए राज्य सरकार द्वारा अधिसूचित प्राधिकारी द्वारा समझौते के रजिस्ट्रीकरण या इन्कार किए जाने की सूचना, जैसा भी मामला हो, सम्बन्धित क्षेत्र के सुलह अधिकारी और श्रम आयुक्त, उत्तराखण्ड को रजिस्ट्रीकरण के सात दिवसों के अन्दर प्रेषित की जाएगी।

व्यक्तियों जिन पर अधिनिर्णय (एवार्ड) बाध्यकारी होगा

44. अधिनिर्णय (एवार्ड) प्रवर्तनीय होने पर निम्न पक्षों पर बाध्यकारी होगा–

(क) औद्योगिक विवाद से संबंधित सभी पक्षकारों पर,

(ख) जहां खण्ड (क) में उल्लिखित एक पक्ष नियोजक है, उसके वारिस, उत्तराधिकारी या उस स्थापन का समनुदेशिती जोकि औद्योगिक विवाद से संबंधित हो,

(ग) जहां खण्ड (क) में उल्लिखित पक्ष कर्मकारों से बना है, सभी व्यक्ति, जो स्थापन में या स्थापन के किसी भाग में नियोजित रहे हों, चाहे भी वर्तमान हो, जिनसे विवाद संबंधित है और सभी व्यक्ति जो बाद में स्थापन या किसी हिस्से में नियोजित हुए हों उन सभी पर।

अध्याय–9

हड़ताल और तालाबंदियां

धारा 62 की उपधारा (4) के अधीन हड़ताल का नोटिस देने की रीति

45. (1) धारा 62 की उपधारा (1) में निर्दिष्ट हड़ताल का संदर्भित नोटिस प्रपत्र–ब में औद्योगिक स्थापन के प्रमुख (प्लांट हेड) या प्रबंधक को दिया जाएगा, जो कि पंजीकृत व्यवसाय संघ के सचिव अथवा जहां पंजीकृत संघ न हो वहां स्थापन के एक सिहाई कर्मकारों द्वारा विधिवत् हस्ताक्षरित किया जाएगा और जिसकी प्रतियां संबंधित क्षेत्र के सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त, श्रम आयुक्त और राज्य सरकार को इलैक्ट्रॉनिक रूप से या अन्य ऐसे प्रकार से, जो राज्य सरकार निर्दिष्ट करे, दी जाएगी।

(2) यदि किसी औद्योगिक स्थापन के नियोजक उसके द्वारा नियोजित किसी व्यक्ति से धारा 62 की उपधारा (1) में निर्दिष्ट हड़ताल की कोई सूचना प्राप्त होती है, तो वह ऐसी सूचना प्राप्त होने के पंद्रह दिनों के भीतर इलैक्ट्रॉनिक रूप से सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त राज्य के श्रम आयुक्त और राज्य सरकार को इसकी सूचना देगा।

धारा 62 की उपधारा (5) के अधीन तालाबंदी की सूचना

46. (1) धारा 62 की उपधारा (2) में निर्दिष्ट तालाबंदी का नोटिस औद्योगिक स्थापन के नियोजक द्वारा प्रपत्र–द में प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ, के सचिव को, जो

देने की रीति व उपधारा (6) के अधीन प्राधिकरण

ऐसे औद्योगिक स्थापन से संबंधित हो, को दिया जाएगा जिसकी प्रति पृष्ठांकित करते हुए संबंधित सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त, श्रम आयुक्त और राज्य सरकार को इलैक्ट्रौनिक रूप से या अन्य माध्यम से भेजी जाएगी। यदि कोई रजिस्ट्रीकृत व्यवसाय संघ नहीं है, तो नियोजक द्वारा औद्योगिक स्थापन के मुख्य प्रवेश द्वार पर नोटिस बोर्ड या इलैक्ट्रौनिक बोर्ड पर नोटिस को स्पष्ट रूप से प्रदर्शित किया जाएगा और कार्य समिति के श्रमिक प्रतिनिधियों को भी इसकी सूचना दी जाएगी।

(2) यदि नियोजक अपने द्वारा नियोजित किसी व्यक्ति को तालाबंदी का नोटिस देता है, तो वह ऐसे नोटिस की दिनांक से पांच दिनों के भीतर, इलैक्ट्रौनिक रूप से या अन्य प्रकार से संबंधित सुलह अधिकारी और क्षेत्रीय उप श्रम आयुक्त को सूचित करेगा।

अध्याय–10

कामबंदी, छंटनी और बंदी

भारा 70 के खण्ड (च) के अधीन कर्मकार की छंटनी से पहले नोटिस देने की रीति

47. यदि कोई भी नियोजक अपने औद्योगिक स्थापन में नियोजित किसी कर्मकार को, जो निरन्तर एक वर्ष से अधिक उसके अधीन सेवा में रहा हो, की छंटनी करना चाहता है, तो ऐसा नियोजक प्रपत्र–ख में, इस तरह की छंटनी का नोटिस राज्य सरकार एवं ऐसे प्राधिकारी जोकि राज्य सरकार द्वारा अधिसूचना के माध्यम से नामित किया जाए, को प्रस्तावित छंटनी से कम से कम 15 दिवस पूर्व ईमेल और रजिस्ट्रीकृत डाक/स्पीड पोस्ट द्वारा भेजेगा।

धारा 72 के अधीन छंटनी किए गए कर्मचारी को पुनः रोजगार के अवसर देने की रीति

48. (1) नियोजक द्वारा उस विशेष श्रेणी के सभी कर्मकारों की सूची तैयार करेगा, जिसमें से छंटनी अपेक्षित है, तथा उन्हें उस श्रेणी में उनकी सेवा की वरिष्ठता के अनुसार व्यवस्थित करेगा और उसकी एक प्रति छंटनी की वास्तविक तिथि से कम से कम सात दिन पूर्व औद्योगिक प्रतिष्ठान के परिसर में किसी प्रमुख स्थान पर सूचना पट्ट पर चिपकाएगा।

(2) जब किसी औद्योगिक प्रतिष्ठान में कोई रिक्ति उत्पन्न होती है और ऐसी रिक्ति को भरने के प्रस्ताव से एक वर्ष पूर्व ऐसे औद्योगिक प्रतिष्ठान के कर्मकारों की छंटनी की गई हो, जो ऐसे प्रतिष्ठान का नियोजक, यदि ऐसे

कर्मकार भारत के नागरिक है और उन्होंने नियोजन के लिए इच्छा व्यक्त की है, तो उनकी सेवा वरिष्ठता के आधार पर उन्हें अन्य पर वरीयता देगा।

(3) नियोजक, औद्योगिक प्रतिष्ठान के परिसर में किसी प्रमुख स्थान पर लगे नोटिस बोर्ड पर रिक्तियों का विवरण, रिक्तियों को भरे जाने की तिथि से कम से कम पंद्रह दिन पूर्व प्रदर्शित करने की व्यवस्था करेगा तथा उन रिक्तियों की सूचना पंजीकृत डाक या स्पीड पोस्ट या ईमेल के माध्यम से सभी पात्र छंटनी किये गये कर्मकारों को उनके द्वारा छंटनी के समय या उसके बाद दिये गए नवीनतम पते या ईमेल पर रिक्तियों की सूचना देगा:

परन्तु जब ऐसी रिक्तियों की संख्या छंटनी किए गए कर्मकारों की संख्या से कम हो, तो यह पर्याप्त होगा कि यदि नियोजक द्वारा उपनियम (1) में निर्दिष्ट सूची में सबसे वरिष्ठ छंटनी किए गए कर्मकारों को व्यक्तिगत रूप से सूचना दी जाए और ऐसे वरिष्ठतम कर्मकारों की संख्या ऐसी रिक्तियों की संख्या से दोगुनी हो:

परन्तु यदि रिक्ति एक महीने से कम अवधि में भरी जानी हो, तो नियोजक पर ऐसी रिक्तियों की सूचना छंटनी किए गए कर्मकारों को व्यक्तिगत रूप से भेजने का कोई दायित्व नहीं होगा:

परन्तु यदि कोई छंटनी किया गया कर्मकारी, नियोजक को लिखित रूप से पर्याप्त कारण बताए बिना, इस उपनियम के तहत नियोजक द्वारा उसे भेजी गई सूचना में निर्दिष्ट तिथि या तिथियों पर पुनर्नियोजन के लिए स्वयं को प्रस्तुत नहीं करता है, तो नियोजक उसे किसी भी बाद के अवसर पर भरी जा सकने वाली रिक्तियों की सूचना नहीं दे सकता है।

(4) उपनियम (3) के प्रावधानों के अनुपालन करने के पश्चात, नियोजक, औद्योगिक प्रतिष्ठान से संबंद्ध कार्यकारी संघ या वार्ता परिषद् के घटक या व्यवसाय संघों को, रिक्तियों की संख्या और उन छंटनीकृत कर्मचारियों के नामों की भी सूचना देगा, जिन्हें उस उपनियम के अंतर्गत सूचना भेजी गई है।

धारा 74 की उपधारा (1) के अधीन नियोजक प्रतिष्ठान के बंदी का नोटिस देने की रीति

49. (1) यदि कोई नियोजक किसी औद्योगिक स्थापन को बंद करना चाहता है, तो वह धारा 74 की उपधारा (1) में निर्दिष्ट समय के भीतर प्रपत्र–घ में राज्य सरकार को इस तरह की बंदी का नोटिस देगा और उसकी प्रति संबंधित सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त और राज्य के श्रम आयुक्त को ईमेल और रजिस्ट्रीकृत डाक द्वारा भेजी जायेगी।

जहां बंदी के ऐसे आवेदन के नोटिस को केवल रजिस्ट्रीकृत डाक से भेजा जाता है, तो राज्य सरकार को आवेदन प्राप्त होने की दिनांक, सूचना दिए जाने की दिनांक मानी जाएगी;

(2) किसी औद्योगिक स्थापन के उपक्रम बंद करने के पूर्व अनुमति के आवेदन की प्रति स्थापन में कार्यरत सभी रजिस्ट्रीकृत व्यवसाय संघों के अध्यक्षों या सचिवों को व्यक्तिगत रूप से हस्तगत करवायी जाएगी और जहां यह व्यवहारिक न हो, ई मेल द्वारा और रजिस्ट्रीकृत पावती डाक द्वारा प्रेषित की जाएगी;

(3) किसी औद्योगिक स्थापन के उपक्रम बंद करने के पूर्व अनुमति के आवेदन की प्रति सम्बन्धित स्थापन के मुख्य प्रवेश द्वार पर भी चस्पा की जाएगी।

अध्याय–11

कतिपय प्रतिष्ठानों में काम बंदी, छंटनी और बंदी से संबंधित विशेष प्रावधान

कामबंदी के लिए नियोजक द्वारा राज्य सरकार को आवेदन करने तथा कर्मकारों को ऐसे आवेदन की प्रति देने की रीति

50. धारा 78 की उपधारा (1) के अधीन अनुमति के लिए आवेदन नियोजक द्वारा प्रपत्र–च में स्पष्ट रूप से कामबंदी (ले–आफ) के बताए गए अभीष्ट कारणों सहित राज्य सरकार को दी जाएगी और साथ–साथ नियोजक द्वारा ऐसे आवेदन की एक प्रति संबंधित कर्मकार को इलैक्ट्रौनिक माध्यम से और पंजीकृत डाक द्वारा भी भेजी जाएगी। नियोजक द्वारा इस तरह के आवेदन को, औद्योगिक स्थापन के मुख्य प्रवेश द्वार पर स्थित सूचना बोर्ड या इलैक्ट्रौनिक बोर्ड पर अंग्रेजी और हिन्दी दोनों भाषाओं में स्पष्ट रूप से प्रदर्शित किया जाएगा।

धारा 78 की उपधारा (7) के अधीन पुनर्विलोकन के लिए समय–सीमा

51. (1) राज्य सरकार, स्वप्रेरणा से या नियोजक या किसी कर्मकार द्वारा किए गए आवेदन पर, धारा 78 की उपधारा (4) के अधीन अनुमति प्रदान करने या देने से इन्कार करने वाले अपने आदेश का पुनर्विलोकन कर सकेगी।

(2) नियोजक या संबंधित कोई कर्मकार, उपनियम (1) में निर्दिष्ट आदेश के साथ, आदेश जारी होने की दिनांक से तीस दिन के भीतर, आदेश के पुनर्विलोकन के लिए राज्य सरकार को आवेदन कर सकेगा और सरकार द्वारा आवेदन प्राप्त होने की दिनांक से दो महीने के भीतर, संबंधित पक्षों को सुनवाई का अवसर प्रदान करने के पश्चात, उसका निपटारा करेगी।

(3) जहाँ राज्य सरकार स्वप्रेरणा से उपधारा (1) में निर्दिष्ट आदेश की पुनर्विलोकन करने का निर्णय लेती है, वहाँ वह आदेश जारी होने की दिनांक से एक महीने के भीतर आवश्यक कदम उठा सकेगी और संबंधित पक्षकारों को सुनवाई का अवसर प्रदान करने के पश्चात, ऐसा निर्णय लिए जाने की दिनांक से दो महीने की अवधि के भीतर ऐसे पुनर्विलोकन का निपटारा कर सकेगी।

धारा 79 की उपधारा (2) के अधीन नियोजक द्वारा छंटनी के इरादे से राज्य सरकार को आवेदन करने की रीति तथा ऐसे आवेदन की प्रति कर्मकारों को देने की रीति

82. (1) यदि कोई नियोजक स्थापन में नियोजित किसी कर्मकार, जिसकी सम्बन्धित नियोजक के स्थापन में निरन्तर सेवा एक वर्ष से कम न हो, की छंटनी करना चाहता है, तो वह ऐसी छंटनी संबंधी सूचना राज्य सरकार को देगा।

(क) जहां नोटिस कर्मकार को दिया जाना है, नोटिस उसी दिन जिस दिन कर्मकार को दिया गया है, सम्बन्धित अधिकारी को भेजा जाएगा; और

(ख) जहां कर्मकार को कोई नोटिस नहीं दिया गया है और उसे नोटिस के बदले में एक माह के वेतन का भुगतान कर दिया गया है, कर्मकार की छंटनी सम्बन्धी नोटिस उसी दिन, जिस दिन वेतन का भुगतान कर्मकार को किया गया है, भेजा जाएगा।

(ग) जहां किसी समझौते के तहत छंटनी की जा रही है या की जानी है, जिसमें सेवा समाप्ति की दिनांक निर्दिष्ट है, वहां छंटनी की सूचना छंटनी की दिनांक से कम से कम एक महीने पहले दी जायेगी। यदि समझौते की तिथि से छंटनी की तिथि तक की अवधि एक महीने से कम है, तो छंटनी की सूचना उस दिनांक को भेजी जाएगी, जिस दिनांक को समझौता हुआ है।

(2) नियोजक द्वारा यदि किसी श्रेणी विशेष के कर्मकारों की छंटनी की जानी है, तो उस श्रेणी में सेवा की वरिष्ठता के अनुसार सूची तैयार करेगा और उसकी एक प्रति

छंटनी की दिनांक से कम से कम सात दिवस पूर्व औद्योगिक स्थापन के परिसर में लगे नोटिस बोर्ड पर चस्पा करेगा।

(3) नियोजक, कर्मकार की छंटनी किए जाने से पूर्व पुनः नियोजन हेतु सूचना देने के प्रयोजन से कर्मकार के द्वारा लिखित में दिए गए पते, जिसमें उस कर्मकार के हस्ताक्षर या अंगूठा निशानी लगी हो, दर्ज करेगा।

(4) धारा 79 की उपधारा (1) के अधीन अनुमति के लिए आवेदन नियोजक द्वारा प्रपत्र–ग में स्पष्ट रूप से छंटनी के सम्बन्ध में बताए गए अभीष्ट कारणों सहित किया जाएगा तथा ऐसे आवेदन की एक प्रति संबंधित कर्मकार को इलैक्ट्रॉनिक रूप से और रजिस्ट्रीकृत डाक से प्रेषित की जाएगी। तथा इस तरह के आवेदन को, औद्योगिक स्थापन के मुख्य प्रवेश द्वार के पास हिन्दी और अंग्रेजी भाषा में नोटिस बोर्ड पर चस्पा कर या इलैक्ट्रॉनिक बोर्ड में सहदृश्य रूप से प्रदर्शित किया जाएगा।

धारा 79 की उपधारा (5) के अधीन पुनर्विलोकन के लिए समय–सीमा

53. (1) राज्य सरकार, स्वप्रेरणा से या नियोजक या किसी कर्मकार द्वारा किए गए आवेदन पर, धारा 79 की उपधारा (3) के अधीन अनुमति प्रदान करने या देने से इन्कार करने वाले अपने आदेश की पुनर्विलोकन कर सकेगी।

(2) नियोजक या संबंधित कोई कर्मकार, उपनियम (1) में निर्दिष्ट आदेश के साथ, आदेश जारी होने की दिनांक से तीस दिन के भीतर, आदेश के पुनर्विलोकन के लिए राज्य सरकार को आवेदन कर सकेगा और सरकार द्वारा आवेदन प्राप्त होने की दिनांक से दो महीने के भीतर, संबंधित पक्षकारों को सुनवाई का अवसर प्रदान करने के पश्चात, उसका निपटारा करेगी।

(3) जहाँ राज्य सरकार स्वप्रेरणा से उपनियम (1) में निर्दिष्ट आदेश को पुनर्विलोकन करने का निर्णय लेती है, वहाँ वह आदेश जारी होने की दिनांक से एक महीने के भीतर आवश्यक कदम उठा सकेगी और संबंधित पक्षकारों को सुनवाई का अवसर प्रदान करने के पश्चात, ऐसा निर्णय लिए जाने की दिनांक से दो महीने की अवधि के भीतर ऐसे पुनर्विलोकन का निपटारा कर सकेगी।

धारा 80 के उपधारा (1) के अधीन किसी औद्योगिक स्थापन को बंद करने के लिए नियोजक द्वारा राज्य सरकार को आवेदन करने की रीति और कर्मकारों के प्रतिनिधियों को ऐसे आवेदन की प्रति देने की रीति

54. संहिता के अध्याय 10 के अन्तर्गत आने वाले किसी औद्योगिक स्थापन को बंद करने का इरादा रखने वाला नियोजक, प्रस्तावित बंद की तिथि से कम से कम नब्बे दिन पहले राज्य सरकार को प्रपत्र–न में पूर्व अनुमति के लिए इलैक्ट्रॉनिक रूप से आवेदन करेगा। आवेदन में प्रस्तावित बंद के कारणों का स्पष्ट उल्लेख होना चाहिए और साथ ही ऐसे आवेदन की प्रति इलैक्ट्रॉनिक रूप से और रजिस्ट्रीकृत डाक द्वारा कर्मकारों के प्रतिनिधियों को भी भेजी जाएगी। आवेदक द्वारा ऐसे आवेदन को औद्योगिक स्थापन के मुख्य द्वार पर हिन्दी तथा अंग्रेजी में लगे नोटिस बोर्ड पर तथा इलैक्ट्रॉनिक बोर्ड पर दर्शाया जायेगा।

धारा 80 की उपधारा (5) के अधीन पुनर्विलोकन के लिए समय– सीमा

55. (1) राज्य सरकार स्वप्रेरणा से अथवा नियोजक या किसी कर्मकार द्वारा आवेदन किये जाने पर, संहिता की धारा 80 की उपधारा (2) के अधीन दी गयी अनुमति या अनुमति से इन्कार किए जाने संबंधी आदेश का पुनर्विलोकन कर सकेगी।

(2) नियोजक या संबंधित कोई कर्मकार, उपनियम (1) में निर्दिष्ट आदेश के साथ, आदेश जारी होने की दिनांक से तीस दिन के भीतर, आदेश की पुनर्विलोकन के लिए राज्य सरकार को आवेदन कर सकेगा और सरकार आवेदन प्राप्त होने की दिनांक से दो महीने के भीतर, संबंधित पक्षों को सुनवाई का अवसर प्रदान करने के पश्चात, उसका निपटारा करेगी।

(3) जहाँ राज्य सरकार स्वप्रेरणा से उपनियम (1) में निर्दिष्ट आदेश की पुनर्विलोकन करने का निर्णय लेती है, वहाँ यह आदेश जारी होने की दिनांक से एक महीने के भीतर आवश्यक कदम उठा सकेगी और संबंधित पक्षों को सुनवाई का अवसर प्रदान करने के पश्चात, ऐसा निर्णय लिए जाने की तिथि से दो महीने की अवधि के भीतर ऐसे पुनर्विलोकन का निपटारा कर सकेगी।

अध्याय–12

कर्मकार पुनःकौशल निधि

कर्मकार पुनःकौशल निधि में अन्य स्रोतों से किया जाने वाला अनुदान

56. कर्मकार पुनःकौशल निधि में संहिता की धारा 83 (2) (क) में नियोजक से प्राप्त होने वाले योगदान के अतिरिक्त, किसी अधिष्ठान/कम्पनी द्वारा स्वेच्छा से कार्पोरेट सामाजिक उत्तरदायित्व (CSR) के अन्तर्गत किसी प्रकार का योगदान अथवा अन्य वैधानिक स्रोतों, जिनका राज्य सरकार द्वारा समय समय पर जारी सामान्य आदेश में उल्लेख हो, से धनराशि जमा की जाएगी।

कर्मकार पुनःकौशल निधि का उपयोग की रीति

57. (1) प्रत्येक नियोजक, जिसने संहिता के तहत अपने औद्योगिक प्रतिष्ठान में किसी कर्मकार या कर्मकारों की छंटनी की है, ऐसी छंटनी की तारीख से दस दिनों के भीतर, ऐसी छंटनी किए गए कर्मकार या कर्मकारों के अंतिम आहरित वेतन के पंद्रह दिनों के बराबर राशि को इलैक्ट्रौनिक रूप से संहिता की धारा 83 (1) में गठित निधि के खाते में स्थानांतरित करेगा।

(2) उपनियम (1) के तहत प्राप्त धनराशि को श्रम आयुक्त कार्यालय/उप श्रम आयुक्त कार्यालय/सहायक श्रम आयुक्त कार्यालय द्वारा छंटनी किए गए प्रत्येक कर्मकार के खाते या छंटनी किए गए श्रमिकों के खातों में जैसा भी मामला हो, छंटनी के पैंतालीस दिनों के भीतर इलैक्ट्रौनिक रूप से हस्तांतरित किया जाएगा ताकि वह उक्त राशि का उपयोग अपने पुनःकौशलीकरण के लिए कर सके।

(3) नियोजक को प्रत्येक छंटनी किए गए कर्मकारों का नाम, उसके द्वारा अंतिम बार प्राप्त किए गए पंद्रह दिनों के वेतन के बराबर राशि और उसके बैंक खाते का विवरण श्रम आयुक्त कार्यालय/उप श्रम आयुक्त कार्यालय/सहायक श्रम आयुक्त कार्यालय को प्रस्तुत करना होगा।

अध्याय—13

अपराध और दंड

धारा 89 की उपधारा (1) के अधीन निर्दिष्ट राजपत्रित अधिकारी द्वारा अपराध की संरचना की रीति और धारा 89 की उपधारा (4) के अधीन अपराध के उपशमन के लिए आवेदन करने की रीति

58. (1) धारा 89 की उपधारा (1) के अधीन अपराधों के शमन के लिए राज्य सरकार द्वारा अधिसूचित अधिकारी (जिसे इसके पश्चात् शमन अधिकारी कहा गया है), यदि उसकी यह राय है कि संहिता के अधीन कोई अपराध, जिसके लिए उक्त धारा के अधीन शमन अनुज्ञेय है और जिसमें अभियोजन संस्थित नहीं किया गया है, वह विभाग के पोर्टल या किसी अन्य माध्यम से तीन भागों में प्रपत्र–घ में अभियुक्त को नोटिस भेजेगा।

(2) प्रपत्र–घ में भाग– I में शमन अधिकारी, अन्य बातों के साथ–साथ निम्नलिखित निर्दिष्ट करेगा–

(क) अभियुक्त का नाम और उसके अन्य विवरण;

(ख) अपराध का विवरण और धारा जिसके अन्तर्गत अपराध किया गया है, और

(ग) ऐसे अपराध के शमन के लिए भुगतान की जाने वाली शमन राशि।

(3) प्रपत्र–ग के भाग–II में, शमन अधिकारी अपराध का शमन न किये जाने पर उसके परिणामों को निर्दिष्ट करेगा और उसका प्रपत्र के भाग–III में अभियुक्त के द्वारा यदि वह अपराध के शमन का इच्छुक है तो आवेदन पत्र को भरे जाने का उल्लेख किया जाएगा।

(4) उपनियम (1) में निर्दिष्ट प्रत्येक नोटिस की एक विशिष्ट क्रमांक संख्या होगी जिसमें अक्षर या संख्या और अन्य विवरण सहित जैसे नोटिस भेजने वाले अधिकारी, औद्योगिक स्थापन वर्ष, स्थान तथा आसान पहचान के प्रयोजन के लिए निरीक्षण का प्रकार के विवरण।

(5) जिन अभियुक्तों को उपनियम (1) में निर्दिष्ट नोटिस भेजा गया है, वे उसके द्वारा भरे गए फॉर्म के भाग–III को विधिवत् रूप से भरकर शमन अधिकारी को भेज सकते हैं और शमन राशि को इलैक्ट्रॉनिक या अन्य माध्यम से नोटिस प्राप्ति के पंद्रह दिनों के भीतर शमन अधिकारी द्वारा नोटिस में उल्लेख किए गए खाते में जमा कर सकते हैं।

(6) जहां अभियुक्त के विरुद्ध पहले से ही अभियोजन सक्षम न्यायालय में संस्थित किया जा चुका है, वह न्यायालय में उसके विरुद्ध अपराध के शमन के लिए आवेदन कर सकता है और न्यायालय, आवेदन पर विचार करने के उपरांत, धारा 89 के प्रावधानों के अन्तर्गत शमन अधिकारी द्वारा अपराध की शमन किये जाने की अनुमति दे सकता है।

(7) यदि अभियुक्त उपनियम (2) की अपेक्षा का अनुपालन करता है, तो शमन अधिकारी अभियुक्त द्वारा जमा की गई राशि से अपराध का शमन करेगा और–

(क) यदि अभियोजन से पूर्व शमन किया जाता है तब अभियोजन के लिए अभियुक्त के विरुद्ध अभियोजन का परिवाद संस्थित नहीं किया जाएगा, तथा

(ख) यदि न्यायालय की अनुमति से उपनियम (3) के अधीन अभियोजन दायर करने के उपरांत शमन किया जाता है, तो, शमन अधिकारी इस मामले को समाप्त मान लेगा जैसे कि कोई अभियोजन दायर ही नहीं किया गया था और

शमन की कार्यवाही खण्ड (क) के अनुसार करते हुए सक्षम न्यायालय, जहां अभियोजन लंबित है, को अपराध के शमन किए जाने की सूचना देगा और ऐसी सूचना प्राप्त होने पर न्यायालय अभियुक्त को मुक्त कर देगा और अभियोजन समाप्त कर देगा।

(ङ) शमन अधिकारी राज्य सरकार के निर्देश, नियंत्रण और पर्यवेक्षण के अधीन, इस नियम के अधीन अपराध को शमन करने के लिए शक्तियों का प्रयोग करेगा।

अध्याय–14

विविध

संरक्षित कर्मकार

59. (1) प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ, जो औद्योगिक स्थापन से जुड़ा हो, और जिस पर संहिता लागू है, प्रत्येक वर्ष 30 अप्रैल से पहले ऐसे संघ के पदाधिकारियों के नाम जो स्थापन में नियोजित हैं और संघ की राय में उन्हें "संरक्षित कर्मकार" के रूप में मान्यता दी जानी हो, के संबंध में नियोजक को संसूचित करेगा।

(2) नियोजक , धारा 90 के उपधारा (3) और उपधारा (4) के अधीन ऐसे कर्मकारों को धारा 90 के प्रयोजनों के लिए "संरक्षित कर्मकारों" के रूप में मान्यता देगा और उपनियम (1) के अन्तर्गत नाम और पते की प्राप्ति के पंद्रह दिनों के भीतर, सूचना की दिनांक से बारह माह की अवधि के लिए मान्यता प्राप्त ऐसे 'संरक्षित कर्मकारों' की सूचना, संघ को देगा।

(3) जहां उपनियम (1) के अधीन नियोजक द्वारा प्राप्त नामों की कुल संख्या औद्योगिक स्थापन के लिए अनुमन्य संरक्षित कर्मकारों की संख्या से अधिक है, नियोजक धारा 90 की उपधारा (4) के अधीन, अधिकतम संख्या तक "संरक्षित कर्मकारों" को मान्यता देगा:

परन्तु जहां औद्योगिक स्थापन में एक से अधिक रजिस्ट्रीकृत व्यवसाय संघ हैं, वहां नियोजक द्वारा संघों द्वारा अधिकतम संख्या ऐसे वितरित की जाएगी कि प्रतिस्पर्धा संघों में मान्यता प्राप्त संरक्षित कर्मकारों की संख्या व्यावहारिक रूप से एक दूसरे संघ की सदस्यता की संख्या के समान अनुपात में हो। नियोजक, ऐसे मामले में लिखित में प्रत्येक सम्बन्धित संघ के अध्यक्ष या सचिव को संरक्षित कर्मकारों की संख्या के संबंध में सूचित करेगा :

परन्तु यह और कि जहां इस उपनियम के अन्तर्गत एक संघ को आवंटित संरक्षित कर्मकारों की संख्या सुरक्षा की मांग करने वाले संघ के पदाधिकारियों की संख्या से कम होती है। संघ को संरक्षित कर्मकारों के रूप में मान्यता प्राप्त पदाधिकारियों का चयन करने का अधिकार होगा। ऐसा चयन संघ द्वारा किया जाएगा और इस संबंध में नियोजक का पत्र प्राप्त होने के पांच दिनों के भीतर नियोजक को सूचित किया जाएगा।

(4) जब इस नियम के अन्तर्गत 'संरक्षित कर्मकारों' की मान्यता से जुड़े किसी भी मामले में एक नियोजक और किसी रजिस्ट्रीकृत व्यवसाय संघ के बीच विवाद उत्पन्न होता है, तो विवाद संबंधित क्षेत्र के किसी भी क्षेत्रीय उप श्रम आयुक्त या सहायक श्रम आयुक्त को सन्दर्भित किया जाएगा, जो इस विवाद को सुनेंगे व इस मामले का निर्णय करेंगे और जिसका निर्णय अंतिम होगा।

पीड़ित कर्मकार द्वारा शिकायत करने की रीति

60. (1) संहिता की धारा 91 के अधीन प्रत्येक शिकायत को प्रपत्र–फ में और शिकायत में जितने प्रतिवादी पक्षकार हों, उतनी प्रतियां संलग्न करते हुए इलैक्ट्रौनिक रूप से या रजिस्ट्रीकृत डाक या स्पीड पोस्ट द्वारा प्रेषित किया जाएगा।

(2) उपनियम (1) के अन्तर्गत प्रत्येक शिकायत को, शिकायत करने वाले कर्मकार या कर्मकार के अधिकृत प्रतिनिधि द्वारा, चाहे भी मामला हो, जो मामले से सम्बन्धित तथ्यों से भिज्ञ हो, सत्यापित कर सुलह अधिकारी, मध्यस्थम् या औद्योगिक न्यायाधिकरण /अधिकरण की संतुष्टि के लिए प्रस्तुत किया जाएगा।

धारा 94 की उपधारा 1(ग) के अधीन किसी भी कार्यवाही में प्रतिनिधित्व करने के लिए कर्मकार की ओर से अधिकृत किए जाने की रीति

61. जहां कर्मकार किसी भी व्यवसाय संघ का सदस्य नहीं है, वहां उस कर्मकार द्वारा किसी विवाद, जिसमें वह स्वयं एक पक्षकार है, में उस उद्योग, जिसमें स्वयं नियोजित है, से संबंधित किसी भी व्यवसाय संघ की कार्यकारिणी के किसी सदस्य या अन्य पदाधिकारी, या उस उद्योग में नियोजित किसी अन्य कर्मकार को विवाद से संबंधित कार्यवाही में अपना प्रतिनिधित्व करने के लिए प्रपत्र–ब में अधिकृत किया जा सकता है।

धारा 94 की उपधारा 2 (ग) के अधीन किसी कार्यवाही में नियोजक की ओर से प्रतिनिधि अधिकृत किए जाने की रीति

62. जहां नियोजक, नियोजक के संगम का सदस्य नहीं है, नियोजक के किसी संगम से जुड़ा हुआ पदाधिकारी या कोई अन्य नियोजक जिसे उद्यम में लगे नियोजक की ओर से संहिता के अंतर्गत किसी भी सम्बन्धित विवाद, जिसमें नियोजक पक्षकार है, को वह प्रपत्र–ढ में प्रतिनिधित्व दिया जा सकता है।

महानिदेशक, श्रम ब्यूरो को प्रेषित किए जाने वाले प्रपत्र

63. प्रपत्र–ख (हड़ताल की सूचना), प्रपत्र–द (तालाबंदी की सूचना), प्रपत्र–घ (राज्य सरकार को छंटनी या बंदी का नोटिस), प्रपत्र–ङ (ले–ऑफ या छंटनी या बंदी के लिए आवेदन), और प्रपत्र–च (अपरत्वों का सगत) इलैक्ट्रॉनिक रूप से आटोमेड से महानिदेशक, लेबर ब्यूरो को प्रेषित की जाएगी।

निरसन और व्यावृत्ति

64. (1) उत्तर प्रदेश औद्योगिक विवाद नियमावली 1957, उत्तर प्रदेश औद्योगिक नियोजन (स्थायी आदेश) नियमावली, 1946 उत्तर प्रदेश व्यवसाय संघ विनियम, 1927 तथा औद्योगिक न्यायाधिकरण तथा श्रम न्यायालय प्रक्रिया नियमावली, 1957, इस नियमावली के प्रवृत्त होने की दिनांक से निरसित हो जायेंगे।

(2) ऐसे निरसन के होते हुए भी, उक्त नियमावलियों/विनियमावलियों के अधीन की गयी कोई बात या कार्यवाई संहिता/नियमावली के तत्स्थानी उपबन्धों के अधीन की गई समझी जायेगी।

(3) उपनियम (2) के प्रावधानों पर प्रतिकूल प्रभाव डाले बिना साधारण खण्ड अधिनियम, 1904 की धारा 6 के प्रावधान ऐसे नियमावलियों/विनियमावलियों के निरसन पर लागू होंगे।

आज्ञा से,

डॉ० श्रीधर बाबू अद्दांकी,
सचिव।

प्रपत्र–क

(औद्योगिक संबंध समिति की धारा 2 तथा नियम 3 के अनुसार)

समझौते का प्रारूप

पक्षों के नाम एवं पते

_____ नियोजक का प्रतिनिधि

_____ कर्मकार का प्रतिनिधि

विवाद का संक्षिप्त विवरण

_____

_____

समझौते की शर्तें

_____

_____

पक्षों के हस्ताक्षर

नियोजक प्रतिनिधि_____

साक्षी (1)_____

(2)_____

कर्मकार/कर्मचारी प्रतिनिधि_____

साक्षी (1)_____

(2)_____

प्रतिलिपि : 1. क्षेत्र के मुख्य अधिकारी

2. श्रम आयुक्त, उत्तराखण्ड

प्रपत्र–ख

(नियम 9 देखें)

वर्ष_____ को देनदारियों एवं परिसम्पत्तियों का विवरण

(यदि संघ, आयोजन की दिनांक से एक वर्ष अन्य की अवधि में अस्तित्व में आया है, तो संघ के द्वारा गठित गया जाएगा)

देनदारियां	धनराशि रू० में	परिसम्पत्तियां	धनराशि रू० में
सामान्य निधि की धनराशि राजनीतिक निधि/ऋण की धनराशि ऋण...से अन्य देनदारियां (उल्लेख करें) कुल देनदारियां		नकद : कोषाध्यक्ष के पास बैंक में जमा डाकघर में जमा अचल परिसम्पत्तियां निम्न सूची के अनुसार ऋण की अदत्त किस्त अन्तर सम्पत्ति साधुर एवं फर्नीचर अन्य परिसम्पत्तियां (उल्लेख किया जाए) कुल परिसम्पत्तियां	

अचल परिसम्पत्तियों की सूची

विवरण	सांकेतिक	बाजार मूल्य	वर्तमान मूल्य

कोषाध्यक्ष

सामान्य निधि खाता

आय	धनराशि रू०	व्यय	धनराशि रू०
वर्ष के प्रारम्भ में अवशेष सदस्यों से प्राप्त चन्दा, जो सदस्यों द्वारा दान दिया गया पत्रिका और विज्ञापनों के विक्रय आदि		पत्रिकाओं के क्रय, भाड़े और अन्य व्यय, कार्यालय के किराए भाड़े और व्यय लेखा परीक्षक का शुल्क विविध व्यय	
विविध मदों (स्पष्ट उल्लेख किया जाए) से विनिमेक के माध्यम से प्राप्त आय		व्यावसायिक विवादों के प्रत्यक्ष व्यावसायिक विवादों के अधिकार के पुरस्कार के व्यय	
	अन्तर्हित, अधिक आयु, बीमारी, पेंशनभोगी के लाभ आदि, वैधिक, सामाजिक एवं धार्मिक लाभ गतिविधि के प्रकाशन का शुल्क		

	किराया वर्ष एवं का लेखन-सामग्री, छपाई और डाक-टिकट व्यय (स्पष्ट उल्लेख करना है) अन्य व्यय (स्पष्ट उल्लेख करना है) वर्ष की समाप्ति पर अवशेष		
योग		योग	

राजनीतिक निधि खाता

	रु०		रु०
वर्ष के प्रारम्भ में शेष		वस्तुओं पर किया गया भुगतान	
सदस्यों द्वारा प्रति सदस्य की दर से अंशदान		प्रबंधन के खर्च (उल्लेख किया जाए)	
		वर्ष के अन्त में शेष	
योग		योग	

कोषाध्यक्ष

लेखा परीक्षक की घोषणा

अधोहस्ताक्षरी द्वारा व्यवसाय संघ के सभी पुस्तकों एवं लेखों के पहुंच तथा पूर्वोक्ती विवरणी का परीक्षण किया गया तथा सत्यापन पर यह सभी सही पाये गये, इन सभी के बीजक बनाये गये और विधि के अनुसार, जिस से सम्बन्धित टिप्पणी, यदि कोई हो, इसके साथ संलग्न है।

लेखा-परीक्षक

वर्ष के दौरान पदाधिकारियों के निम्न परिवर्तन किये गये, पाये गये –

कार्यालय छोड़ने वाले पदाधिकारी

नाम	कार्यालय	छोड़ने की दिनांक

नियुक्त किए गये पदाधिकारी

नाम	आयु	कार्यालय	पता	व्यवसाय	नियुक्ति की दिनांक

सचिव

प्रपत्र–ग
व्यवसाय संघ के पंजीयन हेतु आवेदन

(औद्योगिक संबंध संहिता की धारा 6(1) सपठित नियम 12 के अन्तर्गत)

दिनांक_____वर्ष

1. हम एक व्यवसाय संघ की रजिस्ट्री के लिये प्रार्थना पत्र देते हैं जिसका नाम_____है।
2. संघ के प्रधान कार्यालय का पता_____है
3. संघ के प्रधान कार्यालय का ई.मेल _____है।
4. संघ तारीख_____माह_____सन्_____को स्थापित हुआ।
5. संघ ऐसे नियोजक/कर्मचारियों का संघ है जो_____के उद्योग/पेशे में नियोजित हैं।
6. नियम 10(1)(क) के अन्तर्गत वांछित विवरण, जैसा कि परिशिष्ट–1 में दिया गया है। (संलग्न है)
7. नियम 10(1)(ख) के अन्तर्गत वांछित विवरण, जैसा कि परिशिष्ट–2 में दिया गया है। (संलग्न है)
8. नियम 10(2) के अन्तर्गत वांछित विवरण, जैसा कि परिशिष्ट–3 में दिया गया है। (संलग्न है)
9. निम्नांकित हस्ताक्षरकर्ताओं को संघ की आम बैठक दिनांक_____के द्वारा पंजीकरण हेतु आवेदन करने को अधिकृत किया गया।

क्रमांक	नाम	नियोजन का स्थान	हस्ताक्षर
1			
2			
3			
4			
5			
6			
7			

अनुसूची–1
पदाधिकारियों की तालिका

पदनाम	नाम	आयु	पता	व्यवसाय

टिप्पणी–इस अनुसूची को कालम–1 में कार्यकारिणी के सदस्य के अतिरिक्त, कार्यकारिणी के सदस्यों के पदनाम (उदाहरणार्थ–अध्यक्ष, सचिव, कोषाध्यक्ष आदि) दर्ज किया जाये।

अनुसूची–2

नियम के नियमों का उल्लेख

नियमों में विभिन्न विषयों के लिये नियमों के विषय एवं संख्या का उल्लेख निम्नांकित कालम–1 एवं 2 में दिया गया है।

विषय	नियमों की सूचिकायें
संघ का नाम	
समस्त उद्देश्य जिनके लिये संघ स्थापित किया गया।	
समस्त उद्देश्य जो संघ की सामान्य निधि के लिये अलग होंगे।	
सदस्यों की सूची का रख–रखाव	
पदाधिकारियों की सूची के निरीक्षण के लिए सुविधायें	
साधारण सदस्यों का प्रवेश	
विशिष्ट अथवा अवैतनिक सदस्यों का प्रवेश	
शर्तें जिनके अन्तर्गत सदस्य नियमों के अन्तर्गत सुनिश्चित सीमा के अधिकारी होंगे	
शर्तें जिनके अनुसार चूकपत्र या अधिकार की दर समाप्त हो या उनका परिवर्तन किया जा सकता है	
नियमों के संशोधन/परिवर्तन अथवा परित्याग की विधि	
कार्यकारिणी के सदस्यों अथवा पदाधिकारियों को नियुक्त करने अथवा हटाने की विधि	
कोष की सुरक्षा का समुचित प्रबंध	
वार्षिक लेखा परीक्षा	
पदाधिकारियों एवं सदस्यों द्वारा लेखा पंजिकाओं के निरीक्षण की सुविधा	
वह विधि जिसके अनुसार संघ को भंग किया जा सकता है।	

अनुसूची–3

कार्य वर्ष_____ को देनदारियों एवं परिसम्पत्तियों का विवरण

(यदि संघ, आवेदन की तिथांक से एक वर्ष कम की अवधि से अस्तित्व में आया है, तो संघ के द्वारा नहीं भरा जाएगा)

देनदारियां	धनराशि रू० में	परिसम्पत्तियां	धनराशि रू० में
सामान्य निधि की धनराशि राजनीतिक निधि/ऋण की धनराशि ऋण...से अन्य देनदारियां (उल्लेख करें) कुल देनदारियां		नकद : कोषाध्यक्ष के पास बचिव के पास बैंक में जमा प्रतिभूतियां निम्न सूची के अनुसार ऋण की अवशेष किस्त अचल सम्पत्ति वस्तुएं एवं जमीन अन्य परिसम्पत्तियां (उल्लेख किया जाए) कुल परिसम्पत्तियां	

प्रपत्र–4

व्यवसाय संघ के रजिस्ट्रीकरण का प्रमाण पत्र

(औद्योगिक संबंध संहिता की धारा 9(2) तथा नियम 13 के अन्तर्गत)

क्रमांक_____

इस प्रमाण पत्र द्वारा प्रमाणित किया जाता है कि_____(संघ का नाम) का आज_____

_____के माह_____वर्ष_____को औद्योगिक संबंध संहिता की धारा 9(2) के अन्तर्गत

पंजीकरण किया गया।

रजिस्ट्रार, ट्रेड यूनियन्स
भारतराष्ट्र

प्रपत्र–ङ

व्यवहार संघ हेतु पंजिका

(औद्योगिक संबंध संहिता की धारा 9(3) तथा नियम 14 के अन्तर्गत)

कम्पनी							
संघ का नाम प्रधान कार्यालय का पता रजिस्ट्रीकरण की दिनांक							
क्रमांक	कार्यालय में प्रवेश की दिनांक	नाम	प्रवेश के समय आयु	पद	हस्ताक्षर	कार्यालय छोड़ने की दिनांक	संघ कार्यालय से अतिरिक्त अन्य कार्यालय जहां पूर्व में कार्यरत रहे
1							
2							
3							
4							
5							
6							
7							

प्रपत्र–घ

(विवाद की सुनवाई के लिए आवेदन)

(औद्योगिक संबंध संहिता की धारा 22 व नियम 24 के अन्तर्गत)

मध्य

_____ प्रथम पक्ष

तथा

_____ द्वितीय पक्ष

निम्नलिखित विवाद को अधिनिर्णय के लिए आवेदन किया जा रहा है :

[यहां न्यायाधिकरण के नाम और पते का उल्लेख करें]

(i) विवाद एवं विवाद के पक्षों का नाम, पदनाम सहित विवरण

(ii) नियोजक प्रतिष्ठान या उपक्रम का नाम और पता

(iii) कर्मकार का नाम यदि वह स्वयं विवाद में शामिल हो या संघ, यदि कोई हो जो प्रभावित कर्मकार या कर्मकारों का प्रतिनिधित्व करता हो, का नाम

(iv) प्रभावित कुल कर्मकारों की संख्या।

प्रभावित पक्षों के नाम, पदनाम एवं हस्ताक्षर :

इसकी प्रति भेजें

(i) संबंधित न्यायाधिकरण

(ii) सचिव, श्रम, उत्तराखंड सरकार।

(iii) श्रम आयुक्त, उत्तराखंड।

प्रपत्र–छ

31 दिसम्बर 20____को समाप्त होने वाले वर्ष के लिए वार्षिक विवरणी

(औद्योगिक संबंध संहिता की धारा 26(1) और नियम 27(1) के अनुसरण में)

संघ का नाम
पंजीकृत प्रधान कार्यालय का पता
पंजीयन प्रमाण पत्र का क्रमांक

व्यवसाय संघों के फेडरेशन द्वारा विवरण दिया जाना है	वर्ष के प्रारम्भ में सम्बद्ध संघों की संख्या
	वर्ष के दौरान सम्मिलित होने वाले संघों की संख्या
व्यवसाय संघों के फेडरेशन द्वारा यह विवरण दिया जाना आवश्यक नहीं है	वर्ष के अंत में असम्बद्ध किये गये संघों की संख्या
	वर्ष के आरम्भ में बहियों में सदस्यों की संख्या
	वर्ष के दौरान शामिल हुए सदस्यों की संख्या (आवेदन में लेकिन स्वीकृत)
	वर्ष के दौरान छोड़ने वाले सदस्यों की संख्या (त्यागपत्र आदि)
	वर्ष के अन्त में बहियों में शुल्क सदस्यों की संख्या
	पुरुष
	महिलाएं
	राजनैतिक निधि में अंशदान देने वाले सदस्यों की संख्या

व्यवसाय संघ के नियमों की एक प्रति, जो इस रिटर्न के प्रेषण की दिनांक तक सही है, संलग्न है।

दिनांक_____वर्ष_____

प्रपत्र–ब

(औद्योगिक संबंध संहिता की धारा 34 तथा नियम 33 के अन्तर्गत)

प्रस्तावित स्थाई आदेशों हेतु पंजिका

क्र० सं०	आवेदक का नाम	स्थाई आदेश को संचालित करने वाले औद्योगिक प्रतिष्ठान का नाम	अनुसूचित का नाम व पता	उद्योग की श्रेणी	औद्योगिक प्रतिष्ठान में कर्मकारों की संख्या	ट्रेड यूनियन अथवा कर्मकारों के प्रतिनिधियों का नाम व पता	औद्योगिक प्रतिष्ठान से सम्बन्ध रखने वाली ट्रेड यूनियन के सदस्यों की संख्या	अनुसूची के कागजों	प्रस्तावों प्राप्त की दिनांक	आवेदन की दिनांक	टिप्पणी
1	2	3	4	5	6	7	8	9	10	11	12

संशोधन

संशोधन–1			संशोधन–2			संशोधन–3			संशोधन–4		
आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)	आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)	आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)	आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)
13	14	15	16	17	18	19	20	21	22	23	24

प्रपत्र-ङ

स्थाई आदेशों में संशोधन हेतु आवेदन

(औद्योगिक संबंध संहिता की धारा 35(2) तथा नियम 38 के अन्तर्गत)

नियोजकों की संस्था का नाम अथवा कर्मचारी का नाम :
पता :

सेवा में,

प्रमाणन अधिकारी (स्थाई आदेश)
औद्योगिक संबंध संहिता, 2020
पता :_____

महोदय,

औद्योगिक संबंध संहिता, 2020 की धारा 35 के प्रावधानों के अनुसार, मैं आपको सूचित करना चाहता हूं कि निम्नलिखित औद्योगिक स्थापन में अपनाये गये स्थाई आदेश संख्या....20.....में संशोधन किए जाने का इच्छुक हूं :

2. मैं यह घोषणा करता हूं – स्थाई आदेशों को अधिनियम में आए या उनमें अंतिम संशोधन हुए छह माह व्यतीत हो चुके हैं।

संशोधन प्रस्तावित करने वाले नियोजक व कर्मचारी के मध्य एक समझौता हो चुका है, जिसकी प्रति यहां संलग्न है।

3. प्रस्तावित संशोधन/संशोधनों को इंगित करने वाले स्थाई आदेशों की पांच प्रतियां संलग्न है।

4. कर्मचारी के बारे तथा व्यवसाय संघ के नाम व पतों के संबंध में कोई परिवर्तन, जोकि उनके द्वारा अंतिम बार प्रस्तुत किया गया था, की संलग्न शीट में इंगित है।

औद्योगिक स्थापनों की सूची

क्रमांक	औद्योगिक स्थापन का नाम	नियोजक का नाम व पदनाम	स्थापन की श्रेणी	पता (तहसील सहित)	वह दिनांक जिस पर स्थाई आदेश का अन्तिम संशोधन अधिसूचित हुये थे	प्रस्तावित संशोधन	टिप्पणी

भवदीय

(नाम एवं पदनाम)

प्रपत्र–अ

(औद्योगिक संबंध संहिता की धारा 40 तथा नियम 37 के अन्तर्गत)

(नियोजक द्वारा प्रस्तावित सेवा शर्तों के परिवर्तन की सूचना)

नियोजक का नाम_____

पता_____

दिनांक_____दिन_____20_____

औद्योगिक संबंध संहिता की धारा 40 (1) के अनुसरण में/हम सभी सम्बन्धित को सूचित करता हूं/करते हैं कि मैं/हम इस संहिता की तीसरी अनुसूची में निर्दिष्ट किए गए मामले के संबंध में कर्मकारों पर सेवा शर्तों में_____ _____से अनुसूची में परिवर्तन/परिवर्तनों को लागू करना चाहता हूं/चाहते हैं।

हस्ताक्षर_____

पद_____

अनुलग्नक

(प्रस्तावित होने के प्रयोजनार्थ प्रस्तावित परिवर्तन)

इस प्रतिलिपि को अग्रेषित करें:

1. पंजीकृत व्यवसाय संघ के सचिव, यदि कोई हो।
2. सम्बन्धित उप श्रम आयुक्त।
3. श्रम आयुक्त।

प्रपत्र–ए

(स्वैच्छिक मध्यस्थता के लिए सामग्रीतः)
(औद्योगिक संबंध संहिता की धारा 42(3) के नियम 38 के अन्तर्गत)

मध्य

_____ नियोजक का प्रतिनिधित्व करने वाले पक्षों के नाम

तथा

_____ कर्मकार का प्रतिनिधित्व करने वाले पक्षों का नाम

निम्नलिखित विवाद को मध्यस्थता के लिए संदर्भित करने के लिए पक्षों के बीच यह सहमति बनी है_____

[यहां मध्यस्थम के नाम और पते का उल्लेख करें]

(i) विवाद में विनिर्दिष्ट मामले।

(ii) शामिल प्रतिष्ठान या उपक्रम का नाम और पता सहित विवाद के पक्षों का विवरण

(iii) कर्मकार का नाम यदि वह स्वयं विवाद में शामिल हो या संघ, यदि कोई हो जो प्रभावित कर्मकार या कर्मकारों का प्रतिनिधित्व करता हो, का नाम

(iv) प्रभावित उपक्रम में कार्यरत कुल कर्मकारों की संख्या।

(v) विवाद से प्रभावित या प्रभावित होने वाले कर्मकारों की अनुमानित संख्या।

"हम मध्यस्थगों के बहुमत के फैसले से सहमत हैं) मध्यस्थम को अपना समान रूप से विचारित किया जाता है तो वे अपनी राय में एक अन्य व्यक्ति को अंपायर नियुक्त करेंगे जिसका निर्णय हमारे लिए मध्यस्थी होगा। मध्यस्थ एक निर्दिष्ट अवधि_____ अपना निर्णय देंगे। (यहां पार्टियों द्वारा सहमत अवधि निर्दिष्ट करें). केंद्र सरकार द्वारा आधिकारिक राजपत्र में या इस संबंध के भविष्य के प्रकाशनों में इस सामग्रीतः के प्रकाशन के दिनांक को लिखित रूप से हमारे बीच आपसी सामग्रीतः द्वारा बढ़ाया गया है। यदि मामले में निर्णय उल्लेखित अवधि के भीतर नहीं दिया गया, तो मध्यस्थम का संदर्भ स्वतः रूप से रद्द हो जाएगा और इस नए मध्यस्थम को शुरू करने के लिए स्वतंत्र होंगे।

पक्षों के हस्ताक्षर नियोजक और अधिकारी का प्रतिनिधित्व करते हुए

गवाह

1._____

2._____

इसकी प्रति भेजें:

(i) मुख्य अधिकारी [संबंधित क्षेत्र के लिए मुख्य अधिकारी के कार्यालय का पता दर्ज करें]।

(ii) सचिव, श्रम, उत्तराखंड सरकार।

(iii) श्रम आयुक्त, उत्तराखंड।

कर्मकार/कर्मकारों का प्रतिनिधित्व करने वाले

प्रपत्र–ख

(नियम 40, 61 देखें)

(संहिता के अधीन एक कार्यवाही, कार्यकर्ता के समूह, नियोजक, नियोजक के समूह द्वारा प्राधिकारी के समक्ष एक कार्यवाही में प्रतिनिधित्व किया जाएगा)।

प्राधिकारी के समक्ष

(यहां संबंधित अधिकारी का उल्लेख करें)

(कार्यवाही के नाम का उल्लेख करें)

_____कार्यकर्ता विपक्षी_____नियोजक

मैं /हम श्री/सर्वश्री 1._____ 2._____ 3._____ को अपना नेतृत्व करने के लिए अधिकृत करते हैं।

दिनांक _____दिन _____20_____

प्रतिनिधि को मनोनीत करने वाले व्यक्ति के हस्ताक्षर

पता स्वीकार किया गया

प्रपत्र–ङ

(दाण्डिक संहिता की धारा 83 तथा नियम 41(2) के अन्तर्गत)

(सुलह अधिकारी द्वारा मामले का निपटारा न होने पर न्यायाधिकरण को आवेदन पत्र)

_____के समक्ष पेशी (यहाँ पर अधिकार क्षेत्र के न्यायाधिकरण का नाम उल्लिखित करें)

_____के मामले में आवेदक का पता_____विपक्ष का पता_____

उपर्युक्त आवेदक को बताना होगा: –

(यहां प्रासंगिक तथ्यों और मामले की परिस्थितियों को निर्धारित करें) –

आवेदक की प्रार्थना है कि विवादों को तत्काल स्थगित किया जाए ताकि जल्द–से–जल्द उचित निर्णय लिया जा सके।

दिनांक___

स्थान___

प्रपत्र–घ
समझौते का पंजीयन
(नियम 43 देखें)

पंजीयन संख्या	पक्षों का नाम व पता	समझौते की शर्तें	समझौते की दिनांक	पंजीकरण की दिनांक	पंजीयन अधिकारी के हस्ताक्षर	टिप्पणी, यदि कोई हो
1	2	3	4	5	6	7

प्रपत्र–ङ
पंजिकृतीकरण प्रमाण पत्र
(नियम 43 देखें)

एतद्द्वारा यह प्रमाणित किया जाता है कि समझौते का ज्ञापन दिनांक_____ अंकित_____ _____के मध्य, जिसकी प्रति संलग्न है, औद्योगिक संबंध संहिता, 2020 के अंतर्गत आज_____ दिनांक_____ माह_____ वर्ष _____को पंजिकृतीकृत किया गया है।

सहायक अधिकारी एवं प्रमाणन अधिकारी,
उत्तराखण्ड

प्रपत्र-VI

(नियम 45 देखें)

(अधिकों और उनके समूहों (के मामले) द्वारा सूचिपत्र को हड़ताल के लिए सूचना पत्र)

अधिकों द्वारा चुने हुए 5 प्रतिनिधियों के नाम.....

दिनांक.....माह.....20.....

(नियोजक का नाम)

आदरणीय महोदय,

सविनय निवेदन यह है कि मैं/हम औद्योगिक सम्बंध संहिता की धारा 62 की उपधारा (1) में निहित प्रावधानों के अनुसार अनुलग्नक में उल्लिखित मांगों से दिनांक.....20..... हड़ताल का आह्वान करते हैं/प्रस्ताव रखते हैं

धन्यवाद।

(सूचिपत्र सहित)

(दिनांक).....को हुई बैठक में अधिकों के विधिवत चुने गये पांच प्रतिनिधि, संलग्न प्रस्ताव द्वारा]

अनुलग्नक

मामले का कथन/विवरण

प्रतिलिपि भेजी:

1) सचिव श्रम उत्तराखंड सरकार ।

2) श्रम आयुक्त, उत्तराखंड।

3) क्षेत्र के संबंधित उप श्रम आयुक्त।

प्रपत्र–द

(औद्योगिक संबंध संहिता की धारा 62 तथा नियम 46 के अनुसार)

(एक औद्योगिक प्रतिष्ठान के नियोजक द्वारा दी जाने वाली लॉक–आउट की सूचना)

नियोजक का नाम_____

पता_____

दिनांक__दिन__20__

इस संहिता की धारा 62 खंड (1) के प्रावधानों के अनुसार मैं/हम आपको सूचित करते हैं कि लाकआउट के प्रभाव के कारण_____ संस्थाओं के विरुद्ध, अनुभाग__ अनुलग्न में वर्णित कारणों के चलते बंद हो जाएंगे।

हस्ताक्षर_____

पद_____

अनुलग्न

कारणों का कथन

प्रतिलिपि भेजें:

(1) पंजिकृत संघ के सचिव। यदि कोई हो तो?

(2) पुलिस अधिकारी_____(यहाँ पर सहायक श्रम आयुक्त/उप श्रम आयुक्त के कार्यालय का पता लिखें

(3) श्रम सचिव उत्तराखंड सरकार

(4) श्रम आयुक्त उत्तराखंड।

(5) महानिदेशक श्रम व्यूरो अधिकारी।

प्रपत्र–VI

(औद्योगिक संबंध संहिता की धारा 70, 74 तथा नियम 47, 49 के अन्तर्गत)

औद्योगिक संबंध संहिता, 2020 के अध्याय IX और उसके अधीन बनाए गए नियमों के प्रावधान से अधीन किसी नियोजक द्वारा राज्य सरकार को दी जाने वाली छंटनी/बंद की जाने वाली सूचना

(ऑनलाइन जमा की जानी है। ऑफलाइन मोड के अभाव में नीचे दिये गये प्रारूप को नकल करके ऑफलाइन मोड से भी भेज सकते हैं ()

औद्योगिक प्रतिष्ठान/उपक्रम/नियोजक का नाम_____

कर्मचारी पहचान संख्या_____

दिनांक_____

(नोट करें: समुचित सरकार को छंटनी/छंटनी के लिए सूचना कम-से-कम 60 दिन और बंदी/छंटनी के आरम्भ होने से 30 दिन पहले दी जानी चाहिए)

सेवा में,

(i) सचिव श्रम उत्तराखंड सरकार।

(ii) श्रम आयुक्त उत्तराखंड।

(iii) क्षेत्रीय उप श्रम आयुक्त।

1. (छंटनी) (क) इस संहिता की धारा 70 (1) के अनुसार आपको सूचित किया जाता है कि मैंने/ हमने दिनांक_____ कुल____में से_____ कर्मचारों की छंटनी करने का निर्णय लिया है।

या

बंदी (ख) इस संहिता के अंतर्गत धारा 74 (1) के अनुसार मैं/हम यहां आपको सूचित करते हैं कि मैं/हमने_____ _____(औद्योगिक स्थापन या उपक्रम का नाम) को दिनांक____से (तारीख/महीना/वर्ष) बंद करने का निर्णय लिया है। उन कर्मचारों की संख्या जिनकी सेवाओं को उपक्रम के बंद होने के कारण समाप्त किया जाएगा_____ ____(कर्मचारों की संख्या) है।

2. छंटनी– उपक्रम बंद करने के कारण_____ _____

_____

_____

3. इस संहिता के अनुसार धारा 70 (1) 76 (1) के अंतर्गत निकाले जाने वाले कर्मचारों को ___ (तारीख /महीना / साल) एक महीने का वेतन दे दिया गया है।

4. " मैं " हम " घोषणा करते हैं कि संबंधित कार्यकर्ता " का जो भी बकाया है / होगा " उसमें पात्री बकाये का भुगतान मुआवजे के साथ धारा 70 * / धारा 76 * के अधीन इस संहिता के अनुसार नोटिस की अवधि से पहले या समाप्ति पर कर दिया जाएगा।

या

'चूंकि वर्तमान में उक्त औद्योगिक स्थापन के संबंध में विचाराधीन कार्यवाही चल रही है तो अतस्थापन्न / उपक्रम / नियोजक इसी लिए इस ' संबंधित कानूनों के तहत मुआवजे के साथ सभी देय राशि का भुगतान कर देंगे।

5. (अंटेनी) मैं / हम 'घोषित करते हैं कि संबंधित कार्यकर्ता की इस संहिता की धारा 71 और धारा 72 के अनुसार ' छंटनी होगी।

6. मैं ' / हम ' घोषणा करते हैं कि इसका कोई भी मामला किसी भी अदालत में लंबित नहीं है। और यदि हुआ भी तो उसका विवरण संलग्न किया गया है।

7. मैं ' / हम ' घोषित करते हैं कि इस नोटिस में मेरे / हमारे द्वारा दी गयी उपरोक्त जानकारी और अनुलग्नक सत्य है हमारी जानकारी के लिए ' हम / ' ' / ' पूरी तरह से जिम्मेदार हैं और किसी भी मामले में कोई भी तथ्य / सामग्री छिपाई नहीं गयी है।

(नियोजक का नाम /*** सील के साथ अधिकृत प्रतिनिधि)

(* हड़ताल जो लागू नहीं है।)

(** आंकड़े और शब्दों दोनों में संकेत संख्या उल्लिखित करें)

(नियोजक द्वारा जारी प्राधिकरण पत्र को *** कोषी संलग्न की जाएगी)

प्रतिलिपि भेजें:

(1) डीजी लेबर मुख्यो, श्रम और रोजगार मंत्रालय के कार्यालय के लिए, (केवल राष्ट्रिकलीय उद्देश्य के लिए।)

(2) श्रम आयुक्त, उत्तराखंड।

(3) सचिव, श्रम, उत्तराखंड सरकार।

(4) संबंधित क्षेत्र के उप श्रम आयुक्त।

(5) प्रतिष्ठानों या उपक्रमों में काम करने वाले श्रमिकों के पंजीकृत संघों /अधिकृत प्रतिनिधियों की सूची।

प्रपत्र–ग

(नियम 50, 52, 54 देखें)

[औद्योगिक संबंध संहिता, 2020 के अध्याय X के प्रावधानों के अधीन नियोजक /औद्योगिक प्रतिष्ठान में छंटनी की निरंतरता की अनुमति के लिए राज्य सरकार को अंडरटेकिंग देने के संबंध आवेदन]

(ऑनलाइन जमा किया जाना है। ऑनलाइन मोड के अभाव में नीचे दिये गये प्रारूप की नकल करते हुए आवेदन ऑफलाइन मोड से भी भेजा जा सकता है।)

औद्योगिक प्रतिष्ठान का उपक्रम या नियोजक का नाम.....

फर्म/कंपनी पहचान संख्या.....

दिनांक.....

(टिप्पणी: केंद्र सरकार को आवेदन नीचे दिए गए प्रारूप के अनुसार दिया जाएगा:

ले–ऑफ: इच्छित ले–ऑफ से कम से कम 15 दिन पहले

पहले ले–ऑफ की समाप्ति से कम से कम 15 दिन पहले ले–ऑफ की निरंतरता

छंटनी– छंटनी की इच्छित दिनांक से कम से कम 60 दिन पहले

बंद करने का इरादा बंद होने के कम से कम 90 दिन पहले)

आवेदन भेजें:

श्रमिक सचिव उत्तराखंड सरकार

1. (ले–ऑफ) (ए) । औद्योगिक संबंध संहिता, 2020 की धारा 78 (2) के अधीन मैं * / हम * "ले–ऑफ करने की अनुमति के लिए आवेदन करते हैं ... . ऐसा करने वाले ** कुल नियोजन" ... – फर्म/कंपनी ** मेरे ' / हमारे ' प्रतिष्ठान (अनुबंध–I में दिए जाने वाले विवरण) को .....। (दिनांक/ माह / वर्ष) के प्रभाव से नियोजित किया गया है।

या

' (ले–ऑफ की निरंतरता) (बी) औद्योगिक संबंध संहिता, 2020 की धारा 78 (3) के अधीन मैं * / हम * ले–ऑफ जारी रखने की अनुमति के लिए आवेदन करते हैं। कुल श्रमिकों... में से...

श्रमिकों ** को मेरे * / हमारे * प्रतिष्ठान (अनुबंध– I में दिए जाने वाले विवरण)..... (दिनांक / माह / वर्ष) के प्रभाव में नियोजित किया गया है।

या

* (औद्योगिक संबंध संहिता, 2020 की धारा 78 (3) के अधीन (ख) की निरंतरता (बी), मैं * / हम * इसके अधीन ले–ऑफ जारी रखने की अनुमति के लिए आवेदन करते हैं ..... कुल श्रमिकों में से..... मेरे (* एनेक्स– I में दिए जाने वाले विवरण) को... *.... .. (दिनांक / माह / वर्ष) के प्रभाव में श्रमिकों को रखा गया।

या

* (छंटनी) (ब) औद्योगिक संबंध संहिता, 2020 की धारा 79 (2) के अधीन मैं * / हम * विवरण के अनुबंधित की अनुमति के लिए आवेदन करते हैं _____ मेरे प्रस्ताव में वर्णित कुल कर्मचारियों में से * / हमारे * प्रतिष्ठान (एनेक्सर- I में दिए जाने वाले विवरण) के प्रभाव से_____ (दिनांक / माह / वर्ष)

या

* (बंद) (क) औद्योगिक संबंध संहिता, 2020 की धारा 80 (1) के तहत मैं / हम * आपको सूचित करते हैं कि मैं * / हम * उपक्रम को बंद करने का इरादा रखते हैं_____ (औद्योगिक प्रतिष्ठान या उपक्रम या नियोजक का नाम) (विवरण अनुलग्नक- I में दिया जाएगा) _____ (दिनांक / माह / वर्ष) के प्रभाव से।

श्रमिकों की संख्या जिनकी सेवाओं को उपक्रम के बंद होने के कारण समाप्त कर दिया जाएगा _____। (श्रमिकों की संख्या)

2. (संबंधित (से-अधिक / निरंतरता जारी रखने के लिए) संबंधित कार्यकर्ता को दिए गए थे _____(दिनांक / माह / वर्ष) लिखित रूप में नोटिस के अधीन धारा 79 (2) * / धारा 76 (3) * इस संहिता का उपबंधन हुआ है।

या

* (छंटनी/ बंद) संबंधित कार्यकर्ता (ओं) को _____। (दिनांक / माह / वर्ष) को इस संहिता की धारा / 9 * / धारा * के अधीन आवश्यक एक महीने का नोटिस दिया गया था।

या

* (छंटनी / बंद) करने संबंधित कार्यकर्ता को _____। (दिनांक / माह / वर्ष) को इस संहिता की धारा /9 * / धारा * के अधीन आवश्यक एक महीने का नोटिस दिया गया था।

या

* (छंटनी /बंद) करने से संबंधित कार्यकर्ता को। _____। (दिनांक / माह / वर्ष) पर इस संहिता की धारा 79 * / धारा 80 * के अधीन आवश्यक सूचना के औसत में एक महीने का वेतन दिया जाता है।

3. प्रभावित कार्यकर्ता का विवरण अनुबंध II में है।

4. (छंटनी) मैं * / हम * घोषित करते हैं कि संबंधित कर्मचारी इस संहिता की धारा 71 और धारा 72 के अनुपालन में पीछे हट जाएंगे।

5. "मैं / हम * इस बात की घोषणा करते हैं कि संबंधित कर्मचारियों को धारा* 87 / के अधीन धारा 87 (10) * / धारा 79 * / धारा 80 * के साथ पढ़े गए सभी देय और मुआवजों का भुगतान नोटिस की अवधि से पहले या उसके समाप्त होने तक कर दिया जाएगा।

तथा

* मैं / हम * यह जानकारी दे रहे हैं कि वर्तमान में उक्त औद्योगिक प्रतिष्ठान / उपक्रम/ नियोजक के संबंध में दिवालिया कार्यवाही चल रही है, और मैं * हम * संबंधित कानूनों के अनुसार मुआवजे के साथ सभी बकाया राशि का भुगतान कर देंगे।

6. मैं / हम / इस बात की घोषणा करते हैं कि हमारा कोई भी मामला किसी भी न्यायालय में लंबित नहीं है, और यदि हुआ भी तो उसका विवरण संलग्न है।

7. मैं / हम घोषित करते हैं कि मेरे/ हमारे द्वारा दी गई उपरोक्त जानकारी /सत्य है / सत्य है, मैं /हम / इसकी सत्यनिष्ठा के लिए पूरी तरह से जिम्मेदार हैं और किसी भी मामले में कोई भी तथ्य /जानकारी को छिपाया नहीं है।

हस्ताक्षर

(नियोजक का नाम / *** सील के साथ अधिकृत प्रतिनिधि)

(* हड़ताल जो लागू नहीं है)

(** आंकड़ों और शब्द दोनों में संकेत संख्या उल्लिखित करें)

(*** नियोजक द्वारा जारी प्राधिकरण पत्र की प्रति संलग्न होगी)

अनुलग्नक–I

(कृपया प्रत्येक बिन्दु के विरुद्ध उत्तर दें)

1 पूर्ण डाक पते, ईमेल, मोबाइल और लैंड लाइन के साथ उपक्रम का नाम।

2 उपक्रम करने की स्थिति–

(i) जहां केंद्रीय सार्वजनिक क्षेत्र / राज्य सार्वजनिक क्षेत्र / आदि,

(ii) जहां एक निजी लिमिटेड कंपनी /साझेदारी फर्म

(iii) क्या उपक्रम साइसेंसधारी / पंजीकृत है और यदि ऐसा है तो साइसेंसिंग/ पंजीकरण प्राधिकरण और लाइसेंस /पंजीकरण प्रमाण पत्र संख्या का नाम।

3 (i) एक्सीए संख्या

(ii) जीएसटीएन नंबर

पिछले तीन वर्षों में किए गए छंटनी / छंटनी का विवरण जिसमें इस तरह के छंटनी / छंटनी की अवधि शामिल है, प्रत्येक छंटनी / छंटनी /छंटनी की निरंतरता में शामिल कर्मचारियों की संख्या

4 कोई भी अन्य प्रासंगिक विवरण, जो छंटनी / बंद होने की निरंतरता पर असर डालते हैं।

अनुलग्नक–II

(प्रभावित कर्मकारों का विवरण)

एक्सचई।

कोई UAN/ CMPFO का नाम

कार्यकारी श्रेणी

(अत्यधिक कुशल /कुशल /अर्ध–कुशल / अकुशल

प्रपत्र–घ

(नियम 28(1) देखें)

इस संहिता के अधीन पहली बार अपराध करने वाले कर्मचारी को धारा 89 की उपधारा (1) के अधीन चूकने के लिए नोटिस

औद्योगिक संबंध संहिता की धारा 89 की उपधारा 1 के अधीन अधिकारी और शमन अधिकारी, इसके द्वारा यह सूचित किया जाता है कि नीचे दिए गए विवरण के अनुसार इस संहिता के विभिन्न प्रावधान के उल्लंघन के लिए आप पर आरोप लगाया गया है –

खंड–1

1. अपराधी कर्मचारी का नाम और पता– _____ चलती)

2. अवस्थापना का पता _____

3. अपराध के विवरण _____

4. संहिता की धारा जिसके अधीन अपराध किया गया है _ _ _ _____

5. अपराध की शिथिलता के लिए भुगतान की जाने वाली अपेक्षित राशि _____

खंड–2

आपको इस नोटिस के जारी होने की तारीख से पंद्रह दिनों के भीतर उपर्युक्त राशि जमा करने की सलाह दी जाती है क्योंकि औद्योगिक संबंध संहिता, 2020 की धारा 89 (1) के अनुसार अपराध को कम करने के लिए, इस के भाग–III में भरे गए आवेदन के साथ नोटिस स्वीकार्य नहीं है। ।

यदि आप निर्दिष्ट समय के भीतर उक्त राशि जमा करने में विफल रहते हैं तो आगे कोई अवसर नहीं दिया जाएगा और धारा ———— के तहत अभियोजन के लिए आवश्यक निर्देश जारी किया जाएगा।

(शमन अधिकारी के हस्ताक्षर

खंड–3

अपराध की शमन के लिए धारा 89 की उपधारा (1) के अधीन आवेदन

1. आवेदक का नाम (नियोजक का नाम जिसका उल्लेख होना है। जिसने औद्योगिक संबंध संहिता 2020 के अधीन अपराध किया है) _____। _____

2. आवेदक का पता _____।

3. अपराध के विवरण _____ _____

4. संहिता की धारा जिसके तहत अपराध किया गया है _____

5. जमा की गई राशि का विवरण (संलग्न किए जाने के लिए इलेक्ट्रॉनिक रूप से प्राप्त रसीद)

_____ _____

6. उपर्युक्त अपराधों के उल्लंघन के लिए दायर अभियोजन का विवरण दिया जा सकता है _____

7. क्या यह आवेदक का पहला अपराध है या फिर उसने इस अपराध से पहले भी कोई अन्य अपराध किया था? यदि प्रतिबद्ध है तो अपराध का पूरा विवरण _____ _____।

_____ _____। _____

8. कोई अन्य जानकारी जो आवेदक प्रदान करना चाहता है _____।

प्रपत्र–फ

(औद्योगिक संबंध संहिता, की धारा 61 तथा नियम 60 के तहत शिकायत)

सुलह अधिकारी/मध्यस्थम्/न्यायाधिकरण या श्रम न्यायाधिकरण_____के समक्ष

इस विषय में_____संदर्भ संख्या_____

का_____शिकायतकर्ता

बनाम

का_____प्रतिवादी पक्ष

पक्ष:

याचिकाकर्ता ने शिकायत करने के लिए मांग की कि विपक्षी पार्टी (_____)

औद्योगिक सम्बन्ध की धारा 30 के प्रावधानों के उल्लंघन का दोषी है जैसा कि नीचे दिखाया गया है:

(यहां कथित तौर पर उल्लिखित तरीके को दिखाया गया है जिसमें कथित रूप से उल्लंघन हुआ है और प्रबंधन के आदेश या कार्य को चुनौती दी गई है।)

शिकायतकर्ता तदनुसार प्रार्थना करता है कि सुलह अधिकारी /पंचायत / औद्योगिक न्यायाधिकरण या श्रम ट्रिब्यूनल ऊपर उल्लिखित शिकायत को सच करने और आदेश पारित करने की कृपा करें क्योंकि यह उचित है।

औद्योगिक संबंध संहिता के नियम 61 के अधीन प्रपत्र शिकायत की प्रतियों की संख्या और इसके अनुलग्नक को इसके साथ प्रस्तुत किया जाता है।

यह दिनांक _____ का दिन _____ 20 _____ है। शिकायतकर्ता के हस्ताक्षर

सत्यापन

मैं पूरी सच्चाई से घोषणा करता हूं कि पैराग्राफ में कथन सच है _____ यह सच है

ज्ञान और जो पैराग्राफ में बताया गया है _____ मेरे को प्राप्त जानकारी पर कहा गया है और मेरे द्वारा विश्वास किया जाता है कि यह सच है।

इस सत्यापन पर मेरे द्वारा हस्ताक्षर किए गए हैं ..

हस्ताक्षर या सत्यापन करने वाले व्यक्ति के अंगूठे का निशान

आज्ञा से,

डॉ० श्रीधर बाबू अद्दांकी,

सचिव।

In pursuance of the provision of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Notification No. 1117/VIII-1/2026-39(Labour)/2018, Dehradun dated August 25, 2026 for general information.

No. 1117/VIII-1/2026-39(Labour)/2018
Dated Dehradun, August 25, 2026

NOTIFICATION

Whereas, under section 99 of the Industrial Relation Code, 2020 (No. 35 of 2020), the appropriate Government (State Government) is empowered to make rules by notification in the Official Gazette and subject to the condition of pre-publication under sub-section (1) of Section 99 of the said Code, for carrying out the provision of the said Code;

And whereas the proposed draft of the Uttarakhand Industrial Relation Rules, 2026 was pre-published by the notification no. 511/VIII-1/2026-39(Labour)/2018, dated 30 April, 2026 of Labour Section, Uttarakhand Government, as required by sub-section (1) of Section 99 of the said Code;

And whereas the representations and objections of the general public and beneficiaries on the said draft have been considered by State Government;

Now, therefore, in exercise of the powers conferred by section 99 of the Industrial Relation Code, 2020, the Governor is pleased to allow to make the following rules, namely:-

The Uttarakhand Industrial Relation Rules, 2026

CHAPTER-I

PRELIMINARY

Short title, extent and commencement

1. (1) These rules may be called the Uttarakhand Industrial Relation Rules, 2026.

(2) It shall extend to the whole of Uttarakhand State

(3) It shall come into force on the date of their publication in the Official Gazette.

Definition

2. (1) In these rules, unless there is anything repugnant to the subject or context-

(a) "Code" means the Industrial Relations code, 2020"

(b) **"Section"** means the section of the Industrial Relations code 2020,'

(c) **"electronically"** means any information submitted by email or uploading on the designated portal or digital payment in any mode for the purpose of code;

(d) **'Form'** means the form appended to the rules;

(e) **"State Government"** means the Government of Uttarakhand

(2) The words and expressions used herein and not defined but defined in the Industrial Relations Code, 2020 shall have the same meanings respectively assigned to them in the Code.

Chapter-2

SETTLEMENT

Memorandum of settlement

3. (1) The settlement arrived at in the course of conciliation proceedings or a written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding shall be in Form A.

(2) The settlement shall be signed by the following –

(a) by the employer or by his authorized agent, or where the employer is an incorporated company or other body corporate, by the representative, manager or other principal officer of such company or such other body corporate; and

(b) on behalf of workers, by any of the following office bearers of Trade Union, namely: –

(i) President; or

(ii) Vice-President; or

(iii) Secretary (including the General Secretary); or

(iv) Joint Secretary; or

(v) any other office bearer of the Trade Union authorized in this behalf by the President and Secretary of the Union; or

(vi) five representatives of workers duly authorized in this behalf at the meeting of the workers held for the purpose.

(3) In case of an industrial dispute between any worker and employer, the settlement shall be signed by the employer and the worker concerned.

(4) Where the settlement is arrived at in the course of conciliation proceedings, the conciliation officer shall send a report thereof to the State Government together with a copy of the memorandum of settlement signed by the parties to the dispute.

(5) Where a settlement is arrived at between an employer and his worker otherwise than in the course of conciliation proceedings, the parties to the settlement shall jointly send a copy thereof electronically or by speed post or by registered post, to the Labour Commissioner and to the conciliation officer.

(6) The conciliation officer shall file all settlements effected under the Code in respect of industrial disputes in the area within his jurisdiction in the register maintained electronically or otherwise.

(7) The register referred to in sub-rule (6) shall contain the details including serial number, name of the industry, parties to the settlement, date of settlement, remarks and whether settlement was arrived at after the intervention of conciliation officer or by mutual negotiation:

Provided that signature of conciliation officer on the agreement shall not be necessary where the agreement for settlement is arrived at outside conciliation:

Provided further that nothing in this rule shall prohibit a settlement between a worker or workers or Trade Union and an employer on mutually agreed terms and such settlement may be in a

format other than Form A. A copy of the settlement reached outside the conciliation process shall be compulsorily sent to the conciliation officer.

Chapter-3

BI-PARTITE FORUMS

Works Committee, its constitution and matters related thereto

4. (1) Every employer to whom an order made by the State Government under sub-section (1) of section 3 relates, shall forthwith proceed to constitute a Works Committee (hereinafter in this rule referred to as the Committee) to promote measures for securing and preserving amity and good relations between the employer and workers and, to that end, to comment upon matters of common interest or concern, in the manner specified in these rules.

(2) **Number of Members**

(i) The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and class of workers engaged in, and to the sections or departments of the industrial establishment.

(ii) The total number of members of the Committee shall not exceed twenty.

(iii) The number of representatives of the workers in the Committee shall not be less than the number of representatives of the employer therein:

Provided that the industrial establishment in which women workers are employed shall have adequate representation of women workers in Works Committee and such representation shall not be less than the proportion of women workers to the total workers employed in the industrial establishment.

(3) **Representation of Employer** Subject to the provisions of this rule, the representatives of the employer in the Committee shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with, or associated with, the working of the industrial establishment.

(4) **Consultation with Trade Union** Where the workers of the industrial establishment are members of a registered Trade Union or Trade Unions, the employer shall ask such registered Trade Union or Trade Unions to inform him in writing as to—

(a) number of the workers who are members of such registered Trade Union or Trade Unions; and

(b) if the employer has reason to believe that the information furnished to him by the registered Trade Union or Trade Unions is false, he may, after informing such registered Trade Union or Trade Unions, refer the matter to Deputy/Joint/Additional Registrar, who shall, after hearing the parties, shall send a report to Labour Commissioner/registrar who shall decide the matter and whose decision shall be final.

(5) **Selection of Worker's representative's** On receipt of the information called for under sub-rule (4), the employer shall provide for the choosing of worker's representative of the Committee in the following manner, namely:—

(a) in the case of a negotiating union under sub-section (2) or sub-section (3) of section 14, such negotiating union shall nominate the worker's representatives of the Committee;

(b) in the case of the negotiating council under sub-section (4) of section 14, the nomination shall be in such manner that every registered Trade Union representing in the negotiating council shall be represented in the Committee in proportion to the number of workers of the industrial establishment who are members of such Trade Union;

(c) where there is no recognised negotiating union or negotiating council referred to in clauses (a) and (b), the workers of the industrial establishment shall elect amongst themselves the worker's representatives of the Committee:

Provided that the employer may, deploy an electronic platform for conducting the election process over an information technology application, online platform or such other platform to enable as to how the representatives of workers shall be elected for the Committee under this clause:

Provided further that where a registered Trade Union fails to furnish the information called for under sub-rule (4) within one month of the date on which it is so called for, then, such Trade Union shall for the purpose of this rule be treated as if it did not exist:

Provided also that where any reference has been made by the employer under sub-rule (4), the process of choosing the worker's representative relating thereto shall be held on receipt of the decision of the Labour Commissioner .

(6) **Electoral Constituencies** — The employer may, if he thinks fit, direct that the workers shall vote in either by groups, sections, shops or departments.

(7) **Qualification of Candidates for election** — Any worker, of not less than nineteen years of age and with a service of not less than one

year in the industrial establishment may, if nominated as provided in this rule, be a candidate for election as a worker's representative of the Committee:

Provided that such service qualification shall not apply to the first election in an industrial establishment which has been in existence for less than a year.

Explanation. — For the purposes of this sub-rule, a worker who has put in continuous service for not less than one year in two or more industrial establishments belonging to the same employer shall be deemed to have completed the service qualification specified therein.

(8) **Qualification for voters**

All workers who are not less than eighteen years of age and who have put in not less than six months' continuous service in the industrial establishment shall be entitled to vote in the election of worker's representative of the Committee.

Explanation.— For the purposes of this sub-rule, a worker who has put in continuous service of not less than six months in two or more industrial establishments belonging to the same employer shall be deemed to have completed the service qualification specified therein.

(9) **Fixation of schedule for Election**

(i) The employer shall give a minimum time period of at least three working days for filing of nomination along with other requisite details while fixing a date as the closing date for receiving nominations from candidates for election as worker's representatives of the Committee.

(ii) The date fixed by the employer for holding the election referred to in clause (i) shall not be earlier than three days and later than fifteen days after the closing date for receiving nominations.

(iii) The date of election fixed under clause (i) shall be notified at least seven days in advance to the workers concerned and such notice, which shall specify the number of seats to be elected, shall be affixed on the notice board or electronic notice board of the industrial establishment and given adequate publicity amongst the workers

(10) **Nomination of Candidates for election:**

(i) Every nomination for election as worker's representative of the Committee shall be made on a nomination paper to be provided by employer and the copies thereof shall be supplied by the employer to the workers requiring them.

(ii) Each nomination paper referred to in clause (i) shall be signed by the candidate to whom it relates and attested by at least two other voters belonging to the group, section, shop or department, which the candidate seeking election shall represent, and shall be delivered to the employer.

(11) **Scrutiny of Nomination papers:**

(i) On the day following the last day fixed for filing nomination papers, the nomination

papers shall be scrutinized by the employer in the presence of the candidates and the attesting persons and those nominations which are not valid shall be rejected.

(ii) A nomination paper shall be held to be not valid under this sub-rule, if—

(a) the candidate nominated is ineligible for being a candidate under sub-rule (7); or

(b) the requirements of sub-rule (10) have not been complied with:

Provided that where a candidate or an attesting person is unable to be present at the time of scrutiny, he may send a duly authorized nominee for the purpose.

(12) **Withdrawal of Candidates** Any candidate whose nomination for election has been accepted may withdraw his candidature within forty-eight hours of the completion of scrutiny of the nomination papers.

(13) **Voting in Election**

(i) If the number of candidates who have been validly nominated for election as worker's representative of the Committee is equal to the number of seats, the candidates as such shall be forthwith declared as duly elected.

(ii) Where, in any industrial establishment, the number of candidates validly nominated for election as worker's representative of the Committee is more than the number of seats allotted to it, voting shall take place on the day fixed for election

(14) **Officers of the Committee:**

(i) The Committee shall have among its office-bearers a Chair person, a Vice-Chairperson, a Secretary and a Joint-Secretary.

(ii) The Chairperson of the Committee shall be nominated by the employer from amongst the employer's representatives of the Committee and he shall, as far as possible, be the head of the industrial establishment.

(iii) The Vice-Chairperson shall be elected by the members of the Committee representing the workers, from amongst themselves:

Provided that in the event of equality of votes in the election of the Vice-Chairperson, the matter shall be decided by a lottery.

(iv) The Secretary and the Joint-Secretary of the Committee shall be elected every year.

(v) The Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from amongst the representatives of the employers, the Joint Secretary shall be elected from amongst the representatives of the workers and *vice versa*:

Provided that the post of the Secretary or the Joint Secretary, as the case may be, shall not be held by a representative of the either the employer or the workers for three consecutive years:

Provided further that the employer's representatives shall not take part in the election of the Secretary or Joint Secretary, as the case may be, and only the representatives of the workers shall be entitled to vote in elections for the post of Secretary or Joint Secretary:

Provided also that in the event of equality of votes in an election under this sub-rule, the matter shall be decided by a lottery.

(15) **Term of Office:**

(i) The term of office of the members of the Committee other than a member chosen to fill a casual vacancy shall be three years.

(ii) Every member chosen to fill a casual vacancy shall hold office for the remaining period of the term of his predecessor.

(iii) The membership of any member, who fails to attend three consecutive meetings of the Committee without obtaining leave from the Committee, shall stand ceased.

(16) **Vacancies** — In the event of worker's representative ceasing to be a member under clause (iii) of sub-rule (15) or ceasing to be employed in the industrial establishment or in the event of his resignation, death or otherwise, his successor shall be chosen in accordance with the provisions of this rule for the remaining period of the Committee from the same group to which the member vacating the seat belonged.

(17) **Power to Co-Opt:** — The Committee shall have the right to co-opt persons employed in the industrial establishment having particular or special knowledge of a matter under discussion in a consultative capacity and such co-opted member shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee.

(18) **Meetings**

(i) The Committee may meet as often as necessary but not less often than once in three months.

(ii) The Committee shall at its first meeting regulate its own procedure.

(19) **Facilities for meetings, etc.**

(i) The employer shall provide meeting place for holding meetings of the Committee and shall also provide all necessary facilities to the Committee and to its members for carrying out the work of the Committee.

(ii) The Committee shall ordinarily meet during working hours of the industrial establishment concerned on any working day and the representatives of the workers shall be deemed to be on duty while attending the meeting.

(iii) The Secretary of the Committee may with the prior concurrence of the Chairperson, put up notice regarding the functions of the Committee on the notice board of the industrial establishment.

(20) **Annual Return** — The employer shall submit the details of the constitution and the functioning of the Committee as a part of unified annual return provided in the rules made in this behalf under the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020).

(21) **Dissolution of Works Committee** — The State Government, or the officer authorised in its behalf, may after making such inquiry as it or he may deem fit, dissolve any Committee at any time, by an order for reasons to be recorded in writing, on being satisfied that the Committee has not been constituted in accordance with the provisions of this rule or

that not less than two-third of the number of representatives of the workers have without any reasonable justification failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to function:

Provided that where the Committee is dissolved under this sub-rule, the employer, may, and if so required by the State Government or, as the case may be, by such officer, shall take steps to re-constitute the Committee in accordance with this rule.

Choosing members from the employers and the workers for Grievance Redressal committee under sub-section (2) of section 4.

5. (1) The Grievance Redressal Committee (hereinafter in this rule referred to as the Grievance Committee) in an industrial establishment employing twenty or more workers, shall consist of equal number of members representing the employer and workers, which shall not exceed ten.

(2) The representatives of the employer for the Grievance Committee shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with or associated with the working of the industrial establishment, preferably the heads of major department of the industrial establishment.

(3) The worker's representative of the Grievance Committee shall be chosen in the following manner, namely: —

(a) where there is a negotiating union under sub-section (2) or sub-section (3) of section 14, such negotiating union or negotiating council, as the case may be, shall nominate the worker's representatives of the Grievance Committee;

(b) in the case of a negotiating council under sub-section (4) of section 14, the nomination shall be in such manner that every registered Trade Union representing in the negotiating council shall be represented in the Grievance Committee in proportion to the number of workers of the industrial establishment who are members of such Trade Union;

(c) where there is no recognized negotiating union or negotiating council referred to the clauses (a) and (b), the workers of the industrial establishment shall choose amongst themselves the worker's representatives of the Grievance Committee:

Provided that the employer may, deploy an electronic platform for choosing worker's representatives under this clause, over an information technology application, online platform or such other like platform:

Provided further that there shall be adequate representation of women workers in the Grievance Committee and such representation shall not be less than the proportion of women workers to the total workers employed in the industrial establishment.

(4) The tenure of the members of the Grievance Committee shall be three years.

(5) Where there is no recognized negotiating union or negotiating council and if any dispute arises regarding choosing of the worker's representative to the Grievance Committee, the matter may be referred to the Labour Commissioner, who shall, after hearing the parties, decide the matter, whose decision shall be final.

Application before the Grievance Redressal Committee under sub-section (5) of section 4

6. (1) Any aggrieved worker/employee may file an application stating his dispute therein before the Grievance Redressal committee giving his name, designation, employee Code, Department where posted, length of service in years, category of

worker, address for correspondence, contact number, details of grievances and relief sought.

(2) The application referred to in sub-rule (1) may be sent electronically or otherwise.

(3) The application referred to in sub-rule (1) shall be filed within one year from the date on which the cause of action of such dispute arose.

Manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to conciliation officer under sub-section (8) of section 4

7. Any Worker/Employee who is aggrieved by the decision of the Grievance Redressal Committee or whose grievance is not resolved by the said committee within thirty days of receipt of the application, may file an application by registered post or speed post or electronically within a period of sixty days from the date of the decision of the Grievance Redressal Committee or from the date on which the period specified in sub-section (6) of section 4 expires, as the case may be, to the conciliation officer of the area concerned through the Trade Union of which he is a member or in person;

Provided that in case of manual receipt of such application or through registered post or speed post, the conciliation officer shall get the same digitized and enter the particulars of the application in the online mechanism and intimate to the concerned worker.

CHAPTER-4

TRADE UNIONS

Subscription fees under clause (f) of section 7

8. The subscription fees of the members of the Trade Union shall be as follows :

(i)Rs. 200 per annum for the workers of the unorganized sector.

(ii) Rs. 300 per annum for the workers of the organized sector.

(iii) The amount of subscription may be amended by the State Government as and when required by a general order.

(iv) In addition to members, annual donations of up to ₹5,000 may be accepted from outsiders through electronic/digital means. A receipt for this purpose will be provided to the individual by the president of the respective association or other authorized official within one week of the date of the donation.

Manner of annual Audit under clause (j) of section 7

9. (1) In addition to the provisions contained in sub-rule (2), the annual audit of the Trade Union shall be conducted by an auditor qualified under sub-section (1) of section 141 of the Indian Companies Act, 2013.

(2) Where the membership of a Trade Union did not any time being during the Financial Year exceed 2500, the annual audit of the account may be conducted-

(a) by a local auditor in Government service.

(b) by any person who has served in the State Audit & Account Service;

(c) by any auditor appointed to audit accounts of a co-operative society;

(d) by Registrar of a co-operative society or any state co-operative organization recognized for this purpose.

(3) Notwithstanding anything contained in sub-rule (1), no person, who, at anytime during the year was entrusted with any part of the funds or securities belonging to the Trade Union shall be eligible to audit the accounts of that Union

(4) The auditor or auditors appointed in accordance with the rules shall be given access to all the books of the Trade Union and shall verify the annual return with the accounts and vouchers relating thereto and shall there after sign the auditors declaration appended to **Form-B**, indicating separately on that form under his signature or their signatures a statement showing in what respect he

or they find the return to be incorrect, unvouched or not in accordance with the code The particulars given in this statement shall indicate-

(a) every payment which appears to be unauthorized by the rules of the Trade Union or contrary to the provisions of the code;

(b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person;

(c) the amount of any sum which ought to have been but not brought to account by any person.

Audit of political funds

10. The audit of the political funds of a registered Trade Union shall be carried out along with the audit of the general account of the Trade Union and by the same auditor or auditors.

Inspection

11. (1) The register of Trade Unions being maintained shall be open to inspection by any Person on payment of a fee Rs. Fifty.

(2) Any documents in the possession of the Registrar received from a registered Trade Union may be inspected by any member of that Union on payment of a fee of Rs. fifty for each document inspected.

(3) Documents shall be open to inspection every day on which the office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) The Registrar may supply a Certified copy of any such document to a registered Trade Union or a member thereof on payment of ₹ Rs. 2.00 per page of the document.

Format for registration application under subsection (1) of section 9

12. (1) Every application for registration of a Trade Union shall be in **Form-C** made to the Registrar electronically or otherwise and be accompanied by following-

(a) a declaration to be made by an affidavit. The titles, names, ages, address and occupation of the office bearers as per schedule-I of Form C.

(b) copy of the rules of the Trade Union together with a copy of the resolution by the members of the Trade Union adopting such rules. The number of rule making provision for several matter shall be as per schedule-II of Form C.

(c) a copy of the resolution adopted by the members of the Trade Union authorizing the applicants to make an application for registration;

(d) The fee payable for the registration of a Trade Union shall be Rs. 2000or such revised fee as may be issued by the State Government from time to time by general order;

(e) in the case of a Trade Union, being a federation or a central organization of Trade Unions, a copy of the resolution adopted by the members of each of the member Trade Unions, meeting separately, agreeing to constitute a federation or a central organization of Trade Unions.

Explanation- For the purposes of this clause, resolution adopted by the members of the Trade Union means, in the case of a Trade Union, being a federation or a central organization of Trade Unions, the resolution adopted by the members of each of the member Trade Unions, meeting separately.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in schedule-II of Form C.

(3) The Registrar may call for additional information for the purpose of satisfying himself that the

application complies with the provisions of this Code and the Trade Union is entitled for registration under this Code, and may refuse to register the Trade Union until such information is furnished.

Provided that the Registrar shall, within a period of 120 days from the receipt of the application, make his decision final regarding doing registration or not of the Trade union.

Provided further that any officer authorized to examine about the particular of the proposed Trade union shall submit his report to the Registrar within a period of 60 days from the date of being so authorized.

(4) If the name under which the Trade Union is proposed to be registered is identical with that of an existing registered Trade Union or in the opinion of the Registrar so nearly resembles the name of an existing Trade Union that such name is likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for altering the name of the Trade Union and shall refuse to register the Trade Union until such alteration has been made.

Certificate of Registration under sub section (2) of section 9

13. (1) Where the Registrar makes an order for registration of a Trade Union, he shall issue a certificate of registration to the applicant Trade Union, in **Form-D**, which shall be the conclusive evidence that the Trade Union has been registered under this Code.

(2) If the Registrar has issued a certificate of registration to a Trade Union, he shall enter the name and other particulars of the Trade Union in a register maintained in this behalf in **Form-E**.

(3) Every Trade Union registered under the Trade Union Act, 1926 (16 of 1926) having valid registration immediately before the commencement of this Code shall be deemed to have been registered under the Code:

Provided that such Trade Union shall file with the Registrar a statement that the constitution of the executive of the Trade Union is in accordance with this Code along with the rules of the Trade Union updated in accordance with section 7, and the Registrar shall amend his records accordingly.

Registration of Trade Union under sub-section (3) of section 9

14. The registrar, on being satisfied that the Trade Union has complied with necessary requirements for registration under this chapter shall register the Trade Union by entering the details in **Form-E** related to the union as provided with the application.

Cancellation or Withdrawal of Registration under sub-section (5) of section 9

15. The certificate of registration of a trade union may be withdrawn or cancelled by the Registrar within 45 days of receipt of the application/intimation:-

(a) after getting an enquiry conducted by Deputy/Joint/ Additional Registrar or

(b) on the information received regarding the contravention by the Trade Union of the provisions of this Code or the rules made there under or its constitution or rules; or

(c) if he is satisfied that the members in a Trade Union falls below ten percent of total workers or one hundred workers, whichever is less:

Provided that not less than sixty days previous notice in writing specifying the grounds on which it is proposed to cancel the certificate of registration of a Trade Union shall be given by the Registrar to the Trade Union before the certificate of registration is cancelled otherwise than on the application of the Trade Union.

Period for filing appeal under sub-section (1) of section 10

16. Any person aggrieved by the refusal of the Registrar to grant registration to a Trade Union under section 9 or by cancellation of a certificate of registration under sub-section (5) of the said section, may within Forty-five

days of such decision/refusal, prefer an appeal to the Tribunal having jurisdiction;

Provided that the Tribunal may entertain the appeal after the limitation prescribed for preferring the appeal under this sub-rule, if the appellant satisfies the Tribunal that such delay has been caused due to sufficient reason or unavoidable circumstances.

Communication and Notices under section 11

17. (1) All communications and notices to a registered Trade Union shall be sent electronically or by registered post to the address of the head office of the Trade Union as entered in the register maintained by the Registrar.

(2) The Trade Union shall inform the Registrar if the members of such Trade Union falls below ten percent of total workers or one hundred workers, whichever is less electronically or by registered post within 21 days of such change facts emerging.

(3) The Trade Union shall inform the Registrar of any change in the particulars given by it in its application for registration and in its constitution or rules electronically or through registered post within Forty-five days of such changes being affected.

Matters relating to negotiations between the negotiating union or negotiating council and the employer in an industrial establishment

18. Under sub-section (1) of section 14, negotiations shall be conducted by the employer of an industrial establishment through a negotiation union or a negotiation council on the following matters relating to workmen:-

(i) classification of grades and categories of workers;

(ii) order passed by an employer under the standing orders applicable in the industrial establishment;

(iii) wages of the workers including their wage period, dearness allowance, bonus, increment, customary concession or privileges, compensatory and other allowances;

(iv) hours of work of the workers, rest days, number of working days in a week, rest intervals, working of shifts;

(v) leave with wages and holidays;

(vi) promotion and transfer policy and disciplinary procedures;

(vii) quarter allotment policy for workers;

(viii) safety, health and working conditions and related standards;

(ix) such matters pertaining to conditions of service and terms of employment of the workers which are not covered in the foregoing clauses; and

(x) any other matter which is agreed between employer of the industrial establishment and negotiating union or negotiating council, as the case may be.

Criteria for recognizing a single registered Trade Union of workers as sole negotiating union of workers under sub-section (2) of section 14

19. Where there is only one registered Trade Union operating in an industrial establishment having its membership not less than 30 percent of the total workers employed in the industrial establishment, then the employer of such industrial establishment shall recognize such Trade Union as sole negotiating union of the workers

Manner of verification of membership of Trade Unions in an industrial establishment under sub-sections (3) and (4) of section 14.

20. (1) (a) The State Government shall appoint a verification officer (hereinafter in this rule, referred to as verification officer) for the purpose of verification of membership of the Trade Unions in the industrial establishment who shall not have any interest with any of the Trade Unions in the industrial establishment, whose membership verification is to be carried out by him:

Provided that the process for recognition of the negotiating union or the negotiating council, as the case may be, shall commence three months before the expiry of the tenure of the existing recognition period of the negotiating union or the negotiating council, as the case may be, recognized by the employer under the Code.

(b) The verification officer may utilize the services of other officers to assist him depending upon the quantum of work of membership verification

(c) The verification officer shall carry out the work of membership verification in the industrial establishment within the time as determined by the State Government.

(2) The employer of the industrial establishment shall bear all expenses and make arrangements in connection with the verification of membership of trade unions under sub rule (1).

(3) (a) The Trade Unions which satisfy the following conditions may submit an application to the employer of the industrial establishment to accord status of negotiating union or the representatives of negotiating council of the workers, as the case may be, namely such Trade Union has a valid registration under the Trade Unions Act, 1926 (16 of 1926) and continuing as such or has the registration under the Industrial Relations Code, 2020 (35 of 2020), as the case may be; and

(b) The application for recognition made by Trade Union shall be accompanied with a copy of the registration certificate, a copy of list of members, details of the membership subscription and a copy of latest annual return of the trade union submitted to the Registrar of Trade Unions.

(4) In case the negotiating union or negotiating council, as the case may be, has been constituted under the Code, the employer of the industrial establishment shall initiate action before expiry of the tenure of negotiating union or negotiating council, as the case may be, sufficiently in

advance but not later than three months before the expiry of the tenure of negotiating union or negotiating council, as the case may be;

(5) The date of reckoning shall be fixed by the verification officer for the industrial establishment for the purpose of verification of membership of the trade unions.

(6) The employer of the establishment shall forward the documents and records submitted by trade unions, to the verification officer.

(7) On receipt of the documents and records, the verification officer shall scrutinize the records and documents submitted by the trade union to ascertain the status of registration of trade unions and related matters;

(8) The verification officer shall hold meeting with representatives of employer of industrial establishment and all participating Trade Unions to decide about the process of verification of the membership of Trade Unions through secret ballot.

(9) The employer may, in consultation with the verification officer deploy an electronic process for conducting the election over an information technology application, online platform or like other platform.

(10) Verification of membership of Trade Unions through secret ballot.-

(i) The verification officer shall convene meeting of representatives of all registered Trade Unions functioning in the industrial establishment at least sixty days before the date of actual voting, to decide -

(a) publication of voters list;
(b) date, time, mode of voting, place of voting;

(c) date, time and place of counting; and

(d) other modalities relating to secret ballot.

(ii) The verification officer shall cause the minutes of the meeting to be prepared and signed by all participating Trade Unions. All participating Trade Unions shall be allotted symbols in the same meeting. If no decision could be taken regarding date, time, mode of voting, place of voting, allotment of symbols, date, time and place of counting and like other matters in the meeting, then, the decision of the verification officer shall be final and he shall publish the schedule, program and procedure of such secret ballot election.

(iii) All workers whose names are borne on the muster roll of the industrial establishment on the date of reckoning shall be eligible to cast their vote.

(iv) The employer of the industrial establishment shall prepare a voter list based on the names of workers recorded in the muster roll referred to in clause (iii). This voter list shall include the worker's name, father's name, designation, worker serial number/identity card number issued by the employer, and the name of the workplace. After receiving the approval of the Verification Officer, the final voter list will be published by the employer and displayed on the notice board at the main entrance of the industrial establishment and on the website (if any). A copy of such voter list will also be sent to the participating trade associations by hand, by registered post, or by electronic means.

(v) The verification officer shall display the list of the name of the participating Trade Unions with the symbol allotted to them on the notice board at the main entrance and website, if any, of the industrial establishment within two days of finalization of the list.

(vi) The voting and counting of votes shall be held on the date, time and place fixed by the verification officer under the supervision of the verification officer and during the counting, agents of all participating Trade Unions shall be allowed to remain present

(vii) After final counting of votes, the result shall be declared by the verification officer. The result sheet shall contain the name of all Trade Unions participated in election, total number of votes polled and the number of votes cast in favour of each of the trade unions which participated in the election.

(11) **Submission of verification report to the employer.-** The verification officer shall submit verification report along with the result sheet to the employer of industrial establishment.

Recognition of Trade Union as negotiating union or constituents of negotiating council

21. (1) On the basis of verification report submitted by verification officer, the employer of the industrial establishment shall grant recognition to a Trade Union as a negotiating union or a constituent of negotiating council as per provisions of subsection (3) or sub-section (4) of section 14 of the Code, as the case may be.

(2) Any recognition either as negotiating union or the negotiating council shall be valid for three years from the date of recognition or constitution or such further period not exceeding five years, in total, as may be mutually decided by the employer and the Trade Union, as the case may be:

Facilities to be provided by industrial establishment to a negotiating union or negotiating council under subsection (7) of section 14

22. In an industrial establishment, where there is a negotiating union or negotiating council, as the case may be, the employer of such industrial establishment shall provide the following facilities to the negotiating union or negotiating council, as the case may be, namely:

(i) notice board for the purpose of displaying information relating to activities; of negotiating union or negotiating council, as the case may be;

(ii) venue and necessary facilities for holding discussions by the negotiating union or negotiating council, as the case may be, as per list and agenda to be settled between employer of the industrial establishment and the negotiating union or negotiating council, as the case may be;

(iii) venue and necessary facilities for holding discussions amongst the members of the negotiating union or constituents of negotiating council, as the case may be;

(iv) facility for entrance of the office bearers of the negotiating union or negotiating council, as the case may be, in the industrial establishment for the purposes of ascertaining the matters which are relating to working conditions of the workers;

(v) employer of the industrial establishment shall deduct subscription of the members of the Trade Union on the basis of the written consent of the worker;

(vi) when the office bearers of the negotiating union or negotiating council shall be holding meetings with the employer as per agreed schedule between employer and such employed office bearers shall be treated as on duty; and

(vii) employer of an industrial establishment, having three hundred or more workers, shall provide suitable office accommodation with necessary facilities to the negotiating union or negotiating council, as the case may be.

Objects and uses of the General Fund under Section 15

23. (1) The general funds of a registered Trade Union shall not be spent on any objects other than such objects as mentioned in the By-laws of the Registered Trade Union verified by the Deputy Registrar of trade union of the concerned area.

(2) A registered Trade Union may constitute a separate fund, from contribution separately levied for or made to that fund, from which payments

may be made, for the promotion of the civic and political interests of its members, in furtherance of such objects as mentioned in the By-laws of the Registered Trade Union verified by the Deputy/ Joint/Additional Registrar of the concerned area.

Manner of filing application before a Tribunal under sub section (1) of Section 22

24. (1) In case of Registered Trade Union Where a dispute-

(a) arises between one Trade Union and another trade union; or

(b) arises between one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office-bearers of the Trade Union; or

(c) arises between one or more workers who refused admission as members and the Trade Union; or

(d) Where a dispute relates to a trade union being a federation of trade unions and between the authorities authorized by the trade union in this behalf

In all such cases, the party/parties affected by the dispute may file an application in **Form-F** along with the details of the dispute before the Tribunal having jurisdiction within a maximum period of one month from the date of occurrence of the dispute.

(2) No civil court other than the Tribunal shall have power to entertain any suit or other proceedings in relation to any dispute referred to in sub-rule(1).

Change of Name and Amalgamation under section 24

25. (1) Any registered Trade Union may, with the consent of not less than two-third of the total number of its members and subject to the provisions of sub-rule (3), change its name.

(2) Any two or more registered Trade Unions may be amalgamated.

(3) Every notice of name change or merger shall be given in writing. In the case of a name change, it shall be signed by the secretary and seven members of the trade union changing the name, and in the case of a merger, by the secretary and seven members of each trade union involved. This notice shall be sent to the Registrar by registered mail or email. If the headquarters of the merged trade union is located in another state, the information will be sent to the Registrar of that state. Also, details of all the members who signed the decision taken regarding name change or merger will also be sent. This information will be sent within one month of the decision being finalized and signed by the concerned members.

(4) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(5) Save as provided in sub-rule (4), the Registrar shall, if he is satisfied that the provisions of this Code/rules in respect of change of name have been complied with, he shall register the change of name in the register referred to in sub-section (3) of section 9, and the change of name shall have effect from the date of such registration.

(6) If the Registrar of the State in which the head office of the amalgamated Trade Union is situated is satisfied that the provisions of this Code/rules in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 9, shall register the Trade Union and the amalgamation shall have effect from the date of such registration.

(7) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal

proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(8) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them.

Distribution of Funds after Dissolution under sub section (2) of section 25

26. (1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members of the Trade Union in proportion to the amounts contributed by the members by way of subscription during the membership

Annual Return under sub section (1) of section 26

27. (1) Every registered Trade Union shall-

(a) forward annual report to the Registrar, on or before 31st January of the succeeding year, in **Form-G**, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year ending on the 31st day of December and of the assets and liabilities of the Trade Union existing on such 31st day of December;

(b) along with the general statement referred to in clause (a), forward to the Registrar a

statement showing changes of office-bearers made by the Trade Union during the year to which such general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar.

(2) On receipt of a copy of an application for alteration of the rules of a Trade Union under Section 99 of the Industrial Relations Code, 2020, the Registrar, unless he has reason to believe that the alteration has not been made in the manner provided by these Rules, shall register the alteration in a register to be maintained for this purpose and shall notify the fact that he has done so to the secretary of the Trade Union. The fee payable for registration of alteration of rules shall be Rs. 200 for each set of alteration made simultaneously.

(3) For the purpose of examining the documents referred to in clauses (a) and (b) of sub-rule (1), and sub-rule (2), the Registrar or any officer authorized by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office.

Chapter-5

STANDING ORDERS

Manner of forwarding information to certifying officer under sub-section (3) of section 30

28. (1) If the employer adopts the model standing order of the Central Government referred to in section 29 with respect to matters relevant to his industrial establishment or undertaking, then, he shall intimate the concerned certifying officer electronically and by registered post the specific date from which the provisions of the model standing order which are relevant to his establishment have been adopted.

(2) On receipt of information in sub-rule (1) the certifying officer within a period of thirty days from such receipt may give his observation that the employer is required to include certain provisions which are relevant to his establishment and indicate those relevant provisions of the model standing orders which have not been adopted and shall also direct the employer to amend the standing order so adopted, by way of addition, deletion or modification within a period of thirty days from the date of the receipt of such direction and ask for compliance report only in respect of provisions which the certifying officer seeks to get so amended and such report shall be sent electronically or by registered post by the employer.

(3) If no observation is made by certifying officer within a period of thirty days of the receipt of the information as specified in sub-rule (1) and (2), then, the standing order shall be deemed to have been adopted by the employer.

Manner of choosing representatives of workers of the industrial establishment or undertaking for issuing notice by certifying officer where there is no Trade Union operating, under clause (ii) of sub-section (5) of section 30

29. Where there is no such Trade Union as is referred to in clause (i) of sub-section (5) of section 30, then, the certifying officer shall direct the inspector-cum-facilitator to provide the names of four representatives as per the written choice of the workers of the establishment to whom he shall, upon their being chosen, forward a copy of the standing order requiring objections, if any, which the workers may desire to make to the draft standing order to be submitted within fifteen days from the receipt of the notice.

Manner of authentication of certified standing orders.

30. Standing orders or modification in the standing orders, certified in pursuance of sub-section (8) of section 30 or the copies of the order of the appellate authority under sub-section (1) of section 33 shall be authenticated by the certifying officer or the appellate authority, as the case may be, and shall be sent electronically and registered/speed post within a week

to all concerned, but there shall not be any requirement of certification in cases of deemed certification under sub-section (3) of section 30 and in cases where the employer has certified adoption of model standing orders.

Statement to be accompanied with draft standing orders under sub-section (9) of section 30.

31. (1) Draft standing order shall contain, the particulars such as name of the industrial establishment or undertaking concerned, address, e-mail address, contact number and strength and details of workers employed therein including particulars of Trade union to which such workers belong; and

(2) Draft modification in the existing standing orders, shall contain the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provision of standing order in force and proposed modification therein and reasons thereof and such statement shall be signed by a person authorized by the industrial establishment or undertaking.

Conditions for submission of draft standing order in similar establishment under sub-section (10) of section 30.

32. In cases of group of employer engaged in similar industrial establishment may submit a joint draft standing order under section 30 and for the purpose of proceedings specified in sub-sections (1), (5), (6), (8) and (9) thereof after consultation with the concerned Trade union or the representatives of workers if there is no Unions.

Manner of disposal of appeal by appellate authority under section 32

33. (1) An employer or Trade Union or workers desirous of preferring an appeal against the order of the certifying officer given under sub-section (5)of section 30 shall within sixty days of the receipt of such order shall draw up a memorandum of appeal in tabular form stating therein the provisions of the standing orders which are required to be altered or modified or deleted or added and reasons thereof and shall be filed electronically and sent by Registered Post to the appellate authority.

(2) The appellate authority shall fix a date for the hearing of the appeal and direct notice thereof to be given-

(a) Where the appeal is filed by the employer or a worker, to Trade Union of the workers of the industrial establishment or to the representative body of the workers concerned to the employer, as the case may be;

(b) where the appeal is filed by a Trade Union, to the employer and all other Trade Unions of the workers of the industrial establishment; and

(c) where the appeal is filed by the representative of the workers, to the employer and any other worker whom the appellate authority joins as a party to the appeal,

(3) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal,

(4) The appellate authority may at any stage of the proceeding call for any evidence, if it considers necessary for the disposal of the appeal.

(5) On the date fixed under sub-rule (2) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called or consider to be relevant if produced and after hearing the parties pass an order within sixty days of receiving an appeal.

(6) The appellate authority shall, within seven days of its order under sub-rule (5) send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the worker, accompanied,

(7) For the purpose of this chapter certifying officer and appellate officer shall be nominated by the State Government through notification.

The language and the manner of maintaining standing order under section 33

34. (1) The standing order finally certified by certifying officer shall be sent electronically and registered post except in the case of deemed certification under section 30.

(2) The text of the standing order as finally certified or deemed to have been certified or adopted model standing order under this chapter shall be maintained by the employer in Hindi and in English and shall be provided to any worker of the establishment on receipt of any such application within one week of receiving such application and or payment of two rupees per page of Standing Order.

Fee for providing the Register and certified copy of the final certified copy of the standing order under section 34

35. (1) The certifying officer shall maintain electronically or manually in **Form-H** a register of all standing order certified or deemed to have been certified or adopted model standing orders of all the concerned industrial establishments, inter-alia, containing the details of –

(a) the unique number assigned to each standing order;
(b) name of industrial establishment;
(c) nature of industrial establishment;
(d) date of certification or deemed certification or date of adoption of model standing order by each establishment or undertaking ;
(e) the areas of the operation of the industrial establishment; and
(f) such other details as may be relevant and helpful in retrieving the standing orders and create a data base of such of all standing order.

(2) The certifying officer shall furnish a copy of the certified standing orders or deemed certifying orders to any person applying there of on payment of two rupees per page of the certified standing orders or deemed certified standing orders, as the case may. The payment for such purpose can also be made through electronic mode.

Application for modification of standing order under section 35

36. (1) An application for modification of an existing standing order under sub-section (2) of section 35 shall be made in **Form-I** and submitted electronically or registered post and contain the particulars of such standing orders which are proposed to be modified along with a tabular

statement containing details of each of the relevant provisions of standing order in force, and proposed modification therein, reasons thereof and the details of registered Trade union operating therein, and such statement shall be signed by a person authorized by the industrial establishment or undertaking The Certifying Officer shall pass order in the application for modification of standing order within sixty days of receipt of such application.

(2) Where such an application for the modification is received from a worker the Certifying Officer shall where more than one trade union exists among the worker of the industrial establishment, take one representative each from the registered trade union. If there is no trade union, the procedure given in rule 37 shall be followed to elect the representative of worker.

(3) The application for modification received from a worker shall thereafter be sent to the representative union or elected representatives, as the case may be, to elicit opinion.

(4) Proceeding to certify the modification sought for shall be undertaken only to the extent these modification are approved by the representative trade union or elected representative, as the case may be, and such trade union or representative shall be representing the applicant worker during the proceeding for certification.

(5) All notices, notifications and orders under this Code and the Rules shall be served on the parties concerned by registered acknowledgement due letter or by special messenger. In the latter case, an acknowledgement in writing by or on behalf of the other party concerned shall be obtained in respect of such delivery.

Chapter-6

NOTICE OF CHANGE

The manner of giving of notice for change proposed to be effected under clause (i) of section 40.

37. (1) Any employer intending to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule to the Code, shall give notice in Form-J to such worker affected by such change:

Provided that before giving notice of the proposed change, the employer shall call at least one meeting with the workers affected by it, in which the proposed change shall be explained to them in detail.

(2) The notice referred in sub- rule (1) shall be displayed conspicuously by the employer on the notice board in Hindi and English at the main entrance of the industrial establishment and the office of the concerned Manager of the industrial establishment.

Provided that where there is a registered Trade Union or registered Trade Unions relating to the industrial establishment a copy of such notice shall also be served on the Secretary of such Trade Union or each of the Secretaries of such Unions, as the case may be.

Chapter -7

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

Form of arbitration agreement and the manner thereof under sub-section (3) of section 42

38. (1) Where the employer and workers agree to refer the dispute to arbitration, the Arbitration Agreement shall be in Form-K and shall be signed by the parties to the agreement. The agreement shall be accompanied by the consent either in writing or electronically of arbitrator or arbitrators.

(2) The Arbitration Agreement referred to in sub-rule (1) shall be signed.-

(i) In case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other officer of the corporation authorized for such purposes;

(ii) In the case of the workers by the officer of the registered Trade Union authorized in this behalf or by three representatives of the workers duly authorized in this behalf at a meeting of the concerned workers held for such purpose;

(iii) In the case of an individual worker, an individual worker by the worker himself or by an officer of registered Trade Union of which the worker is a member:

Explanation.- In this rule 'officer' means any of the following officers, namely:-

(a) the President;
(b) Vice-President;
(c) the Secretary (including the General Secretary);
(d) a Joint Secretary; and
(e) any other officer of the Trade Union authorized in this behalf by the President and Secretary of the union.

Manner of issue of notification under sub-section (5) of section 42

39. Where an industrial dispute has been referred to arbitration and the State Government is satisfied that the persons making the reference represent the majority of each party, it shall publish a notification in this behalf in the Official Gazette for the information of the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute and they may apply before the arbitrators appointed for such purpose within a period of 45 days from the date of notification through electronic mail/ registered/speed post

Manner of choosing representatives of workers where there is no Trade Union.

40. Where there is no Trade Union, the representative of workers to present their case before the arbitrator or arbitrators in pursuance of clause (c) of the sub-section (5) of section 42, shall be chosen by a resolution passed by the majority of concerned workers in **Form-L** authorizing therein to represent the case. Such workers shall be bound by the acts of representative who have been authorized to represent before the arbitrator or arbitrators, as the case may be.

Chapter -8

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

The manner of holding of conciliation proceedings under sub-section (1) of section 53, full report under sub-section (4), and application and the manner of deciding such application under sub-section (6)

41. (1) (i) Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer shall, within a period of 15 days of receipt of such application shall examine the application and if he finds fit will issue notice to the parties concerned declaring his intention to commence conciliation proceedings.

(2) The employer or the workers representative in the first meeting shall submit their respective statement in the matter of said dispute.

(3) The conciliation officer shall hold conciliation proceedings for the purpose of bringing about a settlement of the dispute and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement.

(4) (i) During the pendency of any conciliation proceeding before a Conciliation Officer or any proceeding before a Tribunal in respect of and Industrial Disputes, no employer shall –

(a) in regard to any matter connected with the dispute, alter to the prejudice of the workmen concerned in such dispute,

the conditions of service applicable to them immediately before the commencement of such proceeding, or

(b) for any misconduct with the dispute, discharge or punish, whether by dismissal or otherwise any worker concerned in such dispute save with the express permission in writing of the authority before which the proceeding is pending.

(ii) During the pendency of any such proceeding in respect of an industrial disputes, the employers may, in accordance with the standing orders applicable to a worker concerned in such disputes-

(a) alter, in regard to any matter not connected with the disputes the conditions of service applicable to that worker immediately before the commencement of such proceeding, or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that worker:

Provided that no such worker shall be discharged or dismissed, unless he has been given wages for the month and an application has been made by employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(iii) Notwithstanding anything contained in said sub-clause(ii) no employer shall during the pendency of any such proceeding in respect of and industrial dispute, take any action against any protected worker concerned in such dispute-

(a) by altering, to the prejudice of such protected worker, the conditions of service applicable to him immediately before the commencement of such proceeding, or

(b) by discharging or punishing, whether by dismissal or otherwise such protected worker, save with the express permission in writing of the authority before which the proceeding is pending.

(iv) Where an employer makes an application to Tribunal under the provision to sub clause (ii) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass such order within thirty days of receiving of application in relation thereto as it deems fit.

(v) Where an employer contravenes the provisions of sub-clause (iii) during the pendency of proceedings before Tribunal, any worker aggrieved by such contravention may make a complaint in writing in the prescribed manner, to the Tribunal as the case may be, and on receipt of such complaint the Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with this Code and shall submit its award to the State Government.

(5)(1)(I) Where any money is due to a worker from an employer under a settlement or award, or under an award given by an adjudicator or the State Industrial Tribunal appointed or constituted under this Code worker may, without prejudice to any other mode of recovery, made 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 of that

amount to the Collector who shall proceed to recover the same as if it were a arrear of land-revenue.

(ii) Where any worker is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may be determined by such Tribunal as may be specified in this behalf by the State Government, and the amount so determined may be recovered as provided in sub-clause (i)

(iii) For the purposes of computing the money value of a benefit, the Tribunal may, if it so thinks fit, appoint a Commissioner in the prescribed manner who shall, after taking such evidence as may be necessary, submit a report to the Tribunal and the Tribunal shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(2) Any dispute which is not settled during the conciliation proceedings, then, either of the concerned party may make an application in **Form-M** before the Tribunal or through registered post within 30 days from the date of the report under sub-rule (2).

(3) In case of an industrial dispute which has not been settled during the conciliation proceedings an application may be made before the Tribunal by either of the parties concerned for adjudication, the Tribunal shall direct the party raising the dispute to file a statement of claim with complete details along with relevant documents, list of supporting documents and witnesses within thirty days from the date on which application is filed. A copy of such statement may be sent electronically or by registered post each of the opposite parties in the dispute.

(4) The Tribunal after ascertaining that the copies of statement of claim and other related document are furnished to the other side by the party raising the dispute, the Tribunal shall fix the first date of hearing as soon as possible and within a period of one month from the date of receipt of the application. The opposite party or parties shall file their written statement together with supporting documents and the list thereof and list of witnesses, if any, within a period of thirty days from the date of first hearing and simultaneously forward a copy thereof to the opposite party or parties for service.

(5) Where the Tribunal finds that the party raising the dispute, despite its direction, did not forward the copy of the statement of claim and other documents to the opposite party or parties, it shall give directions to the concerned party to furnish the copy of the statement to the opposite party or parties, granting extension of fifteen days for filing the statement, if the Tribunal finds sufficient cause for not filing the statement of claim and other documents within time.

(6) Evidence shall be recorded either in Industrial Tribunal or may be filed on affidavit but in the case of affidavit the opposite party shall have the right to cross-examine each of the deponents filing the affidavit. Where the oral examination of each witness proceeds, the Tribunal shall make a memorandum of the substance of what is being deposed. While recoeding the oral evidence the Tribunal shall follow the procedure laid down in rule 5 of order XVIII of the First Schedule to the code of Civil Procedure, 1908 (5 of 1908).

Application for registration of settlement.

42. An application for registration of settlement, arrived at through conciliation proceedings before a Conciliation Officer shall be sent by the parties to the settlement or any one of them, within one month of the date of settlement, to the Conciliation Officer of the area concerned by registered post acknowledgement due, or by personal delivery. A copy of the memorandum of

settlement shall be affixed by the parties to the settlement to a notice-board at or near the entrance or entrances of the establishment concerned, and shall remain so affixed for a period of 07 days before making the application for registration.

Procedure for registration of settlement.

43. On receipt of an application for registration of settlement, the Conciliation Officer or the authority notified by the Government in this behalf may make an enquiry if he/it considers necessary. If after enquiry, the Conciliation Officer or the authority concerned decides to register a settlement, the agreement shall be register in **Form-O** and a certificate of registration shall be issued to all the parties to the settlement in **Form-P** within thirty days of receipt of the application for registration. If the registering authority refuses to register the settlement, an intimation to this effect, together with reasons for refusal to register, shall be given to all the parties to the agreement not later than thirty days of receiving the application for registration. The authority notified by the State Government for registering a settlement shall also give intimation of registration of settlement, or of the refusal thereof, as the case may be, to the Conciliation Officer of the area concerned and to the Labour Commissioner, Uttarakhand within seven days of the registration of settlement.

Persons on whom awards are binding.

44. An award which has become enforceable, shall be binding on,

(a) all parties to the industrial dispute;

(b) where a party referred to in clause (a) is an employer, his heirs, successors or assign in respect of the establishment to which the dispute relates;

(c) where a party referred to in clause (a) is composed of worker, all persons, who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates, on the date of dispute and all persons who subsequently become employed in the establishment or part.

Chapter-9

STRIKES AND LOCK-OUTS

manner of giving notice of strike under sub section (4) of section 62

45. (1) The notice of strike referred to in sub-section (1) of section 62 shall be given to the plant head or manager of the industrial establishment in **Form-Q**, duly signed by the secretary of the registered trade union or where there is no registered union, by one-third of the workers of the establishment and copies of which shall be given to the Conciliation Officer of the concerned area, the Regional Deputy Labour Commissioner, the Labour Commissioner and the State Government electronically or in such other manner as the State Government may specify.

(2) If the employer of an industrial establishment receives from any person employed by him any notice of strike as referred to in sub-section (1) of section 62 then he shall within fifteen days from the date of receiving of such notice, intimate the same electronically to the conciliation officer and Regional Deputy Labour Commissioner, the Labour Commissioner of the state and the State Government.

Manner of giving notice of lock-out under subsection (5) and authority under sub-section (6) of section 62.

46. (1) The notice of lock-out referred to in sub-section (2) of section 62 shall be given by the employer of an industrial establishment in **Form-R** to the Secretary of every registered Trade Union relating of such industrial establishment endorsing the copy thereof to the concerned conciliation officer, Regional Deputy Labour Commissioner, Labour Commissioner and the State Government electronically or otherwise. If there is no registered trade union, the employer shall prominently display the notice on the notice board or electronic board at the main entrance of the industrial establishment and shall also inform the workers' representatives on the works committee.

(2) If the employer gives to any person employed by him a notice of lock-out, then he shall within five days from the date of such notice, intimate electronically or otherwise the same to the concerned conciliation officer and the Regional Deputy Labour Commissioner.

Chapter-10

LAY-OFF, RETRENCHMENT AND CLOSURE

Manner of serving notice before retrenchment of the worker under clause (c) of section 70.

47. If any employer desires to retrench any worker employed in his industrial establishment, who has been in continuous service for not less than one year under him then, such employer shall give notice of such retrenchment, in Form-S to the State Government and such authority as may be designated by the State Government by notification, by email and registered post/speed post at least 15 days before the proposed retrenchment.

Manner of giving an opportunity for re-employment to the retrenched worker under Section 72.

48. (1) The employer shall prepare a list of all workers in the particular category from which retrenchment is contemplated, arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

(2) When any vacancy occurs in an industrial establishment and there are workers of such industrial establishment retrenched within one year prior to the proposal for filling such vacancies, then, the employer of such industrial establishment shall, if such workers are citizens of India and have given their willingness for employment, give them preference over other on the basis of their service seniority.

(3) The employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment the details of vacancies at least fifteen days before the date on which such vacancies are to be filled and shall also give intimation of those vacancies by registered post or speed post or through e-mail to every one of all the retrenched workers eligible to be considered therefor, to the latest address or e-mail, given by each of them at the time of retrenchment or at any time thereafter:

Provided that when the number of such vacancies is less than the number of retrenched workers, it shall be sufficient if the intimation is given by the employer individually to the senior most retrenched workers in the list referred to in sub-rule (1) and the number of such senior-most workers being double the number of such vacancies:

Provided further that where the vacancy is of duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workers:

Provided also that if a retrenched worker, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.

(4) Immediately after complying with the provisions of sub-rule (3), the employer shall also inform the negotiating union or the constituent of negotiating council or Trade Unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workers to whom intimation has been sent under that sub-rule.

Manner of serving notice by the employer for intended closure under sub-section (1) of section 74.

49. (1) If an employer intends to close down an industrial establishment, he shall give notice within the time as specified in sub-section (1) of section 74 of such closure in **Form-S** to the State Government and a copy thereof to the concerned Conciliation Officer, Regional Deputy Labour Commissioner, and the Labour Commissioner of the State by e-mail or registered post or speed post.

Where the application is sent by only registered post the date on which the same is delivered to the State Government shall be deemed to be the date on which the application was made

(2) A copy of application for prior permission to close down an undertaking of an industrial establishment shall be served on the Presidents or Secretaries of all the registered trade unions working in the establishment through personal service, and where it is not practicable, through registered post acknowledgement due;

(3) A copy of application for prior permission to close down an undertaking of an industrial establishment shall also be pasted on the main entrance of the concerned establishment.

Chapter -11

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

Manner of making application to the State Government by the employer for the intended lay-off and the manner of serving copy of such application to workers

50. An application for permission under sub-section (1) of Section 78 shall be made by the employer to the State Government in **Form-T** clearly stating the reasons for the lay-off. A copy of such application shall also be sent by the employer to the concerned worker through electronic means and by registered post. The employer shall prominently display such application in both English and Hindi on the notice board or electronic board located at the main entrance of the industrial establishment.

Time- limit for review under sub-section (7) of section 78.

51. (1) The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (4) of the section 78

(2) The employer or any worker concerned, along with the order referred to in sub-rule (1), may make an application, within thirty days from the date on which the order is made, to the State Government for reviewing the order and that Government shall, within two months from the date on which the application is made, dispose of the same after providing the concerned parties an opportunity of being heard.

(3) Where the State Government decides to review the order referred to in sub-section (1) on its own motion, it may take necessary steps within one month from the date on which the order is made and after providing the concerned parties an opportunity of being heard, dispose of such review within a period of two months from the date on which such decision is taken.

Manner of making application to the State Government by the employer for the intended retrenchment and manner of serving copy of such application to workers under sub-section (2) of section 79

52. (1) If any employer desires to retrench any worker, employed in establishment who has been in continuous service under him for not less than one year, he shall give notice of such retrenchment to the State Government.

(a) Where a notice is given to the worker, notice of retrenchment shall be sent to concerned office on the same day on which notice is given to the worker;

(b) Where no notice is given to the worker, and he is paid one month's wages in lieu by notice, notice of retrenchment shall be sent on the same date on which wages are paid to the worker; and

(c) Where retrenchment is or is intended to be carried out under an agreement, which specifies

the date of termination of service, notice of retrenchment shall be sent at least one month prior to the date of the retrenchment. If the period from the date of the agreement to the date of the retrenchment is less than one month, the notice of retrenchment shall be sent on the date of the agreement.

(2) The employer shall prepare a list of the worker in the particular category from which retrenchment is contemplated, arranged according to the seniority of their service in that category, and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the date of retrenchment.

(3) Before retrenchment of a worker, the employer shall, for the purposes of sending intimation on the worker for re-employment, obtain the address of the worker in writing from the worker duly signed, or thumb impression affixed by the said worker.

(4) An application for permission referred to in sub-section (1) of section 79 shall be made by the employer in **Form-T** stating clearly therein the reasons for the intended retrenchment and a copy of such application shall also be sent to workers electronically and by registered post. Such application shall also be displayed conspicuously by the employer on a notice board or on electronic board in Hindi and English at the main entrance to the industrial establishment.

Time-limit for review under sub-section (6) of section 79.

53. (1) (1) The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (3) of section 79.

(2) The employer or any worker concerned, along with the order referred to in sub-rule (1), may make an application within thirty days from the date on which such order is made, to the State

Government for reviewing that order and the Government shall within a period of two months from the date on which such application is made, dispose of the application after providing the concerned parties an opportunity of being heard.

(3) Where the State Government decides to review the order referred to in sub-rule (1), on its own motion, it may take necessary steps within one month from the date on which such order is made and after providing the concerned parties an opportunity of being heard, dispose of such review within a period of two months from the date on which such decision is taken.

Manner of making application to the State Government by the employer for intended closing down of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (1) of section 80.

54. An employer intending to close down an industrial establishment falling under Chapter X of the Code shall, at least ninety days before the date of proposed closure, apply electronically to the State Government for prior permission in Form-T. The application must clearly state the reasons for the proposed closure, and a copy of the application shall be sent electronically and by registered post to the workers' representatives. The applicant shall display the application in Hindi and English on the notice board at the main entrance of the industrial establishment and on the electronic board.

Time-limit for review under sub-section (5) of section 80.

55. (1) The State Government may, either on its own motion or on an application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (2) of section 80.

(2) The employer or any worker concerned may make an application along with the order referred to in sub-rule (1), within thirty days from the date on which such order is made, to the State Government for reviewing that order and Government shall, within two months from the date on which such application is made, dispose of the application after providing the concerned parties an opportunity of being heard.

(3) Where the State Government decides to review the order referred to in sub-rule (1) on its own motion, it may take necessary steps within one month from the date on which the order is made, and after providing the concerned parties an opportunity of being heard, dispose of such review within a period of two months from the date on which such decision is taken

Chapter-12

WORKER RE-SKILLING FUND

Grants to the Worker Reskilling Fund from Other Sources

56. There shall be deposited in the worker reskilling fund besides the contribution received from the employer under section 83(2)(a) of the Code, other amounts such as any voluntary contribution by an establishment/ company under Corporate Social Responsibility or other legal sources mentioned in general orders issued by the State Government, from time to time.

Manner of utilization of the Worker Reskilling Fund

57. (1) Every employer who has retrenched a worker or workers in his industrial establishment under the Code, shall, within ten days from the date of such retrenchment, electronically transfer an amount equivalent to fifteen days of last drawn wages of such retrenched worker or workers into the accounts of the Fund constituted under section 83(1) of the Code.

(2) The amount received under sub-rule (1) shall be transferred by the Office of the Labour Commissioner/ Office of the Deputy Labour Commissioner/Office of the Assistant Labour Commissioner electronically to each of the retrenched worker account or retrenched workers' accounts, as the case may be, within forty-five days of retrenchment to enable him utilise that amount for his re-skilling

(3) The employer shall also submit the list containing the name of each retrenched worker, the amount equivalent to fifteen days of wages last drawn by such retrenched worker along with his bank

account details, Office of the Labour Commissioner /Office of the Deputy Labour Commissioner /Office of the Assistant Labour Commissioner.

Chapter 13

OFFENCES AND PENALTIES

Manner of composition of offence by a Gazetted Officer specified under sub-section (1) of section 89 and the manner of making application for the compounding of an offence specified under sub-section (4) of section 89.

58. (1) The officer notified by the State Government for the purpose of compounding of offences under sub-section (1) of section 89 (hereinafter refered to as the compounding officer), shall in the offences in which prosecution is not instituted, of the compounding officer is of the opinion that any offence under the Code for which the compounding is permissible under said section, he shall send a notice through department Portal or any other mode, to the accused in **Form-U** consisting of three parts.

(2) In Part I of **Form-U**, the compounding officer shall, *inter alia*, specify—

(a) the name of the accused and his other particulars;

(b) the details of the offence and the section under which the offence has been committed; and

(c) the compounding amount required to be paid towards the composition of such offence.

(3) In Part II of the **Form-U**, the compounding officer shall specify the consequences if the offence is not compounded, and in Part III of the said Form shall contain the application to be filed by the accused, if he desires to compound the offence.

(4) Each notice referred to in sub-rule (1) shall have a unique number containing alphabets or numerical and other details such as compounding officer concerned, industrial establishment, year, place and type of inspection for the purpose of easy identification.

(5) The accused to whom the notice referred to in sub-rule (1) is served, may send the part III of the Form duly filled by him to the compounding officer electronically and deposit the compounding amount electronically or otherwise, within fifteen days of the receipt of the notice, in the account specified by the compounding officer in the notice.

(6) Where the prosecution has already been instituted against the accused in the competent Court, he may make an application to the Court to compound the offence against him and the Court, after considering the application, may allow composition of the offence by the compounding officer in accordance with provisions of section 89.

(7) If the accused complies with the requirement of sub-rule (2), the compounding officer shall compound the offence for the amount of money deposited by the accused and-

(a) if the offence is compounded before the prosecution, then no complaint for prosecution shall be instituted against the accused; and

(b) if the offence is compounded after institution of prosecution under sub-rule (3) with the permission of the Court, then ,the compounding officer shall treat the case as closed as if no prosecution had been launched and will proceed in accordance with compounding in a under clause (a) and intimate the compound of offence to the competent Court in which the prosecution is pending and after receiving such intimation, the Court shall discharge the accused and close the prosecution .

(8) The compounding officer shall exercise the powers to compound the offence under this rule, subject to the direction, control and supervision of the State Government

Chapter 14

MISCELLANEOUS

Protected workers

59. (1) Every registered Trade Union connected with an industrial establishment, to which the Code applies, shall communicate to the employer before the 30th April every year, the names and addresses of such of the officers of the Union who are employed in that establishment and who, in the opinion of the Union should be recognized as "protected workers".

(2) The employer shall, subject to sub-section (3) and sub-section (4) of section 90, recognize such workers to be "protected workers" for the purposes of section 90 and communicate to the Union, in within, within fifteen days of the receipt of the names and addresses under sub-rule (1), the list of workers recognized as protected workers for the period of twelve months from the date of such communication

(3) Where the total number of names received by the employer under sub-rule (1) exceeds the maximum number of protected workers, admissible for the industrial establishment, under sub-section (4) of section 90, the employer shall recognize as protected workers only such maximum number of workers.

Provided that where there is more than one registered Trade Union in the industrial establishment, the maximum number shall be so distributed by the employer among the unions that the numbers of recognized protected workers in individual unions bear practicably by the same proportion to one another as the membership figures of the unions. The employer shall in that case intimate in writing to the President or the Secretary of the each concerned union the number of protected workers allotted to it:

Provided further that where the number of protected workers allotted to a union under this

sub-rule falls short of number of officers of the union seeking protection. The union shall be entitled to select the officers to be recognized as protected workers. Such selection shall be made by the union and communicated to the employer within five days of the receipt of the employers letter in this regard.

(4) When a dispute arises between an employer and any registered trade union in any matter connected with the recognition of 'protected workers' under this rule, the dispute shall be referred to any Regional Deputy Labour commissioner or Assistant Labour Commissioner of the area concerned, who shall hear the dispute and send a report to the Labour Commissioner who shall decide the matter and whose decision shall be final.

Manner of making complaint by an aggrieved worker under section 91

60. (1) Every complaint under section 91 of the code shall be made electronically and by registered post or speed post in **Form-V** and shall be accompanied by as many copies as there are opposite parties mentioned in the complaint.

(2) Every complaint under sub-rule (1) shall be verified by the worker making the complaint or by authorized representative of the worker proved to the satisfaction of the conciliation officer, arbitrator or Industrial Tribunal, as the case may be, to be acquainted with the facts of the case.

Manner of authorization of worker for representing in any proceeding under sub-section (1)(c) of section 94.

61. Where a worker is not a member of any trade union, any dispute to which he is a party, any member of the executive or other office- bearer of any Trade Union connected with or by any other worker employed in the industry in which the worker is employed can authorized in **Form-L** to represent him in the proceedings relating to the dispute.

Manner of authorization of employer for representing in any proceeding under sub-section (2)(C) of section 94.

62. Where the employer, is not a member of any association of employers, may authorize in **Form-L** an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged to represent him in any proceeding under the Code relating to a dispute in which the employer is a party.

Submission of a copy of the form to the office of Director General, Labour Bureau

63. A copy each of Form Q (notice of strike), Form R (notice of lockout), Form S (notice for intimation of retrenchment or closure to the State Government), Form T (Application for permission of lay-off or retrenchment or closure), and Form U (compounding of offences), shall be shared electronically with Director General, Labour Bureau in auto-mode.

Repeal and Savings

64. (1) The U. P. Industrial Dispute Rules, 1957. The U.P. Industrial Employment (Standing Order) Rules, 1946, the U.P. Trade Union Regulations, 1927 and the Industrial Tribunal and Labour Court's Rules of Procedure, 1967 shall stand repealed with effect from the date on which these Rules come in force.

(2) Notwithstanding such repeal anything done or any action taken under the said rules/regulations, shall be deemed to be done or taken under the corresponding provisions of these rules/Code.

(3) Without prejudice to the provisions of sub-rule (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such rules/regulations.

By Order,

DR. SRIDHAR BABU ADDANKI,
Secretary

Form-A

(Under Section 2, Rule 3 of the Industrial Relations Code)

Memorandum of settlement

Names and address of Parties:

.....Representing employer(s)

.....Representing worker;

Short recital of the case

.....

Terms of settlement

.....

Signature of the parties

Representing employer_____

Witnesses: (1)_____

(2)_____

Representing worker_____

Witnesses: (1)_____

(2)_____

Copy :

1. Conciliation officer of the concerned area
2. Labour Commissioner Uttarakhand

Form -B

(See Rule 9)

STATEMENT OF LIABILITIES AND ASSETS ON THE YEAR _____

Liabilities	Rs. P.	Assets	Rs. P.
Amount of general fund Amount of political fund Loans from Debts due to Other liabilities (to be specified)		Cash- In hands of Treasurer In hands of Secretary In hands of – In the Bank In the Bank Securities as per list below Unpaid subscriptions due Loans to Immovable property Goods and furniture Others assets (to be specified)	
Total Liabilities		Total Assets	

LIST OF SECURITIES

Particulars	Nominal value	Market – value at date on which accounts have been made up	In hands of

Treasurer

GENERAL FUND ACCOUNT

Income	Rs. P.	Expenditure	Rs. P.
Balance at beginning of year Contributions from members as per members Donations Sale of periodicals, rules, etc.		Salaries, allowances and expenses of officers Salaries, allowances and expenses of establishment Auditor's fee Legal expenses	
Interest on investments Income from miscellaneous sources (to be specified)		Expenses in conducting trade disputes Compensation paid to members for loss arising out of trade disputes	
	Funeral, old age, sickness, unemployment benefits, etc. Educational, social and religious benefits Cost of publishing periodical Rents, rates and taxes Stationary, printing and postage Expenses incurred (to be specified) Other expenses (to be specified) Balance at the end of year		
Total		Total	

POLITICAL FUND ACCOUNT

	Rs. P.		Rs. P.

Balance at beginning of year		Payments made on objects specified in section 16(2) of the Indian Trade Unions Act, 1926 (to be specified)	
Contribution from members as per member		Expenses of managements (to be specified)	
		Balance at the end of year	
Total		Total	

Treasurer

AUDITOR'S DECLARATION

The undersigned, having had access to all the books and accounts to the trade union and having examined the foregoing statements and verified the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto.

Auditor

The following changes of officers have been made during the year-

OFFICERS RELINQUISHING OFFICE

Name	Office	Date of relinquishing

OFFICERS APPOINTED

Name	Age	Office	Address	Occupation	Date of appointment

Secretary

FORM C

APPLICATION FOR REGISTRATION OF TRADE UNION

[Under Section 9(1) of the Industrial Relations Code and Rule 12]

Date the..... day of..... 20.....

1. We hereby apply for the registration of a Trade Union under the name of.....
2. The address of the head office of the Union is.....
3. The E-mail of the Head Office of the Union is.....
4. The Union came into existence on the.....day of..... 20.....
5. The Union is a Union of employers/workers engaged in the in duty(or profession).
6. The particulars required under section 10(1)(a) are given in Schedule I. (Annexed)
7. The particulars required under section 10(1)(b) are given in Schedule II. (Annexed)
8. The particulars required under section 10(2) are given in Schedule III. (Annexed)
9. We the under signed have been duly authorized by the General Meeting held on..... to make this application.

Signature	Occupation	Address	Signed
1			
2			
3			
4			
5			
6			
7			

SCHEDULE I-LIST OF OFFICERS

Title	Name	Age	Address	Occupation

Note.-Enter in this Schedule the names of all members of the executive of showing in column 1 the names of any posts held by them (e.g., President, Secretary, Treasurer, etc.) in addition to their offices as members of the executive.

SCHEDULE II-
REFERENCE TO RULES

The numbers of the rules making provision for the several matters detailed in column1 are given in column 2 below:

Matter	Number of rules
The Name of the union	
The whole of the objects for which the union has been established'	
The whole of the purposes for which the general funds of the union shall be applicable.	
The maintenance of a list of members.	
The facilities provided for the inspection of the list of members by officers and members.	
The admission of ordinary members.	
The admission of honorary or temporary members'	
The conditions under which members are entitled to benefit assured by the rules.	
The conditions trader which fines or forfeitures can be imposed or varied.	
The manner in which the rule shall be amended, varied or rescinded	
The manner in which the members of the executive and the other officers of the union shall be appointed and removed.	
The safe custody of the funds.	
The annual audit of the accounts.	
The facilities for the inspection of the account books by officers and members.	
The manner in which the union may be dissolved.	

SCHEDULE III

STATEMENT OF LIABILITIES AND ASSETS ON THE YEAR_____

(This need not be filled in if the Union came into existence less than one year before the date of application for registration)

Liabilities	Rs. P.	Assets	Rs. P
Amount of General fund		Cash-	
		In hands of Treasurer	
Amount of political fund Loans ... from		In hands of Secretary	
		In hands of-	
Other liabilities (to be specified)		In the Bank	
		In the form	
		Securities as per list below	
Total Liabilities		Unpaid subscription due	
		Loans to-	
		Immovable property	
		Goods and furniture	
		Other assets (to be specified)	
		Total Assets	

FORM-D

CERTIFICATE OF REGISTRATION OF TRADE UNION

(Under Section 9(2) of the Industrial Relations Code and Rule 13)

No.

It is hereby certified that the_____has been registered under section 9(2) of the Industrial Relation Code read with Rule 11(1) of the Industrial Relation Rules, 2025.

FORM-E

REGISTER OF TRADE UNIONS

(Under Section 9(2) of the Industrial Relations Code and Rule 14)

Serial No.	Officers
Name of Union Address of Head Office Date of Registration.	

Number of application from List of members applying for registration	Year of entering in office	Name	Age of entry	Address	Occupation	Year of relinquishing office	Other offices held in addition to membership of executive with date
1 2 3 4 5 6 7							

FORM-F

Application for hearing of the dispute
(Under Section 22 of the Industrial Relations Code and Rule 24)
Between

_____First party

And

_____Second party

The following dispute is being submitted for adjudication.
(mention the Tribunal name and address here)

(i) Details of the dispute and the parties involved in the dispute, including their names and designations.
(ii) Name and address of the employer's establishment or enterprise
(iii) The name of the worker if he is directly involved in the dispute, or the name of the union, if any, that represents the worker or workers in question.
(iv) Total number of affected workers

Names, designations, and signatures of the affected parties
Copy send to :
(i) Concerned Tribunal
(ii) Secretary, Labour, Govt. of Uttarakhand
(iii) Labour Commissioner, Uttarakhand

FORM-G

Annual Return for the Year Ending on 31st December, 20_____
(Under Section 26(1) of the Industrial Relations Code and Rule 2(1))

Name of Union.
Registered Head Office
Number of certificate of registration

Return to be made by federations of trade unions	Number of unions affiliated at the beginning of year
	Number of unions joining during the year.
This return need not be made by federations of trade unions.	Number of unions disaffiliated at the end of year.
	Number of members on books at the beginning of year.
	Number of members admitted during the year (add) together.
	Number of members who left during the year (deduct).

	Total number of members on books at the end of the year.
	Males
	Females
	Number of members contributing to political fund.

A copy of the rules of the trade union, corrected up to the date of dispatch of this return, is appended.
Dated the _____ day of _____ 20_____

FORM-H

[Under Section 34 of the Industrial Relations Code and Rule 35]

Form of Register of Certification of Standing Orders

Serial No.	Name of Applicant	Name and address of the industrial establishment adapting the Standing Orders	Name and address of the occupier	Classification of industry	Number of workmen in the industrial establishment	Name and address of the Trade Union or the representative of workmen	Number of members of the trade Union belonging to the Industrial establishment	Matters of the Schedule applicable (give only serial No.)	Date of certification	Date of application	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

Subsequent Modification

Modifications I			Modification II			Modification III			Modification IV		
Date of application	Date of Sanction	Modification made (in brief)	Date of application	Date of Sanction	Modification made (in brief)	Date of application	Date of Sanction	Modification made (in brief)	Date of application	Date of Sanction	Modification made (in brief)
13	14	15	16	17	18	19	20	21	22	23	24

Form-I

Application for modification of existing standing order
(Under Section 33(3) of the Industrial Relations Code and Rule 36)

Name of association of employers workmen or the name of the worker :
Address :

To,

The Certifying Officer
Industrial Relation Code, 2020
Address.....

Dear Sir,

In accordance with the provisions of Section 33 of Industrial Relation Code, 2020, I beg to inform you that it is desired to effect modification in the Standing Orders No. of 20.....adopted in the following industrial establishment

2- I declare that-six months have passed since the standing orders or last modification thereof came into operation there has been an agreement, copy of which is enclosed herewith, between the employer and the worker for making modification

3- The copies of the standing orders indicating the modification desired are submitted herewith. modifications

Changes regarding particulars of workmen and the names and other particulars of the trade union, since they were submitted last, are also indicated herewith in the enclosed sheet.

List of the industrial Establishments

Serial No.	Name of the Industrial Establishment	Name and designation of the employer	Classification of industries	Address(Registered Office)	Date on which the standing order or last modification came into operation	Modification desired	Remarks

Yours faithfully
(Name and Designation)

Form-J

(Under Section 40 of the Industrial Relations Code and Rule 37)
(Notice of change of service conditions proposed by an employer)

Name of Employer.....
Address.....
Dated the .....day of .....20.....

In accordance with section 40 (1) of Industrial Relation code I/We hereby give notice to all concerned that it is my/our intention to effect the change/changes specified in the annexure, with effect from ..... in the conditions of service applicable to workers in respect of the matters specified in the Third Schedule to this code

Signature.....
Designation.....

ANNEXURE

[Here specify the change/changes intended to be effected]

Copy forwarded to:

1. The Secretary of registered Trade Union, if any.
2. Concerned Deputy Labour Commissioner.
3. Labour Commissioner.

FORM-K

[Agreement for voluntary arbitration]
[Under Section 62(1) of the Industrial Relations Code and Rule 38]

BETWEEN.....Name of the parties representing employer (s) And .....Representing worker It is hereby agreed between the parties to refer the following dispute to the arbitration of ..... [here specify the name(s) and address(es) of the arbitrator (s).

(i)Specific matters in dispute.

(ii)Details of the parties to the dispute including the name and address of the establishment or undertaking involved.

(iii)Name of the worker in case he himself is involved in the dispute or the name of the union, if any, representing the worker or workers in question.

(iv)Total number of workers employed in the undertaking affected.

(v)Estimated number of workers affected or likely to be affected by the dispute.

"We further agree that the majority decision of the arbitrator(s) shall be binding on us in case the arbitrator(s) are equally divided in their opinion they shall appoint another person as umpire whose award shall be binding on us.

The arbitrator (s) shall make his (their) award within a period of ..... (here specify the period agreed upon by the parties) from the date of publication of this agreement in the Official Gazette by the central Government or within such further time as is extended by mutual agreement between us in writing. In case, the award is not made within the period afore mentioned, the reference to the arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitrator.

Signature of the parties Representing employer]

Representing worker workers.

Witnesses:

1. .....
2. .....

Copy to

(i) The Conciliation Officer [here enter office address of the Conciliation Officer for the area concerned] .

(ii) The Secretary to the State Government.

FORM-L

(See Rule 40, 61)

(Authorization by a worker, group of workers, employer, group of employer to be represented in a proceeding before the authority.)

Before the Authority

(Here mention the authority concerned)

(mention the name of the proceeding)

In the matter of.....

.....worker

Versus

I/We hereby authorize shri/sarvashri (if representatives ae more than one)[1]..... 2..... 3..... to Represent me/us in the above matter.
Dated this..... day of..... 20.....
Signature of person (s) nominating the representative(s)
Address accepted

FORM-M

[Under Section 53 of the Industrial Relations Code and Rule 41(7)]
[Application to be submitted before the Tribunal in the matter not settled
By the Conciliation Officer]

Before .....[here mention the name of the Tribunal having jurisdiction over the area]
In the matter of : .....Applicant Address .....

Versus

Address .....
The above mentioned applicant begs to state as follows:-
[Here set out the relevant facts and circumstances of the case]:-
The applicant prays that the instant dispute may please be admitted for adjudication and request to pass appropriate Award.

Date.....
Place.....

Form-O

Registration of settlement
[see rule 43]

Registration No.	Name and address of the parties to settlement	Terms of settlement	Date of settlement	Date of registration	Signature of the registering authority	Remarks, if any
1	2	3	4	5	6	7

Form-P

Certificate of registration
[see rule 43]

It is hereby certified that the memorandum of settlement, dated..... arrived at between..... as per copy enclosed has been registered under the Industrial Relation Code, 2020, this..... day of..... month of..... year.....

Conciliation Officer, Uttarakhand and the
Certifying Authority

FORM-Q

(See Rule 45)

(Notice of Strike to be given by Union/some of Union's/Group of Workers)

Name of the five elected representatives of workers.....

Date the .....day of .....20.....

(The name of the employer).

Dear sir /Sirs,

In accordance with the provisions contained in sub-section (1) of section 62 of the Industrial Relation code I/We hereby give you notice that I propose to call a strike /we propose to go on strike on.....20.....

For the reasons explained in the annexure.

Yours faithfully.

(secretary of the Union)

Five representatives of the workers duly elected at a meeting held on .....(date), vide resolution attached.]

ANNEXURE

Statement of the Case.

Copy to;

1) Deputy Labour Commissioner , of the concerned area.
2) Labour Commissioner Uttarakhand.

Secretary, Labour Government of Uttarakhand.

FORM-R

(Under Section 62 of the Industrial Relations Code and Rule 45)

(Notice of Lock-out to be given by an employer of an industrial establishment)

Name of employer.....

Address.....

Dated the .....day of.....20.....

In accordance with the provisions of 62(1) of this code, I/we hereby give notice to all concerned that it is my/our intention to with effect lock out in.....department(s), section (s) of my/our establishment with effect from.....for the reasons explained in the annexure.

Signature.....

Designation.....

ANNEXURE

1.	Statement of reasons

Copy forwarded to:

(1) The Secretary of the registered Union, if any

(2) Conciliation officer .....[Here enter officer address of the Assistant Labour Commissioner/Deputy Labour Commissioner.

(3) Secretary, Labour, Government of Uttarakhand.

(4) Labour Commissioner, Uttarakhand.

(5) To the officer of DG Labour Bureau.

Form-S

(Under Section 70, 74 of the Industrial Relations Code and Rule 47, 48)

Notice of intimation of Retrenchment/ Closure to be given by an employer to the State Government under the provision of Chapter IX of the Industrial Relations Code, 2020 and rules made there under)
(To be submitted online .In case of exigencies, on paper in the prescribed format below)
Name of Industrial Establishment /undertaking/Employer.....
Labour Identification number.....

DATED .....(Note: The intimation for Closure/Retrenchment to the appropriate government shall be served 60 days and 90 days before commencement of closure/Retrenchment respectively)
To,
(i) The Secretary, Labour Government of Uttarakhand.
(ii) Labour Commissioner Uttarakhand.
(iii) Regional Deputy Labour Commissioner.

1. (Retrenchment) (a) Under Section 70(C)of this Code,we*hereby intimate you that I*/we* have decided to retrench.....workers** out of a total of.....Workers** with effect form .....(DD/MM/YYYY)

Or

[Closure](b)Under Section 74(1)of this Code,I/we hereby intimate you the I* /we* have decided to close down,.....(name of the industrial establishment or undertaking) with effect from.....(DD/MM/YYYY).The number of workers whose services would be terminated on account of the closure of the undertaking is .....(number of workers)

2. The reasons for Retrenchment / closure is.....

.....

3. *The worker (s)* concerned were given on the .....(DD/MM/YYYY) one month's notice in writing as required under section 70(a)*/section 75(1)*of this Code.

Or

The worker (s) concerned have been given on the .....(DD/MM/YYYY) one month's pay in Lieu of the notice as required under section 70(a)/section 75(1)*of this Code.

4. *I/*we* hereby declare that the worker(s) concerned have been */will be* paid all their dues along with the compensation due to them under section 70*/ section 75* of this code before or on the expiry of the notice period.

or

I/we hereby state that currently insolvency proceedings are on in respect of the said industrial establishment/Undertaking/Employer, and that I**/we* will pay all the dues along with the compensation due to them under concerned laws.

5. (Retrenchment) I/we* hereby declare that the worker(s) concerned have been*/ will be* retrenched in compliance to the section 70 and section 72 of this code.

6. I*/we* hereby declare that no court case is pending before any court in the matter, and if yes, the details thereof have been annexed.

7. I*/we* hereby declare that the above information given by me*/us* in this notice and the Annexures is true . I*/we* am*/are* solely responsible for its accuracy and no facts/ materials has been suppressed in the matter.

Yours faithfully,

(Name of Employer/***Authorised Representative with seal)

(*Strike off which is not applicable.)
(**Indicate number in figures and words both)
(***copy of authorisation letter issued by the employer shall be enclosed)

Copy to:
(1) To the office of DG Labour Bureau, Ministry of Labour and Employment, (Only for statistical purpose.)
(2) Labour commissioner, Uttarakhand.
(3) Secretary, Labour, Government of Uttarakhand.
(4) Deputy Labour Commissioner of the concerned area.
(5) To the registered unions/authorized representatives of workers operating in the establishments or undertaking.

FORM-T

[see rule 50, 52, 54]

[Application for permission of lay-off/ continuation of lay-off/Retrenchment/ Closure to be given by an employer / Industrial establishment /Undertaking to the State Government under the provisions of chapter X of the Industrial Relations code, 2020 and rules made there under]

(To be submitted online. In case of exigencies on paper in the prescribed format below)

Name of Industrial Establishment or Undertaking or Employer.....

Labour Identification number.....

Dated.....

(note: the application to the central government shall be served as indicated below:

Lay-off : at least 15 days before the intended lay-off

Continuation of lay-off –at least 15 days before the expiry of earlier lay-off

Retrenchment: at least 60 days before the intended date of retrenchment

Closure –at least 90 days before the intended date of closure)

To,

The Secretary Labour Government of Uttarakhand.

1. *[lay-off] (a) under section 79(2) of the Industrial relations code, 2020, I*/we* hereby apply for *permission to lay-off .....workers** out of total of.....workers** employed in my*/our* establishment. (details to be given in Annexe) with effect from.....(DD/MM/YYYY).

Or

[continuation of lay-off] (b) under section 79(3) of the industrial relations code, 2020, I/we* hereby apply for permission to continue the lay-off .....workers out of total of .....laid off workers** in my*/our* establishment (details to be given in annex-I)with effect from.....(DD/MM/YYYY).

Or

[Retrenchment] (c) under section 79(2) of the industrial relations code,2020, I/we* hereby apply for permission for intended retrenchment of details to .....workers out of total of employed in my*/our* establishment (detail to be given in annex-I)with effect from.....(DD/MM/YYYY).

Or

[closure] (d) Under section 80(1) of the industrial relations code, 2020, I/we hereby inform you that I*/we* intended to close down the undertaking .....(name of the industrial establishment or undertaking or employer) (details to be given in annex-I)with effect from.....(DD/MM/YYYY). the number of workers whose services would be terminated on account of the closure of the undertaking is.....(number of workers)

2. *[lay-off/continuation of lay-off] the worker(s) concerned were given on.....(DD/MM/YYYY) notice in writing as required under section 79(2)*/section 79(3)* of this code.

Or

[Retrenchment / Closure] The worker(s) concerned were given on.....(DD/MM/YYYY) one month's notice as required under section 79/section 80* of this code.

or

[Retrenchment / Closure] The worker(s) have been given on.....(DD/MM/YYYY) one month's pay in lieu of notice as required under section 79/section 80* of this code.

3. The details of affected worker(s) is at Annexure II.

4. [Retrenchment] I*/we* hereby declare that the workers concerned will be retrenched in compliance to the Section 71 and section 72 of this Code.

5. *I/we* hereby declare that the workers concerned have been*/will be paid all the dues and compensation due to them under section 87, read with section 79(10)*/ section 79*/section 80* of this Code before or on the expiry of the notice period.

Or

I/We hereby state that currently insolvency proceedings are on in respect of the said Industrial Establishment/ Undertaking/ Employer, and that I*/we* will pay all the dues along with the compensation due to them under concerned laws.

6. I/we* hereby declare that no court case in pending before any Court in the matter , and if yes , the details thereof have been Annexed.

7. I/we hereby declare that the above information given by me/ us* in this notice and enclosures is/ are* true, I/we am/ are solely responsible for its accuracy and no facts/ materials had been suppressed in the matter.

The permission sought for may please be granted.

Yours faithfully,

(Name of Employer/***Authorised Representative with seal)

(* Strike off which is not applicable)

(** Indicate number in figures and word both)
(*** Copy of Authorization letter issued by the employer shall be enclosed)

ANNEXURE I

(Please give replies against each item)

1	Name of the undertaking with complete postal address, email, mobile and land line.	
2	Status of undertaking— Where Central public sector/State public sector/etc, Where a private limited company/ partnership firm/ partnership firm Whether the undertaking is Licensed/registered and if so, name of licensing/ registration authority and licence/registration certificate number.	
3	(a) MCA Number (b) GSTN Number	
4	Annual production, item wise for preceding three years Production figures, month wise, for the preceding twelve months.	
5	Audit report of establishment/ undertaking including Balance sheets, profit and loss accounts for the last three years.	To be annexed
6	Name of the inter-connected companies or companies under the same management.	
7	Details of lay-off/ Retrenchment reported to in the last three years including the periods of such lay-offs/ Retrenchment the number of workmen involved in each such lay-off/ Retrenchment / continuation of lay-off	
8	Any other relevant details which have bearing on lay-off / continuation of lay off/ retrenchment / closure.	

(Details of affected workers)

Sl. No	UAN/ CMPFO	Name of the Worker	Category (Highly Skilled/ skilled /Semi-skilled / unskilled)	Date from which in service in/with the said establishment/ Undertaking/ Employer	Wages as on date of Application	Remark

FORM-U

(See Rule 58(1))

Notice to the Employer who committed an offence for the first time under this code, for compounding of offence under sub-section (4) of section 89.

The undersigned and the Compounding Officer under sub-section 1 of section 89 of the Industrial Relation Code, 2020 hereby intimates that the allegation has been made against you for committing offence for the violation of various provision of this Code as per the details given below;—

PART-I

1. Name and address of the offender Employer.....
2. Address of the Establishment.....
3. Particulars of the offence.....
4. Section of the Code under which the offence is committed.....
5. Compounding amount required to be paid towards composition of the offence.....

PART-II

You are advised to deposit the above mentioned amount within fifteen days from the date of issue of this notice for compounding the offence as per section 89 (1) of the Industrial Relation Code, 2020, along with an application duly filled in part-III of this notice.

In case you fail to deposit the said amount within the specified time, no further opportunity shall be given and necessary direction for filing of prosecution under section—— shall be issued.

(Signature of the Compounding Officer)

Date:
Place:

PART-III

Application under sub-section (4) of section 83 for compounding of offence

1. Name of applicant (name of the employer who committed the offence under the Industrial Relation Code2020 to be mentioned).....
2. Address of the applicant.....
3. Particulars of the offence .....
4. Section of the Code under which the offence has been committed.....
5. Details of the compounding amount deposited (electronically generated receipt to be attached) .....
6. Details of the prosecution, if filed for the violation of above mentioned offences may be given .....
7. Whether the offences is first offence or the applicant had committed any other offence prior to this offence, if committed, then, full details of the offence .....
8. Any other information which the applicant desires to provide .....

Applicant
(Name and signature)

Dated:
Place:

FORM-V

(Complaint under Section 91 of the Industrial Relation Code,2020 and Rule 60)

Before the Conciliation officer / Arbitrator/ Tribunal or, State Tribunal———,

In the matter of :..... Reference No.....

A..... Complainant(s);

Versus

B..... Opposite party(ies).

Address:

The petitioner(s) begs/beg to complain that the Opposite Party(ies) has/have been guilty of a contravention of the provisions of section 90 of the Industrial Relation code, as shown below:

(Here set out briefly the particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the management is challenged.)

The complainant(s) accordingly prays/pray that the Conciliation officer/ Arbitrator/ Industrial Tribunal or State Tribunal may be pleased to decide the complaint set out above and pass such order or orders thereon as its may deem fit and proper.

The number of copies of the complaint and its annexure required under rule 91 of the Industrial Relation Code are submitted herewith.

Dated this .....day of.....20..... Signature of the Complainant(s)

Verification

I do solemnly declare that what is stated in paragraph.....above is true to my knowledge and that what is stated in paragraphs.....above is stated upon information received and believed by me to be true. This verification is signed by me at .....on .....day of .....20.....

Signature

Or thumb impression of the person verifying

By Order,

DR. SRIDHAR BABU ADDANKI,
Secretary.

पीएसएमयू (आरएलई) 12/ श्रम/ 388–2020–100+100 प्रतियां (कम्प्यूटर/ पीजियो)।

रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—20 REGISTERED NO. DL—(N)04/0007/2003—20

भारत का राजपत्र
The Gazette of India

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CG-DL-E-29092020-222112

असाधारण
EXTRAORDINARY
भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 62] नई दिल्ली, मंगलवार, सितम्बर 29, 2020/ आश्विन 7, 1942 (शक)
No. 62] NEW DELHI, TUESDAY, SEPTEMBER 29, 2020/ASVINA 7, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29*th September,* 2020/*Asvina* 7, 1942 (*Saka*)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

No. 37 of 2020

[28*th September,* 2020.]

An Act to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title, commencement and application.

1. (*1*) This Act may be called the Occupational Safety, Health and Working Conditions Code, 2020.

(*2*) It shall come into force on such date as the Central Government may, by notification appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

(*3*) It shall not apply to the offices of the Central Government, offices of the State Government and any ship of war of any nationality:

Provided that the Code shall apply in case of contract labour employed through contractor in the offices of the Central Government or in the offices of the State Government, where, the Central Government or, as the case may be, the State Government is the principal employer.

Definitions.

2. (*1*) In this Code, unless the context otherwise requires,—

(*a*) "adolescent" shall have the same meaning as assigned to it in clause (*i*) of section 2 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; 61 of 1986.

(*b*) "adult" means a person who has completed his eighteenth year of age;

(*c*) "agent" when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such mine or of any part thereof;

(*d*) "appropriate Government" means—

(*i*) in relation to, establishments [other than those specified in sub-clause (*ii*)] carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil field, major ports, air transport service or telecommunication service, banking company or any insurance company (by whatever name called) established by a Central Act or a corporation or other authority established by a Central Act or a Central public sector undertaking or subsidiary companies set up by the Central public sector undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, Central public sector undertakings, subsidiary companies or autonomous bodies, as the case may be, the Central Government:

Provided that in the case of Central Public Sector Undertakings the appropriate Government shall continue to be the Central Government even if the holding of the Central Government reduces to less than fifty per cent. equity of the Central Government in that Public Sector Undertakings after the commencement of this Code; and

(*ii*) in relation to a factory, motor transport undertaking, plantation, newspaper establishment and establishment relating to beedi and cigar including the establishments not specified in clause (*i*), the concerned State Government where it is situated.

Explanation.—For the removal of doubts it is hereby clarified that State Government shall be the appropriate Government in respect of occupational safety, health and working conditions in a factory situated in that State;

(*e*) "audio-visual production" means audio-visual produced wholly or partly in India and includes—

(*i*) animation, cartoon depiction, audio-visual advertisement;

(*ii*) digital production or any of the activities in respect of making thereof; and

(*iii*) features films, non-feature films, television, web-based serials, talk shows, reality shows and sport shows;

(*f*) "audio-visual worker" means a person, who is employed, directly or through any contractor, in or in connection with the audio-visual production to work as an

artist including actor, musician, singer, anchor, news reader, dancer, dubbing artist or stunt person or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise, and his remuneration with respect to such employment in or in connection with the production of audio-visual does not exceed, where remuneration is by way of monthly wages or where such remuneration is by way of lump sum, in each case, such amount as may be notified by the Central Government;

(*g*) "banking company" means a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949 and includes the Export-Import Bank of India, the Industrial Reconstruction Bank of India, the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989, the Reserve Bank of India, the State Bank of India, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

10 of 1949.

39 of 1989.

5 of 1970.

40 of 1980.

(*h*) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include building or other construction work which is related to any factory or mine and the building or other construction work where such work is for own residential purposes of an individual or group of individuals for their own residence and the total cost of such work does not exceed rupees fifty lakhs or such higher amount and employing more than such number of workers as may be notified by the appropriate Government;

(*i*) "building worker" means a person who is employed to do any highly skilled, skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;

(*j*) "cargo" includes anything carried or to be carried in a ship or other vessel, or vehicle;

(*k*) "Chief Inspector-cum-Facilitator" means a Chief Inspector-cum-Facilitator appointed under sub-section (*5*) of section 34;

(*l*) "competent person", means a person or an institution recognised as such by the Chief Inspector-cum-Facilitator for the purposes of carrying out tests, examinations and inspections required to be done in an establishment having regard to—

(*i*) the qualifications and experience of the person and facilities available at his disposal; or

(*ii*) the qualifications and experience of the persons employed in such institution and facilities available therein:

Provided that in case of mines the competent person includes such other person who is authorised by the manager referred to in section 67 to supervise or perform any work, or to supervise the operation of machinery, plant or equipment and is responsible for such duties assigned to him and also includes a shot firer or blaster;

(*m*) "contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker but does not include a worker (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;

(*n*) "contractor", in relation to an establishment, means a person, who—

(*i*) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or

(*ii*) supplies contract labour for any work of the establishment as mere human resource,

and includes a sub-contractor;

(*o*) "controlled industry" means any industry the control of which by the Central Government has been declared under any Central Act in the public interest;

(*p*) "core activity of an establishment" means any activity for which the establishment is set up and includes any activity which is essential or necessary to such activity:

Provided that the following shall not be considered as essential or necessary activity, if the establishment is not set up for such activity, namely:—

(*i*) sanitation works, including sweeping, cleaning, dusting and collection and disposal of all kinds of waste;

(*ii*) watch and ward services including security services;

(*iii*) canteen and catering services;

(*iv*) loading and unloading operations;

(*v*) running of hospitals, educational and training Institutions, guest houses, clubs and the like where they are in the nature of support services of an establishment;

(*vi*) courier services which are in nature of support services of an establishment;

(*vii*) civil and other constructional works, including maintenance;

(*viii*) gardening and maintenance of lawns and other like activities;

(*ix*) housekeeping and laundry services, and other like activities, where these are in nature of support services of an establishment;

(*x*) transport services including, ambulance services;

(*xi*) any activity of intermittent nature even if that constitutes a core activity of an establishment;

(*q*) "day" means a period of twenty-four hours beginning at mid-night;

(*r*) "District Magistrate", in relation to any mine, means the District Magistrate or the Deputy Commissioner, as the case may be, who is vested with the executive powers of maintaining law and order in the revenue district in which the mine is situated:

Provided that in case of a mine, which is situated partly in one district and partly in another, the District Magistrate for the purpose shall be the District Magistrate authorised in this behalf by the Central Government;

(*s*) "dock work" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—

(*i*) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;

(*ii*) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; and

(*iii*) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area on board the ship or in the docks;

(*t*) "employee" means,—

(*i*) in respect of an establishment, a person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied; and

52 of 1961.

(*ii*) a person declared to be an employee by the appropriate Government,

but does not include any member of the Armed Forces of the Union:

Provided that notwithstanding anything contained in this clause, in case of a mine a person is said to be "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not—

(*a*) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of dispatch and of gathering sand and transport thereof to the mine);

(*b*) in operations or services relating to the development of the mine including construction of plant therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;

(*c*) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;

(*d*) in operations, within the premises of the mine, of loading for dispatch of minerals;

(*e*) in any office of mine;

(*f*) in any welfare, health, sanitary or conservancy services required to be provided under this Code relating to mine, or watch and ward, within the premises of the mine excluding residential area; or

(*g*) in any kind of work, whatsoever, which is preparatory or incidental to, or connected with, mining operations;

(*u*) "employer" means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any Department of the Central Government or the State Government, the authority specified, by the head of

such Department, in this behalf or where no authority, is so specified, the head of the Department and in relation to an establishment carried on by a local authority, the Chief Executive of that authority, and includes,—

(*i*) in relation to an establishment which is a factory, the occupier of the factory;

(*ii*) in relation to mine, the owner of the mine, agent or manager referred to in section 67;

(*iii*) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director;

(*iv*) contractor; and

(*v*) legal representative of a deceased employer;

(*v*) "establishment" means—

(*i*) a place where any industry, trade, business, manufacturing or occupation is carried on in which ten or more workers are employed; or

(*ii*) motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or

(*iii*) factory, for the purpose of Chapter II, in which ten or more workers are employed, notwithstanding the threshold of workers provided in clause (*w*); or

(*iv*) a mine or port or vicinity of port where dock work is carried out:

Provided that in sub-clauses (*i*) and (*ii*), the threshold of worker specified therein shall not be applicable in case of such establishment or class of establishments, in which such hazardous or life threatening activity is being carried on, as may be notified by the Central Government:

Provided further that notwithstanding any threshold provided in the definition of factory in clause (*w*), for the purposes of Chapter II, the establishment specified in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) shall be deemed to be the establishment within the meaning of this clause though the number of employees employed are ten or more;

(*w*) "factory" means any premises including the precincts thereof—

(*i*) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on; or

(*ii*) whereon forty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

but does not include a mobile unit belonging to the armed forces of the Union, railways running shed or a hotel, restaurant or eating place:

Provided that where under any law for the time being in force in a State immediately before the commencement of this Code, the number of workers specified is more or less than the number specified in clause (*i*) or clause (*ii*), then, the number specified under the law of the State shall prevail in that State till it is amended by the competent Legislature.

Explanation I.—For computing the number of workers for the purposes of this clause all the workers (in different groups and relays) in a day shall be taken into account.

Explanation II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(*x*) "family", when used in relation to a worker, means—

(*i*) spouse;

(*ii*) children including adopted children of the worker who are dependent upon him and have not completed the age of eighteen years; and

(*iii*) parents, grand-parents, widowed daughter and widowed sister dependent upon such worker.

Explanation.—For the purposes of this clause, such dependents shall not be included who are, for the time being, getting such income from such sources, as may be prescribed by the appropriate Government;

(*y*) "godown" means any warehouse or other place, by whatever name called, used for the storage of any article or substance required for any manufacturing process which means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as finished products;

(*z*) "hazardous" means involving danger or potential danger;

(*za*) "hazardous process" means any process or activity in relation to an industry or plantation specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, hazardous substances, wastes or effluents thereof or spraying of any pesticides, insecticides or chemicals used therein, as the case may be, would—

(*i*) cause material impairment to the health of the persons engaged in or connected therewith, or

(*ii*) result in the pollution of the general environment;

(*zb*) "hazardous substance" means any substance or such quantity of the substance as may be prescribed by the appropriate Government or preparation of which by reason of its chemical or physio-chemical properties or handling is liable to cause physical or health hazards to human being or may cause harm to other living creatures, plants, micro-organisms, property or the environment;

(*zc*) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry, trade, business, occupation or manufacturing is being ordinarily carried on with or without the aid of power and includes a godown attached thereto;

(*zd*) "industry" means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

(*i*) any capital has been invested for the purpose of carrying on such activity; or

(*ii*) such activity is carried on with a motive to make any gain or profit,

but does not include—

(*a*) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic services; or

(*b*) any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the Departments of the Central Government dealing with defence research, atomic energy and space; or

(*c*) any domestic service; or

(*d*) any other activity as may be notified by the Central Government;

(*ze*) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under sub-section (*1*) of section 34;

(*zf*) "inter-State migrant worker" means a person who is employed in an establishment and who—

(*i*) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or

(*ii*) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State,

under an agreement or other arrangement for such employment and draws wages not exceeding the amount of rupees eighteen thousand per month or such higher amount as may be notified by the Central Government from time to time;

(*zg*) "machinery" means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to perform work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy;

(*zh*) "major port" means a major port as defined in clause (*8*) of section 3 of the Indian Ports Act, 1908; 15 of 1908.

(*zi*) "manufacturing process" means any process for—

(*i*) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(*ii*) pumping oil, water, sewage or any other substance; or

(*iii*) generating, transforming or transmitting power; or

(*iv*) composing, printing, printing by letter press, lithography, offset, photogravure screen printing, three Dimensional or four Dimensional printing, prototyping, flexography or other types of printing process or book binding; or

(*v*) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(*vi*) preserving or storing any article in cold storage; or

(*vii*) such other processes as the Central Government may notify;

(*zj*) "medical officer" means the medical officer appointed under sub-section (*1*) of section 42;

(*zk*) "metro railway" means the metro railway as defined in sub-clause (*i*) of clause (*1*) of section 2 of the Metro Railways (Operation and Maintenance) Act, 2002; 60 of 2002.

(*zl*) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—

(*i*) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;

(*ii*) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;

(*iii*) all levels and inclined planes in the course of being driven;

(*iv*) all open cast workings;

(*v*) all conveyors or aerial ropeways provided for bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

(*vi*) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;

(*vii*) all protective works being carried out in or adjacent to a mine;

(*viii*) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;

(*ix*) all power stations, transformer sub-stations, converter stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;

(*x*) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;

(*xi*) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or coke is being carried on;

(*xii*) a mine owned by the Government;

(*zm*) "minerals" means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicing, quarrying or by any other operation and includes mineral oils (such as natural gas and petroleum);

(*zn*) "motor transport undertaking" means a motor transport undertaking employing motor transport worker and engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier;

(*zo*) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend the duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but does not include any such person—

(*i*) who is employed in a factory;

(*ii*) to whom the provisions of any other law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;

(*zp*) "newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government;

(*zq*) "newspaper establishment" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate and includes following newspaper establishments which shall be deemed to be one establishment, namely:—

(*i*) two or more newspaper establishments under common control;

(*ii*) two or more newspaper establishments owned by an individual and his or her spouse unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;

(*iii*) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory.

Explanation 1.—For the purposes of sub-clause (*i*) two or more establishments shall be deemed to be under common control where—

(*a*) (*i*) the newspaper establishments are owned by a common individual or individuals;

(*ii*) the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;

(*iii*) the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;

(*iv*) one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;

(*v*) one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or

(*b*) there is functional integrality between concerned newspaper establishments.

Explanation 2.—For the purposes of this clause,—

(*i*) different departments, branches and centres of newspaper establishments shall be treated as parts thereof;

(*ii*) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper;

(*zr*) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(*zs*) "occupier" of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

(*i*) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

(*ii*) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (*6*) of section 149 of the Companies Act, 2013;

18 of 2013.

(*iii*) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier;

(*zt*) "office of the mine" means an office at the surface of the mine concerned;

(*zu*) "open cast working" means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;

(*zv*) "ordinarily employed" with reference to any establishment or part thereof, means the average number of persons employed per day in the establishment or part thereof during the preceding calendar year obtained by dividing the number of man days worked by the number of working days excluding rest days and other non-working days;

(*zw*) "owner", in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor or sub-lessee for the working of a mine or any part thereof shall be subject to this Code in like manner as if he were an owner but not so as to exempt the former from any liability;

(*zx*) "plantation" means—

(*a*) any land used or intended to be used for—

(*i*) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;

(*ii*) growing any other plant, which admeasures five hectares or more and in which persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification, so directs.

Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is

contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the former piece of land shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more; and

(*b*) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (*a*), notwithstanding that it admeasures less than five hectares:

Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and

(*c*) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (*a*) and sub-clause (*b*); but does not include factory on the premises;

(*zy*) "prescribed" means prescribed by rules made by the appropriate Government under this Code;

(*zz*) "principal employer", where the contract labour is employed or engaged, means—

(*i*) in relation to any office or Department of the Government or a local authority, the head of that office or Department or such other officer as the Government or the local authority, may specify in this behalf;

(*ii*) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;

(*iii*) in a mine, the owner or agent of the mine;

(*iv*) in relation to any other establishment, any person responsible for the supervision and control of the establishment;

(*zza*) "producer", in relation to audio-visual production, means the company, firm or other person by whom the arrangements necessary for producing such audio-visual (including the raising of finances and engaging audio-visual workers for producing audio-visual) are undertaken.

Explanation.—For the purposes of this clause, the expressions "company" and "firm" have the same meaning as respectively assigned to them in the Companies Act, 2013 and the Indian Partnership Act, 1932; 18 of 2013. 9 of 1932.

(*zzb*) "qualified medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (*i*) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled on a Indian Medical Register as defined in clause (*e*) and on a State Medical Register as defined in clause (*l*) of the said section; 102 of 1956.

(*zzc*) "railway" means the railway as defined in clause (*31*) of section 2 of the Railways Act, 1989; 24 of 1989.

(*zzd*) "relay" means a set of two or more persons carrying out the same kind of work during different periods of the day and each such period is called a "shift";

(*zze*) "sales promotion employees" means any person by whatever name called employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person who,—

(*i*) being employed or engaged in a supervisory capacity, draws wages exceeding eighteen thousand rupees per mensem or an amount as may be notified by the Central Government from time to time; or

(*ii*) is employed or engaged mainly in a managerial or administrative capacity.

(*zzf*) "Schedule" means the Schedule appended to this Code;

(*zzg*) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(*zzh*) "standards", "regulations", "rules", "bye-laws" and "orders" respectively means standards, regulations, rules, bye-laws and orders made or declared, as the case may be, under this Code;

(*zzi*) "telecommunication service" means the telecommunication service as defined in clause (*k*) of sub-section (*1*) of section 2 of the Telecom Regulatory Authority of India Act, 1997;

24 of 1997.

(*zzj*) "wages" means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

(*i*) basic pay;

(*ii*) dearness allowance; and

(*iii*) retaining allowance, if any,

but does not include—

(*a*) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(*b*) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(*c*) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(*d*) any conveyance allowance or the value of any travelling concession;

(*e*) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(*f*) house rent allowance;

(*g*) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(*h*) any overtime allowance;

(*i*) any commission payable to the employee;

(*j*) any gratuity payable on the termination of employment;

(*k*) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under sub-clauses (*a*) to (*i*) exceeds

one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in sub-clauses (*d*), (*f*), (*g*) and (*h*) shall be taken for computation of wages.

Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

(*zzk*) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector-cum-Facilitator;

(*zzl*) "worker" means any person employed in any establishment to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees, but does not include any such person—

(*i*) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or 45 of 1950. 46 of 1950. 62 of 1957.

(*ii*) who is employed in the police service or as an officer or other employee of a prison; or

(*iii*) who is employed mainly in a managerial or administrative capacity; or

(*iv*) who is employed in a supervisory capacity drawing wage exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time;

(*zzm*) "Working Journalist" means a person whose principal avocation is that of a journalist and who is employed as such, either whole-time or part-time, in, or in relation to, one or more newspaper establishment, or other establishment relating to any electronic media or digital media such as newspaper or radio or other likemedia and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who is employed mainly in a managerial, supervisory or administrative capacity;

(*2*) For the purposes of this Code, a person working or employed in or in connection with mine is said to be working or employed—

(*a*) "below ground" if he is working or employed—

(*i*) in a shaft which has been or is in the course being sunk; or

(*ii*) in any excavation which extends below superjacent ground; and

(*b*) "above ground" if he is working in an opencast working or in any other manner not specified in clause (*a*).

CHAPTER II

REGISTRATION

Registration of certain establishments.

3. (*1*) Every employer of any establishment,—

(*a*) which comes into existence after the commencement of this Code; and

(*b*) to which this Code shall apply,

shall, within sixty days from the date of such applicability of this Code, make an application electronically to the registering officer appointed by the appropriate Government (hereinafter referred to as the registering officer) for the registration of such establishment:

Provided that the registering officer may entertain any such application for registration after the expiry of such period on payment of such late fees as may be prescribed by the appropriate Government.

(*2*) Every application under sub-section (*1*) shall be submitted to the registering officer in such manner, in such form, containing such particulars including the information relating to the employment of inter-State migrant workers and shall be accompanied by such fees as may be prescribed by the appropriate Government.

(*3*) After the receipt of an application under sub-section (*1*), the registering officer shall register the establishment and issue a certificate of registration electronically to the employer thereof in such form and within such time and subject to such conditions as may be prescribed by the Central Government:

Provided that if the registering officer fails to register an establishment under the application so made or to entertain the application within the prescribed period, then, such establishment shall be deemed to have been registered under this Code immediately on the expiration of such period and the electronic certificate of registration shall be auto generated and the responsibility of such failure shall be on the registering officer.

(*4*) Any change in the ownership or management or in any particulars referred to in sub-section (*2*) which occurs after the registration of an establishment under this Code, shall be intimated by the employer electronically to the registering officer within thirty days of such change in such form as may be prescribed by the Central Government and thereafter the registering officer shall make amendment in the certificate of registration electronically in such manner as may be prescribed by the Central Government.

(*5*) The employer of an establishment shall, within thirty days of the closing of the establishment—

(*a*) inform the closing of such establishment; and

(*b*) certify payment of all dues to the workers employed in such establishment,

to the registering officer in such manner as may be prescribed by the Central Government and the registering officer shall, on receiving such information and certificate remove such establishment from the register of establishments maintained by him and cancel the registration certificate of the establishment within sixty days from the receipt of such information :

Provided that if the registering officer fails to cancel the registration certification of the establishment under this sub-section within such sixty days, then, the registration certificate of such establishment shall be deemed to have been cancelled under this Code immediately on the expiration of such period of sixty days and the cancellation of registration certificate shall be auto generated and the responsibility of such failure shall be on the registering officer.

(*6*) If an employer of an establishment—

(*a*) has obtained the registration of his establishment by misrepresentation or suppression of any material fact, or

(*b*) has obtained the registration of his establishment so fraudulently or otherwise that the registration has become useless or ineffective to run the establishment,

then, in case of clause (*a*) such misrepresentation or suppression of any material fact shall be deemed to be the contravention of the provisions of this Code for prosecution of the employer under section 94 without affecting the registration and running of the establishment and in case of clause (*b*) the registering officer may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration by an order and such process for revocation shall be completed by the registering officer within sixty days from coming into his notice the facts specified in clause (*b*).

(*7*) No employer of an establishment who—

(*a*) has not registered the establishment under this section; or

(*b*) has not preferred appeal under section 4 against the cancellation of the registration certificate of the establishment under sub-section (*5*) or revocation of the registration of the establishment under sub-section (*6*) or the appeal so preferred has been dismissed,

shall employ any employee in the establishment.

(*8*) Notwithstanding anything contained in this Code, where any establishment, to which this Code applies, has already been registered under any—

(*a*) Central Labour law; or

(*b*) any other law which may be notified by the Central Government and which applies to the establishment which is in existence at the time of the commencement of this Code,

shall be deemed to have been registered under the provisions of this Code, subject to the condition that the registration holder provides the details of registration to the concerned registering officer within such time and in such form as may be prescribed.

Appeal.

4. (*1*) Any person aggrieved by an order made under section 3 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person notified in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the appellate officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal within a period of thirty days from the date of receipt of such appeal.

Notice by employer of commencement and cessation of operation.

5. (*1*) No employer of an establishment being factory or mine or relating to contract labour or building or other construction work shall use such establishment to commence the operation of any industry, trade, business, manufacturing or occupation thereon without sending notice of such purpose in such form and manner and to such authority and within such time as may be prescribed and shall also intimate the cessation thereof to the said authority in such manner as may be prescribed by the appropriate Government.

(*2*) The notice or intimation under sub-section (*1*) shall be given electronically.

CHAPTER III

DUTIES OF EMPLOYER AND EMPLOYEES, ETC.

Duties of employer.

6. (*1*) Every employer shall,—

(*a*) ensure that workplace is free from hazards which cause or are likely to cause injury or occupational disease to the employees;

(*b*) comply with the occupational safety and health standards declared under section 18 or the rules, regulations, bye-laws or orders made under this Code;

(*c*) provide such annual health examination or test free of costs to such employees of such age or such class of employees of establishments or such class of establishments, as may be prescribed by the appropriate Government;

(*d*) provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees;

(*e*) ensure the disposal of hazardous and toxic waste including disposal of e-waste;

(*f*) issue a letter of appointment to every employee on his appointment in the establishment, with such information and in such form as may be prescribed by the appropriate Government and where an employee has not been issued such appointment letter on or before the commencement of this Code, he shall, within three months of such commencement, be issued such appointment letter;

(*g*) ensure that no charge is levied on any employee, in respect of anything done or provided for maintenance of safety and health at workplace including conduct of medical examination and investigation for the purpose of detecting occupational diseases;

(*h*) relating to factory, mine, dock work, building or other construction work or plantation, ensure and be responsible for the safety and health of employees, workers and other persons who are on the work premises of the employer, with or without his knowledge, as the case may be.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the duties of an employer shall particularly in respect of factory, mines, dock, building or other construction work or plantation include—

(*a*) the provision and maintenance of plant and systems of work in the workplace that are safe and without risk to health;

(*b*) the arrangements in the workplace for ensuring safety and absence of risk to health in connection with the use, handling, storage and transport of articles and substances;

(*c*) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work;

(*d*) the maintenance of all places of work in the workplace in a condition that is safe and without risk to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risk;

(*e*) the provision, maintenance or monitoring of such working environment in the workplace for the employees that is safe, without risk to health as regards facilities and arrangements for their welfare at work.

Duties and responsibilities of owner, agent and manager in relation to mine.

7. (*1*) The owner and agent of every mine shall jointly and severally be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Code and the rules, regulations, bye-laws and orders made thereunder, relating to mine.

(*2*) In the event of any contravention by any person whosoever of any of the provisions of this Code or of the rules, regulations, bye-laws or orders made thereunder, relating to mine, except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, then, each of the following persons shall also be deemed to be guilty of such contravention unless he

proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention, namely:—

(*a*) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;

(*b*) the manager of the mine;

(*c*) the owner and agent of the mine;

(*d*) the person appointed, if any, to carry out the responsibility under section 24.

(*3*) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Code or that a person to carry the responsibility under section 24 has been appointed.

Duties of designers, manufacturers, importers or suppliers.

8. (*1*) Every person who designs, manufactures, imports or supplies any article for use in any establishment shall—

(*a*) ensure so far as is reasonably practicable, that the article is so designed and constructed in the establishment as to be safe and without risk to the health of the workers when properly used;

(*b*) carry out or arrange for the carrying out of such tests and examination in the establishment as may be considered necessary for the effective implementation of the provisions of clause (*a*);

(*c*) take steps as may be necessary to ensure that adequate information will be available—

(*i*) in connection with the use of the article in any establishment;

(*ii*) about the use for which such article is designed and tested; and

(*iii*) about any conditions necessary to ensure that the article, when put to such use, shall be safe, and without risk to the health of the workers:

Provided that where an article is designed or manufactured outside India, then it shall be obligatory on the part of the importer to see—

(*A*) that the article conforms to the same standards of such article manufactured in India; or

(*B*) if the standards adopted in the country outside India for the manufacture of such article is above the standards adopted in India, that the article conforms to such standards in such country;

(*C*) if there is no standard of such article in India, then, the article conforms to the standard adopted in the country from where it is imported at its national level.

(*2*) The designer, manufacturer, importer or supplier shall also comply with such duties as the Central Government may, in consultation with the National Occupational Safety and Health Advisory Board referred to in sub-section (*1*) of section 16, by regulations specify.

(*3*) Every person, who undertakes to design or manufacture any article and substance for use in any factory, may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably, practicable, the elimination or minimisation of any risks to the health or safety of the workers to which the design or manufacture of article and substance may give rise to such risk.

(*4*) Nothing contained in sub-sections (*1*) and (*2*) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

(*5*) Any duty imposed on any person by sub-sections (*1*) and (*2*) shall extend only to things done in the course of business carried on by him and to matters within his control.

(*6*) Every person,—

(*a*) who erects or installs any article for use in a factory, shall ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory;

(*b*) who manufactures, imports or supplies any substance for use in any factory shall—

(*i*) ensure, so far as practicable, that such substance when used in the factory does not make it unsafe or a risk to health of persons working in such factory;

(*ii*) carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;

(*iii*) take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (*ii*) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;

(*c*) who undertakes the manufacture of any substance for use in any factory shall carry out or arrange for carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimisation of any risks to health or safety to which the substance may give rise out of such manufacture or research;

(*7*) For the purposes of this section, an article and substance is not to be regarded as properly used, if they are used without regard to any information or advice relating to their use which has been made available by the person who has designed, manufactured, imported or supplied the article and substance.

Explanation.—For the purpose of this section—

(*a*) "article" shall include plant and machinery;

(*b*) "substance" means any natural or artificial substance whether in a solid or liquid form or in the form of a gas or vapour; and

(*c*) "substance for use in any factory" means such substance, whether or not intended for use by persons working in a factory.

Duties of architect, project engineer and designer.

9. (*1*) It shall be the duty of the architect, project engineer or designer responsible for any building or other construction work or the design of any project or part thereof relating to such building or other construction work to ensure that, at the planning stage, due consideration is given to the safety and health aspects of the building workers and employees who are employed in the erection, operation and execution of such projects and structures as the case may be.

(*2*) Adequate care shall be taken by the architect, project engineer and other professionals involved in the project referred to in sub-section (*1*), not to include anything in the design which would involve the use of dangerous structures or other processes or materials, hazardous to health or safety of building workers and employees during the course of erection, operation and execution as the case may be.

(*3*) It shall also be the duty of the professionals, involved in designing the buildings structures or other construction projects, to take into account the safety aspects associated with the maintenance and upkeep of the structures and buildings where maintenance and upkeep may involve such hazards as may be notified by the appropriate Government.

Notice of certain accident.

10. (*1*) Where at any place in an establishment, an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident or which is of such nature as may be prescribed by the appropriate Government, then,—

(*a*) employer or owner or agent or manager referred to in section 67 of such establishment if it is mine; or

(*b*) employer or manager in relation to such establishment if it is factory or relates to dock work; or

(*c*) the employer of a plantation or an establishment relating to building or other construction or any other establishment,

shall send notice thereof to such authorities, in such manner and within such time, as may be prescribed by the appropriate Government.

(*2*) Where a notice given under sub-section (*1*) relates to an accident causing death in a plantation or an establishment relating to building or other construction work or any other establishment, the authority to whom the notice is sent shall make an inquiry into the occurrence within two months of the receipt of the notice or if there is no such authority, the Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry within the said period.

Notice of certain dangerous occurrences.

11. Where in an establishment there is any dangerous occurrence of such nature, (whether causing any bodily injury or disability, or not) the employer shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

Notice of certain diseases.

12. (*1*) Where any worker in an establishment contracts any disease specified in the Third Schedule, the employer of the establishment shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

(*2*) If any qualified medical practitioner attends on a person, who is or has been employed in an establishment, and who is, or is believed by the qualified medical practitioner, to be suffering from any disease specified in the Third Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector-cum-Facilitator in such form and manner and within such time as may be prescribed by the appropriate Government.

(*3*) If any qualified medical practitioner fails to comply with the provisions of sub-section (*2*), he shall be punishable with penalty which may extend to ten thousand rupees.

Duties of employee.

13. Every employee at workplace shall,—

(*a*) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the workplace;

(*b*) comply with the safety and health requirements specified in the standards;

(*c*) co-operate with the employer in meeting the statutory obligations of the employer under this Code;

(*d*) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable, report such situation to his employer or to the health and safety representative and in case of mine, agent or manager referred to in section 67, safety officers or an official for his workplace or section thereof, as the case may be, who

shall report it to the employer in the manner as may be prescribed by the appropriate Government;

(*e*) not wilfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers;

(*f*) not do, wilfully and without reasonable cause, anything, likely to endanger himself or others; and

(*g*) perform such other duties as may be prescribed by the appropriate Government.

Rights of employee.

14. (*1*) Every employee in an establishment shall have the right to obtain from the employer information relating to employee's health and safety at work and represent to the employer directly or through a member of the Safety Committee as constituted under section 22, if constituted by the employer for such purpose, regarding inadequate provision for protection of his safety or health in connection with the work activity in the workplace, and if not satisfied, to the Inspector-cum-Facilitator.

(*2*) Where the employee referred to in sub-section (*1*) in any workplace has reasonable apprehension that there is a likelihood of imminent serious personal injury or death or imminent danger to health, he may bring the same to the notice of his employer directly or through a member of the Safety Committee referred to in sub-section (*1*) and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

(*3*) The employer or any employee referred to in sub-section (*1*) shall take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum-Facilitator in such manner as may be prescribed by the appropriate Government.

(*4*) If the employer referred to in sub-section (*3*) is not satisfied about the existence of any imminent danger as apprehended by his employees, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

Duty not to interfere with or misuse things.

15. No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health, safety or welfare under this Code.

CHAPTER IV

OCCUPATIONAL SAFETY AND HEALTH

National Occupational Safety and Health Advisory Board.

16. (*1*) The Central Government shall, by notification, constitute the National Occupational Safety and Health Advisory Board (hereinafter in this Code referred to as the National Board) to discharge the functions conferred on it by or under this Code and to advise the Central Government on the matters relating to—

(*a*) standards, rules and regulations to be declared or framed under this Code;

(*b*) implementation of the provisions of this Code and the standards, rules and regulations relating thereto;

(*c*) the issues of policy and programme relating to occupational safety and health referred to it, from time to time, by the Central Government; and

(*d*) any other matter in respect of this Code referred to it, from time to time, by the Central Government.

(*2*) The National Board shall consist of—

(*a*) Secretary, Ministry of Labour and Employment—Chairperson *ex officio;*

(*b*) Director General, Factory Advice Service and Labour Institutes, Mumbai—Member *ex officio*;

(*c*) Director General, Mines Safety, Dhanbad—Member *ex officio*;

(*d*) Chief Controller of Explosives, Nagpur—Member *ex officio*;

(*e*) Chairman, Central Pollution Control Board, New Delhi—Member *ex officio*;

(*f*) Chief Labour Commissioner (Central), New Delhi—Member *ex officio*;

(*g*) Principal Secretaries dealing with labour matters of four States (by rotation as the Central Government may deem fit)—Member *ex officio*;

(*h*) Director General, Employee's State Insurance Corporation, New Delhi—Member *ex officio*;

(*i*) Director General, Health Services, New Delhi—Member *ex officio*;

(*j*) five representatives of employers—Member *ex officio*;

(*k*) five representatives of employees—Member *ex-officio*;

(*l*) a representative of professional body associated with the matter for which standards, rules, policies being framed—Member;

(*m*) five eminent persons connected with the field of Occupational Safety and Health, or representatives from reputed research institutions or similar other discipline—Member;

(*n*) special invitees from the State Government or the Government of Union territory for seeking inputs in specific matters or industry or sector which is predominant in that State or Union territory—Member;

(*o*) Joint Secretary, Ministry of Labour and Employment—Member Secretary *ex officio*.

(*3*) The terms of office of the Members referred to in clauses (*g*), (*j*), (*k*), (*l*) and (*m*) of sub-section (*2*) shall be of three years and the procedure for their nomination, and discharge of their functions shall be such as may be prescribed by the Central Government.

(*4*) The Central Government may, in consultation with the National Board, determine the number, nature and categories of other officers and employees required to assist the National Board in the efficient discharge of its functions and terms and conditions of service of such officers and employees of the National Board shall be such as may be prescribed by the Central Government.

(*5*) The Central Government may constitute as many technical committees or advisory committees consisting of such number of members having such qualifications as may be prescribed by the Central Government, to assist the National Board in discharge of its function specified in sub-section (*1*).

(*6*) The National Board shall consult the State Governments whose Principal Secretaries are the Members of the National Board as required under clause (*g*) of sub-section (*2*) of section 16 and in case of specific issues relating to plantation, factories and like other issues, the State Government concerned may be invited by the National Board as special invitee for obtaining their inputs on such issues.

State Occupational Safety and Health Advisory Board.

17. (*1*)The State Government shall constitute a Board to be called the State Occupational Safety and Health Advisory Board (hereinafter referred to as "State Advisory Board") to advise the State Government on such matters arising out of the administration of this Code as may be referred to it by the State Government.

(*2*) The constitution, procedure and other matters relating to State Advisory Board shall be such as may be prescribed by the State Government.

(*3*) The State Government may constitute as many technical committees or advisory committees of the State Advisory Board including site appraisal committees, consisting of such number of members and having such qualifications as may be prescribed, to assist the State Government or State Advisory Board in discharge of their functions relating to the area falling within their respective jurisdictions.

Occupational safety and health standards.

18. (*1*) The Central Government shall declare, by notification, standards on occupational safety and health for workplaces relating to factory, mine, dock work, *beedi* and cigar, building and other construction work and other establishments.

(*2*) In particular and without prejudice to the generality of the power to declare standards to be followed under sub-section (*1*), such standards shall relate to—

(*a*) physical, chemical, biological and any other hazards to be dealt with for the working life of employee to ensure to the extent feasible on the basis of the best available evidence or functional capacity, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to such hazards;

(*b*) the norms—

(*i*) appraising the hazards to employees and users to whom such hazards are exposed;

(*ii*) relating to relevant symptoms and appropriate energy treatment and proper conditions and precautions of safe use or exposure;

(*iii*) for monitoring and measuring exposure of employees to hazards;

(*iv*) for medical examination and other tests which shall be made available, by the employer or at his cost, to the employees exposed to hazards; and

(*v*) for hazard evaluation procedures like safety audit, hazard and operability study, fault free analysis, event free analysis and such other requirements;

(*c*) medical examination including criteria for detection and reporting of occupational diseases to be extended to the employees even after he ceases to be in employment, if he is suffering from an occupational disease which arises out of or in the course of employment;

(*d*) such aspects of occupational safety and health relating to workplaces which the Central Government considers necessary on the report of the authority designated by such Government for such purpose;

(*e*) such safety and health measures as may be required having regard to the specific conditions prevailing at the workplaces relating to mine, factory, building and other construction work, *beedi* and cigar, dock work or any other establishments notified; and

(*f*) matters specified in the Second Schedule to this Code.

(*3*) Notwithstanding anything contained in section 131, the Central Government may, on the basis of the recommendation of the National Board and after notifying its intention so to do for not less than forty-five days', by notification, amend the Second Schedule.

(*4*) The State Government may, with the prior approval of the Central Government, by notification amend the standards made under sub-section (*1*) and sub-section (*2*) for the establishment for which it is the appropriate Government situated in the State.

Research related activities.

19. It shall be the duty of such institutions in the field of occupational safety and health as the Central or State Government may notify to conduct research, experiments and demonstrations relating to occupational safety and health and thereafter submit their recommendations to the Central Government or the State Government, as the case may be:

Provided that the State Government shall consult National Board before notifying conduct of research, experiments and demonstration relating to occupational safety and health.

Safety and occupational health surveys.

20. (*1*) At any time during the normal working hours of an establishment or at any other time as he may deem necessary,—

(*a*) the Chief Inspector-cum-Facilitator in the case of factory or mine; or

(*b*) the Director General of Factory Advice Service and Labour Institute in the case of factory; or

(*c*) the Director General of Mines Safety in the case of mine; or

(*d*) the Director General of Health Services in the case of factory or mine; or

(*e*) such other officer as may be authorised by the appropriate Government in the case of any other establishment or class of establishments,

after giving notice in writing to the employer, conduct survey of the factory or mine or such other establishment or class of establishments and such employer shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

Explanation.—For the purposes of this sub-section, the expression "employer" includes manager for the factory or in the case of any other establishment or class of establishments such person who is for the time being responsible for the safety and the occupational health of such other establishment or class of establishments, as the case may be.

(*2*) For the purpose of facilitating surveys under sub-section (*1*) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession which is relevant to the survey.

(*3*) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (*2*) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be working hour for him.

Explanation.—For the purposes of this section, the report submitted to the appropriate Government by the person conducting the survey under sub-section (*1*) shall be deemed to be a report submitted by an Inspector-cum-Facilitator under this Code.

Collection of statistics and portal for inter-State migrant workers.

21. (*1*) For the purposes of this Code, the Central Government and the State Government shall collect, compile and analyse occupational safety and health statistics in such form and manner as may be prescribed.

(*2*) The Central Government and the State Governments shall maintain the database or record, for inter-State migrant workers, electronically or otherwise in such portal and in such form and manner as may be prescribed by the Central Government:

Provided that an inter-State migrant worker may register himself as an inter-State migrant worker on such portal on the basis of self-declaration and Aadhaar:

Provided further that the workers who have migrated from one State to any other State and are self-employed in that other State may also register themselves on that portal.

Explanation.—For the purposes of this sub-section, the expression "Aadhaar" shall have the same meaning as assigned to it in clause (*a*) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

18 of 2016.

Safety Committee and safety officers.

22. (*1*) The appropriate Government may, by general or special order, require any establishment or class of establishments to constitute in the prescribed manner a Safety Committee consisting of representatives of employers and workers engaged in such establishment in such manner that the number of representatives of workers on the Committee shall not be less than the number of representatives of the employer and the representatives of the workers shall be chosen in such manner and for such purpose as may be prescribed by the appropriate Government.

(*2*) In every establishment which is a—

(*a*) factory wherein five hundred workers or more; or

(*b*) factory carrying on hazardous process wherein two hundred fifty workers or more; or

(*c*) building or other construction work wherein two hundred fifty workers or more; or

(*d*) mine wherein one hundred workers or more, are ordinarily employed,

the employer shall also appoint such number of safety officers, who shall possess such qualifications and perform such duties, as may be prescribed by appropriate Government.

CHAPTER V

HEALTH, SAFETY AND WORKING CONDITIONS

Responsibility of employer for maintaining health, safety and working conditions.

23. (*1*) The employer shall be responsible to maintain in his establishment such health, safety and working conditions for the employees as may be prescribed by the Central Government.

(*2*) Without prejudice to the generality of the power conferred under sub-section (*1*), the Central Government may prescribe for providing all or any of the following matters in the establishment or class of establishments, namely:—

(*i*) cleanliness and hygiene;

(*ii*) ventilation, temperature and humidity;

(*iii*) environment free from dust, noxious gas, fumes and other impurities;

(*iv*) adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work rooms;

(*v*) potable drinking water;

(*vi*) adequate standards to prevent overcrowding and to provide sufficient space to employees or other persons, as the case may be, employed therein;

(*vii*) adequate lighting;

(*viii*) sufficient arrangement for latrine and urinal accommodation to male, female and transgender employee separately and maintaining hygiene therein;

(*ix*) effective arrangements for treatment of wastes and effluents; and

(*x*) any other arrangement which the Central Government considers appropriate.

CHAPTER VI

WELFARE PROVISIONS

Welfare facilities in the establishment, etc.

24. (*1*) The employer shall be responsible to provide and maintain in his establishment such welfare facilities for the employees as may be prescribed by the Central Government, including,—

(*i*) adequate and suitable facilities for washing to male and female employees separately;

(*ii*) bathing places and locker rooms for male, female and transgender employees separately;

(*iii*) place of keeping clothing not worn during working hours and for the drying of wet clothing;

(*iv*) sitting arrangements for all employees obliged to work in a standing position;

(*v*) facilities of canteen in an establishment for employees thereof, wherein one hundred or more workers including contract labourers are ordinarily employed;

(*vi*) in case of mines, medical examination of the employees employed or to be employed in the mines, before their employment and at specific intervals;

(*vii*) adequate first-aid boxes or cupboards with contents readily accessible during all working hours; and

(*viii*) any other welfare measures which the Central Government considers, under the set of circumstances, as required for decent standard of life of the employees.

(*2*) Without prejudice to the generality of the powers referred to under sub-section (*1*), the Central Government may also prescribe for the following matters, namely:—

(*i*) ambulance room in every factory, mine, building or other construction work wherein more than five hundred workers are ordinarily employed;

(*ii*) medical facilities at the operating centres and halting stations, uniforms, raincoats and other like amenities for protection from rain or cold for motor transport workers;

(*iii*) adequate, suitable and separate shelters or rest-rooms for male, female and transgender employees and lunch-room in every factory and mine wherein more than fifty workers are ordinarily employed and in motor transport undertaking wherein employee is required to halt at night;

(*iv*) the appointment of welfare officer in every factory, mine or plantation wherein two hundred and fifty or more workers are ordinarily employed and the qualification, conditions of service and duties of such welfare officer;

(*v*) for providing by the employer temporary living accommodation, free of charges and within the work site or as near to it as may be possible, to all building workers employed by him and for causing removal or demolition of such temporary living accommodation and for returning by the employer the possession of any land obtained by him for such purpose from Municipal Board or any other local authority;

(*vi*) for payment by the principal employer the expenses incurred on providing the accommodation to the contractor, where the building or other construction work is done through the contractor;

(*vii*) any other matter which may be prescribed.

(*3*) The Central Government may make rules to provide for the facility of creche having suitable room or rooms for the use of children under the age of six years of the employees at suitable location and distance either separately or along with common facilities in establishments wherein more than fifty workers are ordinarily employed:

Provided that an establishment can avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation or group of establishments may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.

CHAPTER VII

HOURS OF WORK AND ANNUAL LEAVE WITH WAGES

Daily and weekly working hours, leave, etc.

25. (*1*) No worker shall be required or allowed to work, in any establishment or class of establishment for more than—

(*a*) eight hours in a day; and

(*b*) the period of work in each day under clause (*a*) shall be so fixed, as not to exceed such hours, with such intervals and spread overs , as may be notified by the appropriate Government:

Provided that subject to clause (*a*) in the case of mines,—

(*i*) the persons employed below ground in a mine shall not be allowed to work for more than such hours as may be notified by the Central Government in any day;

(*ii*) no work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of work for each shift is not spread over more than the daily maximum hours as notified under clause (*i*);

(*iii*) no person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained under clause (*a*) of section 33:

Provided further that subject to clause (*a*) that the hours of work in case of motor transport worker shall include—

(*i*) the time spent in work done during the running time of the transport vehicle;

(*ii*) the time spent in subsidiary work; and

(*iii*) period of mere attendance at terminals of less than fifteen minutes.

Explanation.—For the purposes of this sub-section—

(*a*) "running time" in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed by the Central Government during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work;

(*b*) "subsidiary work" means the work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular—

(*i*) the work in connection with accounts, paying of cash, signing of registers, handover of service sheets, the checking of tickets and other similar work;

(*ii*) taking over and garaging of the transport vehicles;

(*iii*) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;

(*iv*) work in connection with the upkeep and repair of the transport vehicle; and

(*v*) the loading and unloading of the transport vehicle;

(*c*) "period of mere attendance" means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule.

(*2*) Notwithstanding anything contained in sub-section (*1*), the hours of work for working journalist shall, subject to a maximum of one hundred and forty-four hours of work during any period of four consecutive weeks and a period of not less than twenty-four consecutive hours of rest during any period of seven consecutive days, be such as may be prescribed by the Central Government.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), a sales promotion employee or the working journalist,—

(*i*) in addition to such holidays, casual leave or other kinds of leave as may be prescribed by the Central Government, shall be granted, if requested for—

(*a*) earned leave on full wages for not less than one-eleventh of the period spent on duty;

(*b*) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service;

(*ii*) may accumulate earned leave up to such maximum limit as may be prescribed by the Central Government;

(*iii*) shall be entitled for the limit up to which the earned leave may be either encashed or availed of at a time by him and the reasons for which such limit may be exceeded shall be such as may be prescribed by the Central Government;

(*iv*) shall,—

(*a*) when he voluntarily relinquishes his post or retires from service; or

(*b*) when his services are terminated for any reason whatsoever (not being termination as punishment),

be entitled to cash compensation, subject to such conditions and restrictions as may be prescribed by the Central Government (including conditions by way of specifying the maximum period for which such cash compensation shall be payable), in respect of the earned leave earned by him and not availed of;

(*v*) who dies while in service, his heirs shall be entitled to cash compensation for the earned leave earned by him and not availed of his heirs shall be paid the cash compensation in respect of any period of earned leave for which he or his heirs, is or are entitled to cash compensation under clause (*iv*) or clause (*v*), which shall be an amount equal to the wages due to him for such period.

(*4*) Notwithstanding anything contained in this section, the working hours of an adolescent worker shall be regulated in accordance with the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986. 61 of 1986.

Weekly and compensatory holidays.

26. (*1*) No worker shall be allowed to work in an establishment for more than six days in any one week:

Provided that in any motor transport undertaking, an employer may, in order to prevent any dislocation of a motor transport service, require a worker to work on any day of weekly holiday which is not a holiday so arranged that the worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

(*2*) The appropriate Government may, by notification, exempt such workers as it thinks fit from the provisions of sub-section (*1*), subject to such conditions as may be prescribed.

(*3*) Where, as a result of the passing of an order or the making of a rule under the provisions of this Code exempting an establishment or the workers therein from the provisions of sub-section (*1*), a worker is deprived of any of the weekly holidays, the worker shall be allowed, within the month in which the holidays were due or within the two months immediately following that month, compensatory holidays of equal number to the holidays, so deprived.

Extra wages for overtime.

27. There shall be paid wages at the rate of twice the rate of wages in respect of overtime work, where a worker works in an establishment or class of establishment for more than such hours of work in any day or in any week as may be prescribed by the appropriate Government and the period of overtime work shall be calculated on a daily basis or weekly basis, whichever is more favourable to such worker:

Provided that a worker shall be required to work overtime by the employer subject to the consent of such worker for such work:

Provided further that the appropriate Government may prescribe the total number of hours of overtime.

Night shifts.

28. Where a worker in an establishment works on a shift which extends beyond midnight,—

(*a*) for the purposes of section 26, a weekly holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(*b*) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

Prohibition of overlapping shifts.

29. (*1*) The work shall not be carried on in any establishment by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(*2*) The appropriate Government or subject to the approval of the appropriate Government, the Chief Inspector-cum-Facilitator, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any establishment or class of establishments or any department or section of an establishment or any category or description of workers therein from the provisions of sub-section (*1*):

Provided that the provisions of this sub-section shall not apply to mines.

Restriction on double employment in factory and mine.

30. No worker shall be required or allowed to work in a mine or factory if he has already been working in any other such similar establishment within the preceding twelve hours, save in such circumstances as may be prescribed by the appropriate Government.

Notice of periods of work.

31. (*1*) There shall be displayed and correctly maintained in every establishment a notice of periods of work, showing clearly for every day the periods during which workers may be required to work in accordance with the provisions of this Code.

(*2*) The form of notice required by sub-section (*1*), the manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator shall be such as may be prescribed by the appropriate Government.

(*3*) Any proposed change in the system of work in any establishment which will necessitate a change in the notice referred to in sub-section (*1*) shall be intimated to the Inspector-cum-Facilitator before the change is made, and except with the previous sanction of the Inspector-cum-Facilitator, no such change shall be made until one week has elapsed since that last change.

Annual leave with wages, etc.

32. (*1*) Every worker employed in an establishment shall be entitled for leave in a calendar year with wages subject to the following conditions, namely:—

(*i*) that he has worked one hundred and eighty days or more in such calendar year;

(*ii*) that he shall be entitled for one-day leave for every twenty days of his work, in the case of adolescent worker for fifteen days of his work, and in case of worker employed below ground mine, at the rate of one day for every fifteen days of his work, in such calendar year;

(*iii*) any period of layoff, maternity leave or annual leave availed by such worker in such calendar year shall be counted for calculating the period of one hundred and eighty days or more under clause (*i*), but he shall not earn leave for the period so counted;

(*iv*) any holidays falling between the leave availed by such worker (in a calendar year or prefixed or suffixed holiday) shall be excluded from the period of leave so availed;

(*v*) in case of such worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate specified in clause (*ii*), if he has worked for one-fourth of the total number of days in the remainder of the calendar year;

(*vi*) in case such worker is discharged or dismissed from service or quits employment or is superannuated or dies while in service, during the course of the calendar year, such worker or his heir or nominee, shall be entitled to wages in lieu of the quantum of leave to which such worker was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death, calculated as specified in preceding clauses, even if such worker has not worked for the required period under this sub-section making such worker eligible to avail such leave, and such payment shall be made—

(*a*) where such worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting; and

(*b*) where such worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death;

(*vii*) if such worker does not in any one calendar year take the whole of the leave allowed to him under this sub-section and the rules made thereunder, then, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year so that—

(*a*) the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty days; and

(*b*) such worker, who has applied for leave with wages but has not been given such leave in accordance with this sub-section and the rules made thereunder shall be entitled to carry forward the leave refused without any limit;

(*viii*) without prejudice to clause (*vi*) such worker shall be entitled on his demand for encashment of leave at the end of calendar year;

(*ix*) such worker shall be entitled, where his total number of leave exceeds thirty days under sub-clause (*a*) of clause (*vii*), to encash such exceeded leave.

(*2*) The appropriate Government may, by notification, extend the provisions of sub-section (*1*) to any other establishment except railway establishment.

(*3*) The provisions of sub-section (*1*) shall not operate to the prejudice of any right to which a person employed in a mine may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that if such award, agreement or contract of service, provides for longer annual leave with wages than that provided in sub-section (*1*), the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service but leave shall be regulated in accordance with the provisions of sub-section (*1*) with respect of matters not provided for in such award, agreement or contract of service:

Provided further that where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in sub-section (*1*) it may, by order in writing and subject to such conditions as may be specified therein exempt the mine from all or any of the provisions of sub-section (*1*).

CHAPTER VIII

MAINTENANCE OF REGISTERS, RECORDS AND RETURNS

Maintenance of registers, records and filing of returns.

33. An employer of an establishment shall—

(*a*) maintain register in prescribed form, electronically or otherwise, containing such particulars of workers as may be prescribed by the appropriate Government including,—

(*i*) work performed by them;

(*ii*) number of hours of work constituting normal working hours in a day;

(*iii*) day of rest allowed in every period of seven days;

(*iv*) wage paid and receipts given therefor;

(*v*) leave, leave wages, overtime work, attendance and dangerous occurrences; and

(*vi*) employment of adolescent;

(*b*) display notices at the work place of the workers in such manner and form as may be prescribed by the appropriate Government;

(*c*) issue wage slips to the workers, in electronic forms or otherwise; and

(*d*) file such return electronically or otherwise to the Inspector-cum-Facilitator in such manner and during such periods as may be prescribed by the appropriate Government.

CHAPTER IX

INSPECTOR-CUM-FACILITATORS AND OTHER AUTHORITY

Appointment of Inspector-cum-Facilitators.

34. (*1*) The appropriate Government may, by notification, appoint Inspector-cum-Facilitators for the purposes of this Code who shall exercise the powers conferred on them under this Code throughout their respective jurisdiction specified in the notification.

(*2*) The Inspector-cum-Facilitators appointed under sub-section (*1*) shall, apart from other duties to be discharged by them under this Code, conduct such inspections as specified in sub-section (*3*).

(*3*) The appropriate Government may—

(*i*) for the purposes of inspection referred to in sub-section (*2*), by notification, lay down an inspection scheme which may provide for the generation of web-based

inspection and calling of information under this Code, electronically and such scheme shall, *inter alia*, have provisions to cater to special circumstances for assigning inspection and calling for information from establishment or any other person besides web-based inspections; and

(*ii*) without prejudice to the provisions of sub-section (*2*), by notification, under the scheme, provide for the randomised selection of establishment and the Inspector-cum-Facilitator for inspection.

(*4*) Without prejudice to the powers of the appropriate Government under this section, the inspection scheme referred to in sub-section (*3*) may be designed taking into account, *inter alia*, the following factors, namely:—

(*a*) assignment of unique number, to each establishment (which will be same as the registration number allotted to the establishment registered under section 3), unique number to each Inspector-cum-Facilitator and to each inspection in such manner as may be notified by the appropriate Government;

(*b*) timely uploading of inspection reports in such manner and subject to such conditions as may be notified in the scheme;

(*c*) provisions for special inspections based on such parameters as may be notified by the appropriate Government; and

(*d*) the characteristics of employment, the nature of work, and characteristics of the workplaces based on such parameters as may be notified by the appropriate Government.

(*5*) The appropriate Government may, by notification, appoint any person or persons possessing the prescribed qualifications and experience to be Chief Inspector-cum-Facilitator for the purposes of such establishments or class of establishments and for such local limits of jurisdiction as may be specified in the notification:

Provided that a Chief Inspector-cum-Facilitator may be appointed for the purposes of a State or more than one States or for the purposes of the whole of the Country.

(*6*) The appropriate Government may, by notification, appoint for the purposes of establishments as may be notified by that Government, as many Additional Chief Inspector-cum-Facilitators, Joint Chief Inspector-cum-Facilitators and Deputy Chief Inspector-cum-Facilitators or any other officer of any designation as it thinks appropriate, to exercise such powers of the Chief Inspector-cum-Facilitator within his jurisdiction, as may be specified in the notification.

(*7*) Every Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator and every other officer appointed under sub-section (*6*) shall, in addition to the powers of a Chief Inspector-cum-Facilitator specified in the notification by which the officer is appointed, exercise the powers of an Inspector-cum-Facilitator within such local limits as may be specified in the notification.

(*8*) No person shall be appointed under this section or having been so appointed, shall continue to hold office, who is, or who becomes, directly or indirectly interested in a workplace or work activity or in any process or business carried on in any workplace or in any plant or machinery connected therewith.

(*9*) The appropriate Government may also, by notification, appoint such public officers as it thinks fit to be Inspector-cum-Facilitators in addition to existing Inspector-cum-Facilitator for exercising the powers and discharging the duties of Inspector-cum-Facilitator for all or any of the purposes of this Code within such local limits as may be specified in such notification.

(*10*) Without prejudice to the other functions of the Inspector-cum-Facilitator under this Code, an Inspector-cum-Facilitator may in respect of any establishment or class of establishments in local area or areas of his jurisdiction where the Chief Inspector-cum-Facilitator with the approval of the appropriate Government and subject to such restrictions or conditions as he may think fit to impose, by order in writing authorise the Inspector-cum-Facilitator to exercise such of the powers of the Chief Inspector-cum-Facilitator as may be specified in such order:

Provided that the Chief Inspector-cum-Facilitator, with the approval of the appropriate Government, may by order in writing, prohibit the exercise, by any Inspector-cum- Facilitator or any class of Inspector-cum-Facilitators specified in such order, of any such power by such Inspector-cum-Facilitator or class of Inspector-cum-Facilitators.

(*11*) Every Chief Inspector-cum-Facilitator, Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator, Inspector-cum-Facilitator and every other officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and shall be officially subordinate to such authority as the appropriate Government may specify in this behalf.

45 of 1860.

Powers of Inspector-cum-Facilitators.

35. (*1*) Subject to any rules made in this behalf, an Inspector-cum-Facilitator may—

(*i*) enter, with such assistance of persons, being persons in the service of the Government, or any local or other public authority, or with an expert, as he thinks fit, any place which is used, or which he has reason to believe, is used as a work place;

(*ii*) inspect and examine the establishment, any premises, plant, machinery, article, or any other relevant material;

(*iii*) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or death or not and take on the spot or otherwise statement of any person which he may consider necessary for such inquiry;

(*iv*) subject to any rules made by the State Government in this behalf, within his jurisdiction, examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Code, and take on the spot or otherwise statement of any person which he may consider necessary for carrying out the purposes of this Code relating to plantation;

(*v*) supply information and sensitise the employers and workers regarding the provisions of this Code and compliance thereof;

(*vi*) require the production of any register or any other document relating to the workplace or work activity;

(*vii*) search or seize, or take copies of, any register, record or other document or any portion thereof, as he may consider necessary in respect of any offence under this Code, which he has reason to believe, has been committed;

(*viii*) direct the concerned occupier or employer that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any inspection or inquiry;

(*ix*) take measurements, photographs and videographs and make such recordings as he considers necessary for the purpose of any examination or inquiry;

(*x*) take samples of any articles or substances found in any establishment or premises into which he has power to enter and of the air of the atmosphere in or in the vicinity of any such establishment or premises in such manner as may be prescribed by the appropriate Government;

(*xi*) in case of any article or substance found in any establishment or premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health and safety of the employees, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of any provision of this Code) and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;

(*xii*) issue show cause notice relating to safety, health and welfare provisions arising under this Code, rules, regulations and bye-laws made thereunder;

(*xiii*) prosecute, conduct or defend before any court any complaint or other proceeding arising under this Code, the rules and regulations made thereunder; and

(*xiv*) exercise such other powers and perform such other duties as may be prescribed by the appropriate Government.

(*2*) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator under sub-section (*1*) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code. 45 of 1860.

(*3*) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search or seizure under sub-section (*1*) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974.

Powers and duties of District Magistrate.

36. The District Magistrate shall, within the local limits of his jurisdiction, exercise such powers and duties of the Inspector-cum-Facilitator in respect of mines as may be prescribed by the Central Government.

Third party audit and certification.

37. (*1*) The appropriate Government may, by notification, formulate a scheme to empanel experts possessing such qualifications and experience as may be prescribed for the purpose of such start-up establishments or class of establishments, as may be specified in the notification.

(*2*) The experts empanelled under sub-section (*1*), shall,—

(*a*) be assigned the third party audit and certification in a randomised manner, by the appropriate Government through a web-based scheme;

(*b*) carry out the audit and certification in the manner and for the purpose specified in the scheme referred to in sub-section (*1*);

(*c*) perform such duties as may be specified in such scheme and submit his report to the concerned employer and to the Inspector-cum-Facilitator.

Special powers of Inspector-cum-Facilitator in respect of factory, mines, dock work and building or other construction work.

38. (*1*) Without prejudice to the other powers of an Inspector-cum-Facilitator in this Code, an Inspector-cum-Facilitator,—

(*A*) shall have the following special powers in respect of a factory, namely:—

(*a*) where it appears to the Inspector-cum-Facilitator that conditions in a factory or part thereof are such that they may cause serious hazard or imminent danger by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard or imminent danger and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard or danger is removed;

(*b*) any order issued by the Inspector-cum-Facilitator under sub-clause (*a*) shall have effect for a period of three days until extended by the Chief Inspector-cum-Facilitator by a subsequent order;

(*c*) any person aggrieved by an order of the Inspector-cum-Facilitator under sub-clause (*a*), and the Chief Inspector-cum-Facilitator under sub-clause (*b*), shall have the right to appeal to the High Court;

(*d*) any person whose employment has been affected by an order issued under sub-clause (*a*), shall, without prejudice to the rights of the parties under the Industrial Disputes Act, 1947, be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible in such manner as may be prescribed by the appropriate Government;

14 of 1947.

(*B*) shall have the following special powers in respect of mines, namely:—

(*a*) if, in respect of any matter for which no express provision is made by or under this Code, it appears to the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator that any mine or part thereof or any matter, thing or practice in or connected with the mine, or with the control, supervision, management or direction thereof, is dangerous to human life or safety or is defective so as to threaten or tend to cause, the bodily injury of any person, he may give notice in writing thereof to the employer of the mine stating therein the particulars in respect of which he considers the mine or part thereof or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as he may specify in the notice;

(*b*) where the employer of a mine fails to comply with the terms of a notice given under sub-clause (*a*) within the period specified therein, the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice;

(*c*) without prejudice to the provisions contained in sub-clause (*a*), the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator may, by order in writing addressed to the employer of a mine, prohibit the extraction or reduction of pillars or blocks of minerals in the mine or part thereof, if, in his opinion, such operation is likely to cause the crushing of pillars or blocks of minerals or the premature collapse of any part of the workings or otherwise endanger the mine or the life or safety of persons employed therein or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by fire or flooding;

(*d*) if the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator authorised, by general or special order in writing by the Chief Inspector-cum-Facilitator, is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by order in writing containing a statement of the grounds of his opinion, prohibit until he is satisfied that the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger;

(*e*) every person whose employment is prohibited under sub-clause (*b*) or sub-clause (*d*) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment and the employer shall be liable for payment of such full wages of that person:

Provided that the employer may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited;

(*f*) where a notice has been given under sub-clause (*a*) or an order is made under sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) by an Inspector-cum-Facilitator, the employer of the mine may, within ten days after the receipt of the notice or order, as the case may be, appeal against the same to the Chief Inspector-cum-Facilitator who may confirm, modify or cancel the notice or order;

(*g*) the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator sending a notice under sub-clause (*a*) or making an order under sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) and the Chief Inspector-cum-Facilitator making an order (other than an order of cancellation in appeal) under sub-clause (*f*) shall forthwith report the same to the Central Government;

(*h*) if the employer of the mine objects to a notice sent under sub-clause (*a*) by the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator or to an order made by the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator under sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) or sub-clause (*f*), as the case may be, he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision on appeal, as the case may be, send his objection in writing stating the grounds thereof to the Central Government which shall, ordinarily within a period of one month from the date of receipt of the objection, decide the matter;

(*i*) every notice under sub-clause (*a*), or order under sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) or sub-clause (*f*), to which objection is made under sub-clause (*h*), shall be complied with, pending the objection with the concerned Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator of the mine, for the decision of the Central Government:

Provided that the Central Government may, on the application of the employer, suspend the operation of a notice under sub-clause (*a*), pending its decision on the objection;

(*j*) nothing in this section shall affect the powers of a magistrate under section 144 of the Code of Criminal Procedure, 1973; 2 of 1974.

(*k*) where in respect of any matter relating to safety of mine for which express provision is made by or under this Code, the employer of a mine fails to comply with such provisions, the Chief Inspector-cum-Facilitator may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter;

(*l*) where the employer fails to comply with the terms of a notice given under sub-clause (*k*) within the period specified in such notice or within the extended period of time specified under that sub-clause, the Chief Inspector-cum-Facilitator may, by order in writing, prohibit the employment, in or about the mine or any part thereof, of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice;

(*m*) every person whose employment is prohibited under sub-clause (*l*), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager referred to in section 67 shall be liable for payment of such full wages of that person:

Provided that the employer may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-clause (*l*);

(*n*) the provisions of sub-clauses (*g*), (*h*) and (*i*) shall apply in relation to a notice issued under sub-clause (*k*) or an order made under sub-clause (*l*) as they apply in relation to a notice or an order under sub-clause (*b*);

(*o*) the Chief Inspector-cum-Facilitator may, for reasons to be recorded in writing, reverse or modify any order passed by him under this Code or under any regulation, rule or bye-law made thereunder in relation to mine;

(*p*) no order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation;

(*q*) the Central Government may reverse or modify any order passed by Chief Inspector-cum-Facilitator under this Code or under any regulation, rule or bye-laws thereunder in relation to mine;

(*C*) shall have the following special powers in respect of dock work namely:—

(*a*) if it appears to an Inspector-cum-Facilitator that any place where any dock work is being carried on is in such a condition that it is dangerous to life, safety or health, of workers employed in dock work, he may, in writing, serve on the employer, an order prohibiting any dock work, in such place, until measures have been taken to remove the cause of the danger to his satisfaction;

(*b*) an Inspector-cum-Facilitator after serving an order under clause (*a*) shall endorse a copy thereof to the Chief Inspector-cum-Facilitator who may modify or cancel the order without waiting for an appeal;

(*c*) any person aggrieved by an order under clause (*a*) or clause (*b*) may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the Central Government and the Chief Inspector-cum-Facilitator or the Central Government shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty days:

Provided that the Chief Inspector-cum-Facilitator or the Central Government may entertain the appeal after the expiry of the said period of fifteen days, if he or it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that an order under clause (*a*) or an order modified under clause (*b*) shall be complied with, pending the decision of the Chief Inspector-cum-Facilitator or the Central Government.

(*2*) Without prejudice to the other powers of an Inspector-cum-Facilitator elsewhere in this Code,—

(*a*) if it appears to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator that any site or place at which any building or other construction work is being carried on, is in such condition that it is dangerous to life, safety or health of building workers or the general public, he may, in writing serve, on the employer of building workers working at such site or place or on the employer of the establishment in which such site or place is situated or on the person in charge of such site or place, an order prohibiting any building or other construction work at such site or place until measures have been taken to remove the cause of the danger to his satisfaction;

(*b*) an Inspector-cum-Facilitator serving an order under clause (*a*) shall endorse a copy of the order to the Chief Inspector-cum-Facilitator;

(*c*) such prohibition order made by the Inspector-cum-Facilitator shall be complied with by the employer forthwith.

(*3*) Any person aggrieved by an order under clause (*a*) of sub-section (*2*), may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the appropriate Government and the Chief Inspector-cum-Facilitator or the appropriate Government, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty days:

Provided that the Chief Inspector-cum-Facilitator or the appropriate Government may, entertain the appeal after the expiry of the said period of fifteen days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the order under clause (*a*) of sub-section (*2*), shall be complied with, subject to the decision of the Chief Inspector-cum-Facilitator or the appropriate Government as the case may be.

Secrecy of information by Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, etc.

39. (*1*) All copies of, and extracts from, registers or other records pertaining to any establishment and all other information relating to any manufacturing or commercial business or any working process acquired by the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator or by any one assisting him, in the course of the inspection or survey of any establishment under this Code or acquired by any officer authorised under section 20 in the exercise of his duties thereunder, shall be regarded as confidential and shall not, while in service or after leaving the service, be disclosed to any person or authority unless the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator considers disclosure necessary to ensure the health, safety or welfare of any person employed in establishment.

(*2*) Nothing in sub-section (*1*) shall apply to the disclosure of any such information to—

(*a*) any court;

(*b*) any Committee or Board constituted under this Code;

(*c*) an official superior or the employer of the establishment concerned;

(*d*) a Commissioner for employees' compensation appointed under the Employees' Compensation Act, 1923; 8 of 1923.

(*e*) the Controller, Indian Bureau of Mines; and

(*f*) any such officer, authority or authorised person as may be specified in this behalf by the appropriate Government.

(*3*) Notwithstanding anything contained in the Right to Information Act, 2005, no Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator shall disclose the source of any complaint, made to him regarding the contravention of the provisions of this Code without the consent of the complainant and shall also not while making an inspection under this Code in pursuance of such complaint, disclose to the employer concerned or any of his representative that the inspection is being made in pursuance of such complaint. 22 of 2005.

Facilities to be afforded to Inspector-cum-Facilitator.

40. Every employer of an establishment shall afford the Chief Inspector-cum-Facilitator and every Inspector-cum-Facilitator having jurisdiction or every person authorised by the Chief Inspector-cum-Facilitator all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Code.

Powers of special officer to enter, measure, etc., in relation to mine.

41. Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector-cum-Facilitator or of an Inspector-cum-Facilitator may, for the purpose of surveying, leveling or measuring any mine or any output therefrom, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof or any output therefrom at any time by day or night:

Provided that, where in the opinion of the Chief Inspector-cum-Facilitator or of an

Inspector-cum-Facilitator an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

Medical officer.

42. (*1*) The appropriate Government may appoint medical practitioners having prescribed qualification to be medical officers for the purposes of this Code in relation to factory, mines, plantation, motor transport undertakings and in any other establishment as may be prescribed:

Provided that the medical officers so appointed shall before entering into their office shall disclose to the appropriate Government their interest in the concerned establishment.

(*2*) The medical officer shall perform the following duties, namely:—

(*a*) the examination and certification of workers in a mine or factory or in such other establishment engaged in such dangerous occupations or processes as may be prescribed;

(*b*) the exercise of such medical supervision for any factory, mines, plantation, motor transport undertaking and for such other establishment as may be prescribed by the appropriate Government where cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in such establishments;

(*c*) the examination and certification of adolescent for the purpose of ascertaining his fitness for employment in factory, plantation, motor transport undertakings and in any other establishment as may be prescribed by the appropriate Government in any work which is likely to cause injury to their health.

CHAPTER X

SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN

Employment of women.

43. Women shall be entitled to be employed in all establishments for all types of work under this Code and they may also be employed, with their consent before 6 a.m. and beyond 7 p.m. subject to such conditions relating to safety, holidays and working hours or any other condition to be observed by the employer as may be prescribed by the appropriate Government.

Adequate safety of employment of women in dangerous operation.

44. Where the appropriate Government considers that the employment of women is dangerous for their health and safety, in an establishment or class of establishments or in any particular hazardous or dangerous processes in such establishment or class of establishments, due to the operation carried out therein, such Government may in the prescribed manner, require the employer to provide adequate safeguards prior to the employment of women for such operation.

CHAPTER XI

SPECIAL PROVISIONS FOR CONTRACT LABOUR AND INTER-STATE MIGRANT WORKER, ETC.

PART I

CONTRACT LABOUR

Applicability of this Part.

45. (*1*) This Part shall apply to—

(*i*) every establishment in which fifty or more contract labour are employed or were employed on any day of the preceding twelve months through contract;

(*ii*) every manpower supply contractor who has employed, on any day of the preceding twelve months, fifty or more contract labour.

(*2*) This Part shall not apply to the establishment in which work only of an intermittent or casual nature is performed:

Provided that if a question arises as to whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the National Board or a State Advisory Board and its decision thereon shall be final.

Explanation.—For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—

(*i*) if it was performed for more than one hundred and twenty days in the preceding twelve months; or

(*ii*) if it is of seasonal character and is performed for more than sixty days in a year.

Appointment of designated authority.

46. The appropriate Government may, by an order, appoint such persons, being Gazetted officers of the Government, as it thinks fit to be designated as authority under sub-section (*1*) of section 119 and specify the limits of their jurisdiction and vest with such powers and duties including dealing with issuance and revocation of licences electronically as may be specified therein.

Licensing of contractors.

47. (*1*) No contractor to whom this Part applies shall—

(*a*) supply or engage contract labour in any establishment; or

(*b*) undertake or execute the work through contract labour,

except under and in accordance with a licence issued to him by the authority referred to in sub-section (*1*) of section 119 in accordance with the provisions of that section after satisfying that the contractor fulfills such requisite qualifications or criteria as may be prescribed by the Central Government and such licence shall, in addition to the requisite particulars and conditions specified in sub-section (*3*), specify the number of such contract labour who can be supplied or engaged and the amount of security to be deposited by the contractor.

(*2*) Where the contractor does not fulfil the requisite qualifications or criteria referred to in sub-section (*1*), the authority referred to in sub-section (*1*) of section 119 may issue him a "work specific licence" electronically renewable within such period as may be prescribed by the Central Government to supply or engage the contract labour, or execute the work through contract labour, only for the concerned work order as may be specified in such licence and subject to such conditions as may be specified in such licence.

(*3*) Subject to the provisions of this Part,—

(*a*) a licence under sub-section (*1*) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as may be prescribed by the appropriate Government;

(*b*) the licence referred to in sub-section (*1*) or sub-section (*2*), shall be obtained from, if for such establishment the appropriate Government is—

(*i*) the Central Government, the authority referred to in sub-section (*1*) of section 119 designated by that Government; and

(*ii*) the State Government, the authority referred to in sub-section (*1*) of section 119 designated by that Government:

Provided that where the contractor is desirous of obtaining licence for supplying or engaging contract labour or undertaking or executing the contract works under sub-section (*1*) or sub- section (*2*) in more than one States or for the whole of India, then, he

may obtain the licence from the authority referred to in sub-section (*1*) of section 119 designated by the Central Government for such purpose and the provisions of that section shall apply:

Provided further that before issuing such licence the authority referred to in the first proviso shall consult the concerned State or States authorities designated under sub-section (*1*) of section 119, electronically before issuing licence for the establishments for which the appropriate Government is the State Government.

Procedure for issue or renewal of licence.

48. (*1*) Subject to the provisions of section 119, every application for issuing a licence under section 119 for the purposes of sub-section (*1*) or sub-section (*2*) of section 47 shall be made electronically in such form and manner and shall contain such particulars regarding the number of contract labour, nature of work for which contract labour is to be employed and such other particulars including the information relating to the employment of inter-State migrant workers as may be prescribed by the appropriate Government.

(*2*) Subject to the provisions of section 119, the authority referred to in sub-section (*1*) thereof shall follow such procedure as may be prescribed by the appropriate Government.

(*3*) Subject to the provisions of section 119, the licence issued for the purposes of sub-section (*1*) of section 47 shall be valid for a period of five years in respect of the number of contract labour specified therein and in case the contractor wants to increase the number of the contract labour, he shall apply in the prescribed manner for the amendment to the licence for such purpose to the authority referred to in sub-section (*1*) of section119 and if the licence is so amended, the number of contract labour shall be increased to such extent by depositing such security deposit as specified in the amended licence for the balance period.

(*4*) Subject to the provisions of section 119, the licence issued for the purposes of sub-section (*1*) of section 47 shall contain responsibility of the contractor as may be prescribed by the appropriate Government.

No fees or commission or any cost to workers.

49. The contractor shall not charge directly or indirectly, in whole or in part, any fee or commission from the contract labour.

Information regarding work order to be given to the appropriate Government.

50. (*1*) When a contractor receives work order from an establishment either to supply contract labour in the establishment or to execute the contract through contract labour in the establishment he shall, within such time and in such manner as may be prescribed, intimate to the authority referred to in section 119.

(*2*) Where the contractor fails to give intimation under sub-section (*1*), the designated authority may, after giving the holder of the licence an opportunity of showing cause, suspend or cancel the licence in such manner as may be prescribed by the appropriate Government.

Revocation, suspension and amendment of licence.

51. (*1*) If the authority referred to in sub-section (*1*) of section 119 is satisfied, either on a reference made to him in this behalf or otherwise, that—

(*a*) a licence granted for the purposes of this Part has been obtained by misrepresentation or suppression of any material fact, or

(*b*) the holder of a licence has, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Part or the rules made thereunder, then,

without prejudice to any other penalty to which the contractor may be liable under this Code, the authority referred to in sub-section (*1*) of section 119 may, after giving the contractor an opportunity of showing cause, revoke or suspend the licence in accordance with the procedure as may be prescribed by the Central Government.

(*2*) Subject to any rules that may be made in this behalf, the authority referred to in sub-section (*1*) of section 119 may amend a licence granted for the purposes of this Part.

Appeal.

52. (*1*) Any person aggrieved by an order made under section 47, section 48 or section 51 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate authority prescribed by the appropriate Government under sub-section (*6*) of section 119:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within thirty days from the date on which the appeal is preferred.

Liability of principal employer for welfare facilities.

53. Welfare facilities specified under section 23 and section 24 shall be provided by the principal employer of the establishment to the contract labour who are employed in such establishment.

Effect of employing contract labour from a non-licenced contractor.

54. Where any principal employer of an establishment is employing contract labour through a contractor who is required to obtain a licence under this Part, but he has not obtained such licence, then, such employment shall be deemed to be in contravention of the provision of this Code.

Responsibility for payment of wages.

55. (*1*) A contractor shall be responsible for payment of wages to each contract labour employed by him and such wages shall be paid before the expiry of such period as may be prescribed by the appropriate Government.

(*2*) Every contractor shall, make the disbursement of wages referred to in sub-section (*1*) through bank transfer or electronic mode and inform the principal employer electronically the amount so paid by such mode:

Provided that where it is not practicable to disburse payment in the mode specified in this section, then, the payment shall be made in such manner as may be prescribed by the appropriate Government.

(*3*) In case the contractor fails to make payment of wages referred to in sub-section (*1*) within the prescribed period or makes short payment, then, the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the concerned contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(*4*) The appropriate Government, in the event the contractor does not pay the wages to the contract labour employed by him, shall pass the orders of making payment of such wages from the amount deposited by such contractor as security deposit under the licence issued by the licensing officer to the contractor, in such manner as may be prescribed by such Government.

Experience certificate.

56. Every concerned contractor shall issue, on demand, experience certificate, in such form as may be prescribed by the appropriate Government, to the contract labour giving details of the work performed by such contract labour.

Prohibition of employment of contract labour.

57. (*1*) Notwithstanding anything contained in this Part, employment of contract labour in core activities of any establishment is prohibited:

Provided that the principal employer may engage contract labour through a contractor to any core activity, if—

(*a*) the normal functioning of the establishment is such that the activity is ordinarily done through contractor; or

(*b*) the activities are such that they do not require full time workers for the major portion of the working hours in a day or for longer periods, as the case may be;

(*c*) any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.

(*2*) (*a*) The appropriate Government may, by notification, appoint a designated authority to advise that Government on the question whether any activity of an establishment is a core activity or otherwise;

(*b*) if a question arises as to whether any activity of an establishment is a core activity or otherwise, the aggrieved party may make an application in such form and manner as may be prescribed, to the appropriate Government for decision;

(*c*) the appropriate Government may refer any such question *suo motu* or refer the application to the designated authority, which on the basis of relevant material in its possession, or after making such an enquiry as it deems fit, shall report to the appropriate Government, within such period and thereafter the appropriate Government shall decide the question within such period as may be prescribed.

Power to exempt in special cases.

58. The appropriate Government may, in the case of an emergency, direct, by notification, that subject to such conditions and restrictions, if any, and for such period, as may be specified in the notification, all or any of the provisions of this Code or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

PART II

INTER-STATE MIGRANT WORKERS

Applicability of Part II.

59. This Part shall apply to every establishment in which ten or more inter-State migrant workers are employed or were employed on any day of the preceding twelve months.

Facilities to inter-State migrant workers.

60. It shall be the duty of every contractor or the employer, of an establishment employing inter-State migrant workers in connection with the work of that establishment—

(*i*) to ensure suitable conditions of work to such worker having regard to the fact that he is required to work in a State different from his own State;

(*ii*) in case of fatal accident or serious bodily injury to any such worker, to report to the specified authorities of both the States and also the next of kin of the worker;

(*iii*) to extend all benefits to such worker which are available to a worker of that establishment including benefits under the Employees' State Insurance Act, 1948 or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any other law for the time being in force and the facility of medical check-up as available to a worker under clause (*c*) of sub-section (*1*) of section 6.

34 of 1948.
19 of 1952.

Journey allowance.

61. The employer shall pay, to every inter-State migrant worker employed in his establishment, in a year a lump sum amount of fare for to and fro journey to his native place from the place of his employment, in the manner taking into account the minimum service for entitlement, periodicity and class of travel and such other matters as may be prescribed by the appropriate Government.

Benefits of public distribution system, etc.

62. The appropriate Government shall make schemes to provide—

(*a*) option to an inter-State migrant worker for availing benefits of public distribution system either in his native State or the destination State where he is employed; and

(*b*) for portability of the benefits of the inter-State migrant worker working for building or other construction work out of the building and other construction cess fund in the destination State where such inter-State migrant worker is employed.

Toll free helpline.

63. The appropriate Government may provide facility of toll free helpline to the inter-State migrant workers in such manner as may be prescribed by that Government.

Study of inter-State migrant workers.

64. The appropriate Government may provide for study of inter-State migrant workers in such manner as may be prescribed by that Government.

Past liabilities.

65. No suit or other proceeding shall lie in any court or before any authority for the recovery of debt or any part thereof relating to an inter-State migrant worker after the completion of his employment where it remains unsettled obligation to the contractor or the principal employer and such debt or part thereof shall, on the completion of the period of employment of such worker, be deemed to have been extinguished.

PART III

AUDIO-VISUAL WORKERS

Prohibition of employment of audio-visual worker without agreement.

66. (*1*) No person shall be employed as an audio-visual worker in or in connection with production of any audio-visual programme unless,—

(*a*) an agreement in writing is entered into—

(*i*) with such person by the producer of such audio-visual programme; or

(*ii*) with such person by the producer of such audio-visual programme with the contractor, where such person is employed through such contractor; or

(*iii*) with such person by the contractor or other person through whom such person is employed; and

(*b*) such agreement is registered with the competent authority, to be notified by the appropriate Government, by the producer of such audio-visual programme.

(*2*) Every agreement, referred to in sub-section (*1*) shall,—

(*a*) be in the prescribed form;

(*b*) specify the name and such other particulars as may be prescribed by the appropriate Government with respect to, such person to be employed under the agreement as audio-visual worker;

(*c*) include, where such audio-visual worker is employed through a contractor, a specific condition to the effect that in the event of the contractor failing to discharge his obligations under the agreement to the audio-visual worker with respect to payment of wages or any other matter, the producer of the audio-visual programme shall also be liable to discharge such obligations and shall be entitled to be reimbursed with respect thereto by the contractor.

(*3*) A copy of the agreement referred to in sub-section (*1*) with respect to the employment of the audio-visual worker shall, if such audio-visual worker is covered under the provision of an enactment for the time being in force for providing the benefit of provident fund to him, also be forwarded by the producer of the audio-visual programme to such authority as may be prescribed by the appropriate Government.

(*4*) Notwithstanding anything contained in Chapters V, VI and VII, the agreement referred to in sub-section (*1*) shall include,—

(*i*) nature of assignment;

(*ii*) wages and other benefits (including provident fund, if covered under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952);

19 of 1952.

(*iii*) health and working conditions;

(*iv*) safety;

(*v*) hours of work;

(*vi*) welfare facilities; and

(*vii*) dispute resolution process or mechanism, the constitution and other details of which shall be prescribed by the appropriate Government:

Provided that in case of failure of the resolution of the dispute in such dispute resolution process or mechanism, either party in the dispute may invoke the jurisdiction of the Industrial Tribunal established by the appropriate Government under section 7A of the Industrial Disputes Act, 1947 and for such purpose such dispute shall be deemed to be industrial dispute within the meaning of that Act and it shall be the responsibility of the producer of the audio-visual programme to provide the facilities specified in the agreement to the audio-visual worker and the payment of wages shall be through electronic mode.

14 of 1947.

PART IV

MINES

Managers.

67. (*1*) Save as may be otherwise prescribed, every mine shall be under a sole manager who shall have such qualifications as may be prescribed by the Central Government and the owner or agent of every mine shall appoint a person having such qualifications to be the manager:

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications.

(*2*) Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

(*3*) Except in case of an emergency, the owner or agent of a mine or anyone on his behalf shall not give, otherwise than through the manager, instructions affecting the fulfilment of his statutory duties, to a person, employed in a mine, who is responsible to the manager.

Code not to apply in certain cases.

68. (*1*) The provisions of this Code, except those contained in sections 35, 38, 40, 41 and 44, shall not apply to—

(*a*) any mine or part thereof in which excavation is being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale subject to such conditions relating to number of employees, depth of excavation and other matters as may be prescribed by the Central Government;

(*b*) any mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand (excluding mouldings and glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone, slate, road metal, earth, fullers earth (marl, chalk) and lime stone subject to such conditions relating to workings, open cast workings and explosives as may be prescribed by the Central Government.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Central Government may declare that the provisions of this Code shall apply to such mine or part thereof as may be prescribed by the Central Government.

(*3*) Without prejudice to the provisions contained in sub-section (*2*), if at any time any of the conditions specified in clause (*a*) or clause (*b*) of sub-section (*1*) is not fulfilled in relation to any mine referred to in that sub-section, the provisions of this Code not set out in sub-section (*1*), shall become immediately applicable, and it shall be the duty of the employer of the mine to inform about such non-fulfilment to such authority in such manner and within such time as may be prescribed by the Central Government.

Exemption from provision regarding employment.

69. (*1*) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as a result of breakdown of such machinery plant or equipment, the manager may, subject to the provision of clause (*B*) of sub-section (*1*) of section 38 and in accordance with the provisions of section 25 relating to exemption from hours of work above ground, hours of work below ground and notification regarding hours of work and weekly day of rest relating to mines under section 26, permit persons to be employed in contravention of sections 25 and 30 and sub-section (*1*) of section 31 on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of mineral would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(*2*) Every case in which action has been taken by the manager under sub-section (*1*), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator.

Employment of persons below eighteen years of age.

70. (*1*) No person below eighteen years of age shall be allowed to work in any mine or part thereof.

(*2*) Notwithstanding anything contained in sub-section (*1*), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager as referred to in section 67:

Provided that in the case of trainees, other than apprentices, prior approval of the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator shall be obtained before they are allowed to work.

(*3*) The Central Government may prescribe the provisions for medical examination of apprentice, other trainee and employee in the mine to ensure their fitness to work and to prevent the persons below sixteen years of age to work as apprentice or trainee and those who are not adults to work as such employee.

Explanation.—In this section, "apprentice" means an apprentice as defined in clause (*a*) of section 2 of the Apprentices Act, 1961. 52 of 1961.

Exemption to certain persons.

71. The Central Government may make rules to provide for exemption to certain persons or category of persons employed in mines from the provisions of sub-section (*1*) of section 25, sub-section (*1*) of section 26, section 30 and sub-section (*1*) of section 31.

Establishment, maintenance of rescue services and vocational training.

72. The Central Government may prescribe vocational training and rescue and recovery services for persons employed in a mine.

Decision of question whether a mine is covered under this Code.

73. If any question arises as to whether any excavation or working or premises in or adjacent to and belonging to a mine, on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on in a mine within the meaning of this Code, the Central Government may decide the question, and a certificate signed by a Secretary to the Government of India in the Ministry of Labour and Employment shall be conclusive proof thereof.

PART V

BEEDI AND CIGAR WORKERS

Licence to industrial premises and person.

74. (*1*) Save as otherwise provided in this Part, no employer shall use or allow to use any place or premises as an industrial premises unless he holds a valid licence issued under section 119 for the purposes of this Part and no such premises shall be used except in accordance with the terms and conditions of such licence.

(*2*) Subject to the provisions of section 119, any person who intends to use or allows to use any place or premises specified in sub-section (*1*) shall make an application to the authority referred to in sub-section (*1*) of section 119, in such form and on payment of such fees as may be prescribed by the State Government, for a licence to use, or allow to use, such premises as an industrial premises.

(*3*) Subject to the provisions of section 119, the application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed by the State Government.

(*4*) Subject to the provisions of section 119, the authority referred to in sub-section (*1*) thereof shall, in deciding whether to grant or refuse to grant a licence, have regard to the following matters, namely:—

(*a*) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;

(*b*) previous experience of the applicant or he has employed experienced person or has entered into agreement with the experienced person for employment for the period of licence;

(*c*) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;

(*d*) whether the application is made *bona fide* on behalf of the applicant himself or in *benami* of any other person;

(*e*) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed by the State Government.

(*5*) Subject to the provisions of section 119, a licence granted under the said section for the purposes of this section shall be valid for five years and may be renewed thereafter.

(*6*) Subject to the provisions of section 119, an application for the renewal of a licence for the purposes of this Part shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed by the State Government, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof:

Provided that the authority referred to in sub-section (*1*) of section 119 shall not grant or renew a licence unless it is satisfied that the provisions of this Part and the rules made thereunder have been complied with:

Provided further that the authority referred to in sub-section (*1*) of section 119 shall renew or refuse to renew the licence within such period as may be prescribed by the State Government and in deciding whether to renew a licence or to refuse a renewal thereof shall have regard to the matters specified in sub-section (*4*).

(*7*) Subject to the provisions of section 119, the authority referred to in sub-section (*1*) thereof may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under section 119 for the purposes of this Part, if it appears to it that such licence has been obtained by misrepresentation or fraud or that the licence has contravened or failed to comply with any of the provisions of this Part or the rules made thereunder or any of the terms or conditions of the licence.

(*8*) The State Government may issue in writing to an authority referred to in sub-section (*1*) of section 119 such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licence under section 119 relating to this section.

(*9*) Subject to section 119 and the foregoing provisions of this section, the authority referred to in sub-section (*1*) of section 119 may grant or renew licence relating to this Part on such terms and conditions as it may determine and where such authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

Appeals.

75. Any person aggrieved by the decision of the authority referred to in sub-section (*1*) of section 119 refusing to grant or renew a licence, or cancelling or suspending a licence, relating to this Part may, within such time and on payment of such fees as may be prescribed, appeal to the appellate authority referred to in sub-section (*6*) of section 119, and such authority may by order confirm, modify or reverse any order refusing to grant or renew a licence, or cancelling or suspending a licence, relating to this Part.

Permission to work by employees outside industrial premises.

76. (*1*) The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees, subject to such conditions as may be prescribed.

(*2*) The employer shall maintain the record of the work permitted under sub-section (*1*), to be carried on outside the industrial premises, in such form as may be prescribed.

(*3*) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises:

Provided that nothing in this sub-section shall apply to any worker who is given raw material by an employer or a contractor to make beedi or cigar or both at home.

Part not to apply to self-employed persons in private dwelling houses.

77. Nothing contained in this Part shall apply to the owner or occupier of a private dwelling house, not being an employee of an employer to whom this Part applies, who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him.

Explanation.—For the purposes of this section,—

(*i*) "family" does not include child, as defined in the Child and Adolescent (Prohibition and Regulation) Act, 1986, for this section; 61 of 1986.

(*ii*) "private dwelling house" means a house in which persons engaged in the manufacture of beedi or cigar or both reside.

PART VI

BUILDING OR OTHER CONSTRUCTION WORKERS

Prohibition of employment of certain persons in certain building or other construction work.

78. No person, about whom the employer knows or has reasons to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness, shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

PART VII

FACTORIES

Approval and licensing of factories.

79. (*1*) The appropriate Government may make rules in respect of factory or class or description of factories for—

(*a*) the submission of plans including specifications, nature and certification thereof;

(*b*) the previous permission for the site on which the factory is to be situated and for the construction or extension thereof; and

(*c*) subject to the provision of sub-section 119, licensing and renewal thereof including fees to be payable for such, licensing and renewal, if required, as the case may be.

(*2*) If on an application for permission referred to in clause (*b*) of sub-section (*1*) accompanied by the plans and specifications required by the rules made under clause (*a*) of that sub-section, sent to the State Government or Chief Inspector-cum-Facilitator in the electronic mode, no order is communicated to the applicant within such period not exceeding thirty days, the permission applied for in the said application shall be deemed to have been granted.

(*3*) Where a State Government or a Chief Inspector-cum-Facilitator refuses to grant permission to the site, construction or extension of a factory and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the State Government and to the State Government in any other case.

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, of the addition of any plant or machinery if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

Liability of owner of premises in certain circumstances.

80. Where any premises or separate buildings are leased to different occupiers for use as separate factories, the owner of the premises and occupiers of the factories utilising such common facilities which include safety and fire prevention and protection, access, hygiene, occupational health, ventilation, temperature, emergency preparedness and response, canteens, shelter, rest rooms and crèches shall jointly and severally be responsible for provision and maintenance of such common facilities and services as may be prescribed by the appropriate Government.

Power to apply Code to certain premises.

81. (*1*) The appropriate Government may, by notification, declare that all or any of the provisions of this Part shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is ordinarily carried on irrespective of the number of workers working in the factory.

(*2*) After a place is so declared, it shall be deemed to be a factory for the purposes of this Code, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

Explanation.—For the purposes of this section, "owner" shall include a lessee or mortgagee with possession of the premises.

Dangerous operations.

82. The appropriate Government may by rules make the provisions relating to any factory or class or description of factories in which manufacturing process or operation is carried on which exposes any of the persons employed in it to a serious risk of bodily injury, poisoning or disease, for—

(*a*) specifying the manufacturing process or operation and declaring it to be dangerous;

(*b*) prohibiting or restricting the employment of pregnant women in the manufacturing process or operation;

(*c*) the periodical medical examination before, or at any time during the employment to ascertain the fitness of a worker or employee for such employment on the cost of the occupier; and

(*d*) welfare amenities, sanitary facilities, protective equipment and clothing, and any other requirement necessary for dangerous operations.

Constitution of site appraisal committee.

83. (*1*) The appropriate Government may, constitute one or more site appraisal committees consisting of a chairman and other members, for such purpose as may be prescribed including to consider and to give recommendations on an application for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of such factory.

(*2*) The site appraisal committee referred to in sub-section (*1*) shall make its recommendation within a period of thirty days of the receipt of the application for any of the purpose referred to in the said sub-section in such form, as may be prescribed.

Compulsory disclosure of information by occupier.

84. (*1*) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed by the State Government all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, the local authority within whose jurisdiction the factory is situate and the general public in the vicinity.

(*2*) The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the local authority and, thereafter, at such intervals as may be prescribed by the State Government, inform the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the local authority of any change made in the said policy.

(*3*) The information furnished under sub-section (*1*) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(*4*) Every occupier shall, with the approval of the Chief Inspector-cum-Facilitator, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(*5*) Every occupier of a factory shall, if such factory proposes to engage in a hazardous process at any time after the commencement of this Code, within a period of thirty days before the commencement of such process, inform the Chief Inspector-cum-Facilitator about the nature and details of the process in such form and in such manner as may be prescribed by the State Government.

(*6*) Where any occupier of a factory contravenes the provisions of sub-section (*5*), the licence issued under section 79 to such factory shall, notwithstanding any penalty to which the occupier of factory shall be subjected to under the provisions of this Code, be liable for cancellation.

(*7*) The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector-cum-Facilitator, lay down measures for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed by the State Government among the workers and the general public living in the vicinity.

Specific responsibility of the occupier in relation to hazardous processes.

85. Every occupier of a factory involving any hazardous process shall—

(*a*) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed by the State Government;

(*b*) appoint persons who possess prescribed qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed by the State Government:

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector-cum-Facilitator shall be final;

(*c*) provide for medical examination of every worker—

(*i*) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance; and

(*ii*) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed by the State Government.

National Board to inquire into certain situations.

86. (*1*) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, direct the National Board to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed by the State Government for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected due to such failure or neglect and for the prevention of recurrence of such extraordinary situations in future in such factory or elsewhere.

(*2*) The recommendations of the National Board shall be advisory in the nature.

Emergency standards.

87. (*1*) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Directorate General Occupational Safety and Health formerly known as the Directorate General of Factory Advice Service and Labour Institutes or any Institution authorised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

(*2*) The emergency standards laid down under sub-section (*1*) shall, until they are incorporated in the rules made under this Code, be enforceable and have the same effect as if they had been incorporated in the rules made under this Code.

Permissible limits of exposure of chemicals and toxic substances.

88. The maximum permissible limits of exposure of chemical and toxic substances in manufacturing process in any factory shall be of the value as may be prescribed by the State Government.

Right of workers to warn about imminent danger.

89. (*1*) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may, bring the same to the notice of the occupier, agent, manager or any other person who is in-charge of the factory or the process concerned directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

(*2*) It shall be the duty of such occupier, agent, manager or the person in-charge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum-Facilitator.

(*3*) If the occupier, agent, manager or the person in-charge referred to in sub-section (*2*) is not satisfied about the existence of any imminent danger as apprehended by the workers, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

Appeal against the order of Inspector-cum-Facilitator in case of factory.

90. The appropriate Government may prescribe provisions providing the manner in which and the appropriate authority to whom the manager or occupier of the factory may make appeal against the order of the Inspector-cum-Facilitator and the procedure for disposing of such appeals.

Power to make rules to exempt.

91. (*1*) The appropriate Government may make rules,—

(*a*) specifying the persons who hold positions of supervision or management or are employed in a confidential position in a factory or empowering the Chief Inspector-cum-Facilitator to declare any person, other than a person so specified, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector-cum-Facilitator, such person holds such position or is so employed, and the provisions of this Code, shall not apply to any person so defined or declared;

(*b*) in respect of any worker or class of workers in any establishment or class of establishment, for providing the exemption, extent of exemption and conditions subject to which such exemption may be given.

(*2*) The appropriate Government or the Chief Inspector-cum-Facilitator may, by order in writing, exempt subject to such conditions as it may deem expedient, any or all of the adult workers in any establishment or class of establishments.

PART VIII

PLANTATION

Facilities for workers in plantation.

92. (*1*) Without prejudice to the generality of sections 23 and 24, the State Government may prescribe requiring every employer to make provisions in his plantation for—

(*a*) necessary housing accommodation including drinking water, kitchen and toilet to every worker employed in the plantation (including his family);

(*b*) crèches facilities where in the plantation fifty or more workers (including workers employed by any contractor) are employed or were employed on any day of the preceding twelve months:

Provided that,—

(*i*) an establishment may avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation; or

(*ii*) a group of establishments may agree to pool their resources for setting up of common crèche;

(*c*) educational facilities for the children of the workers employed in the plantation where the children between the ages of six to twelve of the workers exceed twenty-five in number;

(*d*) health facilities to every worker employed in the plantation (including his family) or provide coverage under the Employees State Insurance Act, 1948; and

34 of 1948.

(*e*) recreational facilities for the workers employed in the plantation.

(*2*) An employer of a plantation shall be responsible to provide and maintain welfare facilities for which the workers in the plantation are entitled under this Code either from his own resources or through the schemes of the Central Government or State Government, Municipality or Panchayat for the locality in which the plantation is situated.

Explanation.—For the purposes of this sub-section—

(*i*) the expression "Municipality" has the same meaning as assigned to it in clause (*e*) of article 243 of the Constitution; and

(*ii*) the expression "Panchayat" has the same meaning as assigned to it in clause (*d*) of article 243 of the Constitution.

93. (*1*) In every plantation, arrangement shall be made by the employer to provide for the safety of a worker in connection with the use, handling, storage and transport of insecticides, pesticides and chemicals and toxic substances. Safety.

(*2*) The State Government may prescribe for special safeguards for employment of women or adolescents in using or handling hazardous chemicals.

(*3*) The employer of a plantation shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(*4*) Every employer of a plantation shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides, chemicals and toxic substances and such other matters as may be prescribed by the State Government.

(*5*) Every worker in a plantation who is exposed to insecticides, pesticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed by the State Government.

(*6*) Every employer of a plantation shall maintain health record of every worker in plantation who is exposed to insecticides, pesticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

(*7*) Every employer of a plantation shall provide—

(*a*) washing, bathing and clock room facilities; and

(*b*) protective clothing and equipment,

to every worker engaged in the handling insecticides, pesticides, chemicals and toxic substances in such manner as may be prescribed by the State Government.

(*8*) Every employer of a plantation shall display in the plantation, a list of permissible concentrations of insecticides, pesticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of insecticides, pesticides, chemicals and toxic substances in the plantation.

(*9*) Every employer of a plantation shall exhibit such precautionary notices in the plantation as may be prescribed by the State Government indicating the hazards of insecticides, pesticides, chemicals and toxic substances.

CHAPTER XII

OFFENCES AND PENALTIES

General penalty for offences.

94. Save as otherwise expressly provided in this Code, if in, or in respect of, any establishment, there is any contravention of the provisions of this Code or regulations or rules, or bye-laws or any of standards, made thereunder or of any order in writing given under this Code or such regulations or rules or bye-laws or standards, the employer or the principal employer of the establishment, as the case may be, shall be liable to penalty which shall not be less than two lakhs rupees but which may extend up to three lakh rupees, and if the contravention is continued after the conviction, then, with further penalty which may extend to two thousand rupees for each day till such contravention continues.

Punishment for causing obstruction to Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, etc.

95. (*1*)Whoever wilfully—

(*i*) prevents or causes obstruction to a Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or an officer of the appropriate Government or a person authorised to discharge any duty or to exercise any powers under this Code or the rules or the regulations or the bye-laws made thereunder, from discharging such duty or exercising such power; or

(*ii*) refuses entry to the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator or person or public authority referred to in clause (*i*) of sub-section (*1*) of section 35 or expert referred to in section 37, to any place where such Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or such person or authority or expert is entitled to enter; or

(*iii*) fails or refuses to produce any document which he is required to produce; or

(*iv*) fails to comply with any requisition or order issued to him,

under this Code or the rules, regulations or bye-laws made thereunder he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

(*2*) Where any person convicted of an offence punishable under sub-section (*1*) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.

Penalty for non-maintenance of register, records and non-filing of returns, etc.

96. (*1*) Any person, who is required under this Code or the rules or regulations or bye-laws or order made thereunder, to—

(*i*) maintain any register or other document or to file returns, omits or fails to maintain such register or document or to file such returns; or

(*ii*) produce any register or plan or record or report or any other document, omits or fails to produce such register or plan or record or report or such other document,

he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

(*2*) Where any person convicted of an offence punishable under sub-section (*1*) is again convicted of an offence under the same provision, then, he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.

Punishment for contravention of certain provisions.

97. (*1*) Any person, who, save as permitted by or under this Code, contravenes, any—

(*i*) provision of this Code or of any rule, regulation or bye-laws; or

(*ii*) order made under this Code prohibiting, restricting or regulating the employment of workers including women, audio-visual worker and contract labour and employee below eighteen years of age in case of mines,

he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

(*2*) Where any person convicted of an offence punishable under sub-section (*1*) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both.

Punishment for falsification of records, etc.

98. (*1*) Whoever—

(*a*) produces false records or counterfeits or knowingly makes or produces or uses a false statement, declaration or evidence regarding any document in connection with compliance of any of the provisions of this Code or any rules, regulations or bye-laws or any order made thereunder; or

(*b*) falsifies any plan or section, the maintenance of which is required by or under this Code or produces before any authority such plan or section, knowing the same to be false; or

(*c*) makes, gives or delivers knowingly a false plan, section, return, notice, record or report containing a statement, entry or detail,

he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

(*2*) Where any person convicted of an offence punishable under sub-section (*1*) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.

Penalty for omission to furnish plans, etc.

99. Any person who, without reasonable excuse the burden of proving which shall lies upon him, omits to make or furnish in the prescribed form or manner or at, or within, the prescribed time any plan, section, return, notice, register, record or report required by or under any provision of this Code to be made or furnished, he shall be liable to penalty which shall not be less than one lakh rupees but which may extend to two lakh rupees.

Punishment for disclosure of information.

100. (*1*) Whoever being the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or any other person referred to in section 39 or section 121 discloses, contrary to the provisions of that section, any such information as is referred to in that section without the consent of the appropriate Government, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

(*2*) No court shall proceed with the trial of any offence under this section except with the previous sanction of the appropriate Government.

Punishment for wrongfully disclosing results of analysis.

101. Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Code, publishes or discloses to any person the results of an analysis, of a sample of substance used or intended to be used in any process under this Code, shall be punishable with imprisonment for a term, which may extend to six months, or with fine, which may extend to fifty thousand rupees, or with both.

Punishment for contravention of provisions of duties relating to hazardous processes.

102. (*1*) Whoever fails to comply with or contravenes any of his duties specified under—

(*i*) clauses (*a*) to (*h*) of sub-section (*1*) or sub-section (*2*) of section 6 or clause (*d*) of section 13 in so far as such duty relates to hazardous processes; or

(*ii*) section 80,

shall, in respect of such failure or contravention, be punishable with an imprisonment for a term which may extend to two years and with fine which may extend to five lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues, after the conviction for the first such failure or contravention.

(*2*) If the failure or contravention referred to in sub-section (*1*) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to three years or with a fine of twenty lakh rupees, or with both.

Punishment for contravention of provisions of duties relating to safety provisions resulting in an accident.

103. (*1*) If a person fails to comply with or contravenes any duties under this Code or the regulations, rules, bye-laws or orders made thereunder and such non-compliance or contravention has resulted in an accident or dangerous occurrences causing—

(*a*) death, he shall be punishable with imprisonment for a term which may extend to two years, or with a fine which shall not be less than five lakh rupees, or with both; or

(*b*) serious bodily injury to any person within the establishment, he shall be punishable with imprisonment for a term which may extend to one year, or with a fine which shall not be less than two lakh rupees but not exceeding four lakh rupees, or with both:

Provided that while imposing the fine under this section, the court may direct that a portion of the fine, which shall not be less than fifty per cent. thereof, shall be given as compensation to the victim or to the legal heirs of the victim, in the case of his death.

(*2*) Where a person having been convicted under sub-section (*1*) is again convicted thereunder, shall be punishable with double the punishment provided under that sub-section for first conviction.

Special provision for contravention of order under section 38.

104. Whoever continues to work in contravention of any general or special order issued under the provisions of section 38, shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine which may extend to five lakh rupees:

Provided that the court shall not impose a fine under this section which shall be less than two lakh rupees without recording in the judgment the reasons for imposing such fine.

Failure to appoint manager in mine.

105. Whoever in compliance of the provisions of section 67, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

Offences by employees.

106. (*1*) Subject to the provisions of section 13, except clause (*d*) thereof, if any employee employed in a workplace contravenes any provision of this Code or any rules or orders made thereunder, imposing any duty or liability on employee, he shall be punishable with penalty which may extend to ten thousand rupees.

(*2*) Where an employee is convicted of an offence punishable under sub-section (*1*), the employer of the establishment shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

Prosecution of owner, agent or manager of mine.

107. No prosecution shall be instituted against any owner, agent or manager of a mine for any offence under this Code except at the instance of the Chief Inspector-cum-Facilitator or of the District Magistrate or of Inspector-cum-Facilitator authorised in this behalf by general or special order in writing by the Chief Inspector-cum-Facilitator:

Provided that the Chief Inspector-cum-Facilitator or the District Magistrate or the Inspector-cum-Facilitator as so authorised shall before instituting such prosecution satisfy himself that the owner, agent or manager of a mine had failed to exercise due diligence to prevent the commission of such offence:

Provided further that in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager of a mine without the previous approval of the Chief Inspector-cum-Facilitator.

Exemption of owner, agent or manager of mine or occupier of factory from liability in certain cases.

108. Where the owner, agent or manager of the mine or employer or occupier of the factory is charged with an offence punishable under this Code he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(*a*) that he has exercised due diligence to enforce the execution of this Code, or

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he was the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and the owner, agent or manager of a mine or the occupier or the manager of the factory shall be, discharged from any liability under this Code in respect of such offence:

Provided that in seeking to prove as aforesaid the owner, agent or manager of a mine or the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support, shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and shall, if the offence be proved, convict him.

Offences by companies, etc.

109. (*1*) Where an offence under this Code has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*) where any offence under this Code has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, company secretary or other officer of the company, such director, manager, company secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director" means,—

(*i*) in relation to a firm a partner thereof; or

(*ii*) the owner of a mine being a firm or other association of individuals or a company; or

(*iii*) in case of association of individuals other than specified in sub-clause (*ii*), any of its members.

Limitation of prosecution and cognizance of offences.

110. (*1*) Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator shall, not initiate prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to comply with relevant provisions of this Act within a period of thirty days from the date of notice giving opportunity, and, if the employer complies with such provisions within such period, then, no such proceeding shall be initiated against such employer:

Provided that no such opportunity shall be accorded to an employer in case of an accident and if the violation of the same nature of the provisions under this Code is repeated within a period of three years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with provisions of sub-section (*2*).

(*2*) No court shall take cognizance of any offence punishable under this Code, unless a complaint in respect thereof is made within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector-cum-Facilitator and a complaint is filed in that regard by him.

(*3*) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Code.

Explanation.—For the purposes of this section,—

(*a*) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(*b*) where for the performance of any act, time is granted or extended on an application made by the employer of an establishment, the period of limitation shall be computed from the date on which the time so granted or extended expired.

Power of officers of appropriate Government to impose penalty in certain cases.

111. (*1*) Notwithstanding anything contained in section 110, for the purpose of imposing penalty under sub-section (*3*) of section 12 or sections 94, 96, 97, 99, 106 and sub-section (*3*) of section 114, the appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

(*2*) While holding the enquiry, the officer referred to in sub-section (*1*) shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of such officer, may be useful for or relevant to the subject-matter of the enquiry and if, on such enquiry, he is satisfied that the person has committed any offence under the provisions referred to in sub-section (*1*), he may impose such penalty as he thinks fit in accordance with the provisions of that sub-section.

(*3*) Any person aggrieved by an order made by the officer under sub-section (*2*) may prefer an appeal, in such form and manner and accompanied by such fee as may be prescribed, to the appellate authority to be appointed by the appropriate Government from amongst officers not below the rank of Deputy Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, within sixty days from the date on which the copy of the order made by the officer referred in sub-section (*1*) is received by the aggrieved person.

(*4*) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against, within a period of sixty days from the date of receipt of appeal.

(*5*) Where a person fails to pay the penalty so imposed within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend up to two lakh rupees.

(*6*) The amount of penalty imposed and received under this section shall be credited to the fund established under sub-section (*1*) of section 115.

Jurisdiction of court for entertaining proceedings, etc., for offence.

112. For the purposes of conferring jurisdiction on any court in relation to an offence under this Code or the rules, regulation or bye-laws made thereunder in connection with an establishment, the place where the establishment is for the time being situated, shall be deemed to be the place where such offence has been committed.

Power of court to make orders.

113. (*1*) Where the employer of a mine or a factory or a dock is convicted of an offence punishable under this Code, the court may, in addition to awarding him any punishment, by order in writing, require him within the period specified in the order (which may be extended by the court from time to time on application made in this behalf) to take such measures as may be specified in the order for remedying the matters in respect of which the offence was committed.

(*2*) Where an order is made under sub-section (*1*), the employer of the mine or the factory shall not be liable under this Code in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully complied with, employer shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

Composition of certain offences.

114. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any penalty under sub-section (*3*) of section 12 or section 94 or section 96 or sub-section (*1*) of section 97 or section 99 or section 106 or sub-section (*3*) or any offence

2 of 1974.

under sub-section (*2*) of section 97 or sub-section (*1*) of section 100 or section 101 or clause (*b*) of sub-section (*1*) of section 103 or section 105 or sub-section (*2*) of section 113 may either before or after the holding the enquiry or, as the case may be, of institution of prosecution may be compounded by such officer of the appropriate Government as may be notified by that Government in the manner as may be prescribed by it—

(*a*) in a case of penalty for a sum of fifty per cent. of the maximum penalty provided for such penalty; and

(*b*) in a case of offence for a sum of seventy-five per cent. of the maximum fine provided for such offence.

(*2*) Where a penalty or an offence has been compounded under sub-section (*1*), the person liable for penalty or the offender, as the case may be, shall be discharged of the penalty or offence and there shall be no further proceedings against him in respect of such penalty or offence.

(*3*) Any person who fails to comply with an order made by the officer referred to in sub-section (*1*), shall be liable to pay a penalty equivalent to twenty per cent. of the maximum penalty or fine provided for the penalty or the offence, as the case may be, in addition to the penalty or fine.

(*4*) The amount of composition received under sub-section (*1*) shall be credited to the fund established under sub-section (*1*) of section 115 for the unorganised workers.

(*5*) Nothing contained in sub-section (*1*) shall apply to a penalty or an offence committed by a person for a second or subsequent time within a period of three years from the date of penalty or offence, as the case may be,—

(*a*) which was earlier compounded; or

(*b*) for which such person was earlier convicted.

CHAPTER XIII

SOCIAL SECURITY FUND

Social security fund.

115. (*1*) There shall be established by the appropriate Government a social security fund for the welfare of the unorganised workers to which there shall be credited the amount received from composition of the offence as specified in sub-section (*4*) of section 114 and the amount of the penalty as specified in sub-section (*6*) of section 111.

(*2*) The fund may also be funded by such other sources as may be prescribed by the appropriate Government.

(*3*) The fund shall be administered and expended for welfare of the unorganised workers in such manner as may be prescribed by the appropriate Government including the transfer of the amount in the fund to any fund established under any other law for the time being in force for the welfare of the unorganised workers.

Explanation.—For the purpose of this section the expression "unorganised worker" shall have the same meaning as is assigned to it under clause (*m*) of section 2 of the Unorganised Workers Social Security Act, 2008. 33 of 2008.

CHAPTER XIV

MISCELLANEOUS

Delegation of powers.

116. The Central Government may, by notification, direct that any power exercisable by it under this Code or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by the State Government or by such officer or authority subordinate to the State Government as may be specified in the said notification.

Onus as to age.

117. (*1*) When any offence is committed under this Code involving an issue of a certain age of a person and such person is in the opinion of the court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(*2*) The medical authority prescribed by the Central Government shall, while examining a worker for issuing the certificate of age for the purposes of this Code, take into account the Aadhaar card of the worker, and in the absence thereof, the date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination Board of the worker, if available, and in the absence thereof, the birth certificate of the worker given by a corporation or a municipal authority or a Panchayat, and only in the absence of any of the methods specified in this sub-section, the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test.

Onus of proving limits of what is practicable, etc.

118. In any proceeding for an offence for the contravention of any provision of this Code or regulations or bye-laws or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or all practicable measures were taken to satisfy the duty or requirement.

Common licence for contractor, factories and to industrial premises, etc.

119. (*1*) Notwithstanding anything contained in this Code, any person desirous of obtaining common licence in respect of a factory, industrial premises for *beedi* and cigar work and for engaging contract workers or any combination thereof or single licence for any one of them under this Code shall make an application electronically or otherwise to such authority as may be designated, by notification, by the appropriate Government.

(*2*) The application under sub-section (*1*),—

(*a*) shall be in such form and filed in such manner and accompanied by such fee and contain such information as may be prescribed by the appropriate Government;

(*b*) shall, in so far as it relates to the licence for engaging contract labours, contain the number of inter-State migrant workers employed.

(*3*) On receipt of an application under sub-section (*1*), the authority referred to in that sub-section shall take such actions in such manner and make such inquiry as may be prescribed by the appropriate Government.

(*4*) Where the authority referred to in sub-section (*1*) is satisfied that the common licence may be issued in respect of a factory, industrial premises for *beedi* and cigar work and for engaging contract workers or any combination thereof or single licence for any one of them under this Code, such authority shall issue a licence electronically within forty-five days of the receipt of application failing which the licence shall be deemed to be issued and shall be auto generated and the responsibility of such failure shall be on such authority:

Provided that where the licence is deemed to be issued, no further inquiry shall be made:

Provided further that the form of licence shall, as far as practicable, be similar throughout India:

Provided also that where such authority rejects the application he shall assign the reason for such rejection.

(*5*) Notwithstanding anything contained in this Code, any licence in respect of a factory, industrial premises for *beedi* and cigar work and for engaging contract labour has been obtained under any Central labour law before the commencement of this Code, in respect of any establishment shall be deemed to have been obtained under the provisions of this Code and shall be valid for the period for which it was issued and shall have to be obtained afresh after its expiration.

(*6*) Any person aggrieved by an order passed under this section by the authority referred to in sub-section (*1*) may file, within thirty days from the date of the order, an appeal in such form, accompanied with such fee to such appellate authority as may be prescribed by the appropriate Government and the appeal shall be disposed of electronically within thirty days of the filing of the appeal.

Effect of law and agreements inconsistent with Code.

120. (*1*) The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement or contract of service whether made before or after the commencement of this Code:

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Code, the employee shall continue to get the former notwithstanding that he receives benefits in respect of other matters under this Code.

(*2*) Nothing contained in this Code shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Code.

Power of appropriate Government to direct inquiry in certain cases.

121. (*1*) The appropriate Government may, in the event of the occurrence of an accident in an establishment which has caused or had the potentiality to cause serious danger to employees and other persons within, and in the vicinity of the workplace or whether immediate or delayed, or any occupational disease as specified in the Third Schedule, which has been or is suspected to have been contracted, in epidemic proportions, appoint one or more persons possessing legal or special knowledge to act as assessors or competent persons in such inquiry in order to inquire into the causes of the accident and disease, fix responsibilities and suggest a plan of action for the future to prevent such accidents or diseases and submit the report to the appropriate Government.

(*2*) The appropriate Government may direct a Chief Inspector-cum-Facilitator or any other officer under the control of the Government concerned or appoint a committee to undertake a survey in such manner as may be prescribed by the appropriate Government on the situation relating to safety or health at work at any workplace or class of workplaces or into the effect of work activity on the health of the employees and other persons within and in the vicinity of the workplace.

(*3*) The officer directed or committee appointed, under sub-section (*1*) or sub-section (*2*), to hold an inquiry, shall have the powers of a civil court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also so far as may be necessary for the purposes of the inquiry, exercise such powers of an Inspector-cum-Facilitator under this Code as may be necessary. 5 of 1908.

(*4*) The Central Government may make rules for regulating the procedure of inquiry and survey and other related matters under this section.

Publication of reports.

122. The appropriate Government may, if it thinks fit, cause to be published any report submitted to it by the National Board or State Advisory Board or any extracts from any report submitted to it under this Code.

Powers of Central Government to give directions.

123. The Central Government may give directions to a State Government for the implementation of the provisions of this Code.

General restriction on disclosure of information.

124. (*1*) No person shall in respect of the establishment, disclose any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(*2*) Nothing in sub-section (*1*) shall apply to any disclosure of information made with the previous consent in writing of the owner of the business or process or for the purposes of any legal proceeding (including adjudication or arbitration), pursuant to any of the relevant statutory provisions or of any criminal proceeding under this Code which may be taken, whether pursuant to any of the relevant statutory provisions or otherwise, or for the purposes of any report of any such proceedings.

Jurisdiction of civil courts barred.

125. No civil court shall have jurisdiction in respect of any matter to which any provision of this Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Code.

Protection of action taken in good faith.

126. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-laws or order made thereunder.

(*2*) No prosecution or other legal proceeding shall lie against the Government, any Board or committees constituted under this Code or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-laws or order made or issued thereunder.

Power to exempt in special cases.

127. (*1*) The appropriate Government may, by notification and subject to such conditions and restrictions, if any, and for such period or periods as may be specified in the notification, direct that all or any of the provisions of this Code or the rules or the regulations made thereunder shall not apply to or in relation to any establishment or class of establishments.

(*2*) Without prejudice to the generality of sub-section (*1*), where the State Government is satisfied in the public interest that it is necessary to create more economic activities and employment opportunities, it may, by notification, exempt, subject to such conditions as it may think fit, any new factory or class or description of new factories from all or any of the provisions of this Code for such period from the date on which such commercial production starts, as may be specified in the notification:

Provided that any notification issued by a State Government under the Factories Act, 1948 for the time being in force in the State prior to the commencement of this Code to achieve the same purpose as is specified in this sub-section, shall remain in force after such commencement for its remaining period as if the provisions of this Code, to the extent they defeat any purpose to be achieved by such notification issued by the State Government, were not in force.

63 of 1948.

Explanation.—For the purpose of this sub-section, the expression "new factory or class or description of new Factories" means such factory or class or description of Factories which are established and whose commercial production start within such period as may be specified in the notification.

Power to exempt during public emergency.

128. In case of a public emergency or disaster or pandemic in whole of India or part thereof, the appropriate Government may, by notification, exempt any workplace or work activity or class thereof from all or any of the provisions of this Code for such period and subject to such conditions as it may think fit:

Provided that no such notification shall be made for a period exceeding one year at a time.

Explanation.—For the purposes of this section “public emergency” means a grave emergency whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

Power to exempt public institution.

129. The appropriate Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training, research or information, from all or any of the provisions of this Code:

Provided that no such exemption shall be granted from the provisions relating to hours of work and holidays unless the persons having the control of the institution submit, for the approval of the appropriate Government, a scheme of the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates for the institution, and the appropriate Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Code.

Persons required to give notice, etc., legally bound to do so.

130. Every person required to give any notice or to furnish any information to any authority in relation to the provisions of this Code shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code. 45 of 1860.

Power of Central Government to amend Schedule.

131. The Central Government may, by notification, amend any Schedule by way of addition, alteration or omission therein and on any such notification being issued, the Schedule shall be deemed to be amended accordingly.

Power to remove difficulties.

132. (*1*) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Code, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date on which this Code comes into force.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power of appropriate Government to make rules.

133. (*1*) The appropriate Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Code.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) income from the sources under *Explanation* to clause (*x*) of sub-section (*1*) of section 2;

(*b*) substance or quantity of substance under clause (*zb*) of sub-section (*1*) of section 2;

(*c*) the late fee under the proviso to sub-section (*1*) of section 3;

(*d*) the manner of submitting application under sub-section (*2*) of section 3 and the form of such application and the particulars to be contained therein and the fees to be accompanied therewith;

(*e*) the form and manner of sending the notice and the authority to whom the notice shall be sent and the manner of intimating the authority under sub-section (*1*) of section 5;

(*f*) annual health examination or test free of costs, age of employees or class of employees or establishment or class of establishments under clause (*c*) of sub-section (*1*) of section 6;

(*g*) the information to be included in the letter of appointment and the form of such letter under clause (*f*) of sub-section (*1*) of section 6;

(*h*) the nature of bodily injury and the manner of notice and the time within which the notice shall be sent and the authority to which notice shall be sent under sub-section (*1*) of section 10;

(*i*) nature of dangerous occurrence and the form of notice, the time within which and the authority to which notice shall be sent under section 11;

(*j*) the form of notice related to certain diseases and the time within which the notice shall be sent and the authority to which the notice shall be sent under sub-section (*1*) of section 12;

(*k*) the form and manner of the report and the time within which such report shall be sent to the office of the Chief Inspector-cum-Facilitator under sub-section (*2*) of section 12;

(*l*) manner of making report by employee under clause (*d*) and other duties of employees under clause (*g*) of section 13;

(*m*) manner of sending report of action taken under sub-section (*3*) of section 14;

(*n*) the manner of constituting a safety committee and the manner and the purpose for choosing the representative of the workers in the Safety Committee under sub-section (*1*) of section 22;

(*o*) the qualifications, duties and number of safety officers under sub-section (*2*) of section 22;

(*p*) conditions for exemption of workers from weekly and compensatory holidays under sub-section (*2*) of section 26;

(*q*) the total number of overtime under second proviso to section 27;

(*r*) circumstances for exemption from restriction on double employment in factory and mine under section 30;

(*s*) the form of notice and manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator under sub-section (*2*) of section 31;

(*t*) the form of register and particulars of workers under clause (*a*) of section 33;

(*u*) the manner and form of displaying notices under clause (*b*) of section 33;

(*v*) return, manner of filing the return and periods of filing return to the Inspector-cum-Facilitator under clause (*d*) of section 33;

(*w*) the qualification and experience of Chief Inspector-cum-Facilitator under sub-section (*5*) of section 34;

(*x*) the manner of taking samples of any article or substance found in any premises and air of atmosphere under clause (*x*) of sub-section (*1*) of section 35;

(*y*) the other powers and duties under clause (*xiv*) of sub-section (*1*) of section 35;

(*z*) the specialised qualification and experience, duties and responsibilities of experts to be empanelled under section 37;

(*za*) the manner of providing alternative employment under sub-clause (*d*) of clause (*A*) of sub-section (*1*) of section 38;

(*zb*) the qualification for the appointment of medical practitioner and other establishment under sub-section (*1*) of section 42;

(*zc*) other establishment engaged in the dangerous occupation or processes under clause (*a*) of sub-section (*2*) of section 42;

(*zd*) medical supervision and other establishment under clause (*b*) of sub-section (*2*) of section 42;

(*ze*) other establishment under clause (*c*) of sub-section (*2*) of section 42;

(*zf*) conditions relating to safety, holidays and working hours or any other condition to be observed by the employer under section 43;

(*zg*) the manner of requiring the employer to provide the adequate safeguards under section 44;

(*zh*) conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour under clause (*a*) of sub-section (*3*) of section 47;

(*zi*) the form and manner of application and the particulars which such application shall contain regarding the number of contract labour, nature of work for which contract labour is to be employed and other particulars including the information relating to the employment of inter-State migrant workers under sub-section (*1*) of section 48;

(*zj*) the procedure under sub-section (*2*) of section 48;

(*zk*) manner of applying for the renewal of licence and the manner of renewal of licence under sub-section (*3*) of section 48;

(*zl*) responsibility of the contractor under sub-section (*4*) of section 48;

(*zm*) the manner of intimation of work order and time-limit for such intimation under sub-section (*1*) of section 50;

(*zn*) the manner of suspending or cancelling the licence under sub-section (*2*) of section 50;

(*zo*) the period before which the wages shall be paid under sub-section (*1*) of section 55;

(*zp*) the mode of payment of wages under proviso to sub-section (*2*) of section 55;

(*zq*) the manner of payment of wages from security deposit under sub-section (*4*) of section 55;

(*zr*) the form of issuing experience certificate under section 56;

(*zs*) the form and manner of making application under clause (*b*) of sub-section (*2*) of section 57;

(*zt*) period of making report and the period of deciding the question under clause (*c*) of sub-section (*2*) of section 57;

(*zu*) minimum service for entitlement, class of travel and other matters under section 61;

(*zv*) manner of providing facility of toll free helpline under section 63;

(*zw*) manner of providing for study on inter-State migrant workers under section 64;

(*zx*) authority to whom a copy of the agreement shall be forwarded by the producer under sub-section (*3*) of section 66;

(*zy*) details under clause (*vii*) of sub-section (*4*) of section 66;

(*zz*) rules in respect of factory or class or description of factories under sub-section (*1*) of section 79;

(*zza*) mode of submission of application under sub-section (*2*) of section 79;

(*zzb*) common facilities and services for joint liability of owner of premises and occupiers of the factories under section 80;

(*zzc*) rules under section 82;

(*zzd*) purposes under sub-section (*1*) of section 83;

(*zze*) form of application under sub-section (*2*) of section 83;

(*zzf*) the appellate authority for appeal against the order of Inspector-cum-Facilitator of factory and the manner of appeal under section 90;

(*zzg*) rules under section 91;

(*zzh*) manner of holding enquiry under sub-section (*1*) of section 111;

(*zzi*) form and manner of preferring appeal and the fee to accompany such appeal under sub-section (*3*) of section 111;

(*zzj*) manner of compounding under sub-section (*1*) of section 114;

(*zzk*) other sources of fund under sub-section (*2*) of section 115;

(*zzl*) the manner of administering and expending the Fund under sub-section (*3*) of section 115;

(*zzm*) the form of application, manner of filing the application and the fee to be accompanied therewith including the information relating to the employment of inter-State migrant workers under sub-section (*2*) of section 119;

(*zzn*) actions, manner of taking actions and inquiry under sub-section (*3*) of section 119;

(*zzo*) the form of appeal, the fee to be accompanied therewith and the appellate authority under sub-section (*6*) of section 119;

(*zzp*) the manner of survey under sub-section (*2*) of section 121;

(*zzq*) any other matter which is required to be, or may be, prescribed under this Code.

Power of Central Government to make rules.

134. (*1*) The Central Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Code.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the other authority under sub-clause (*iii*) of clause (*zs*) of sub-section (*1*) of section 2;

(*b*) the matters which are directly related to the condition of ship under the proviso to sub-clause (*iii*) of clause (*zs*) of sub-section (*1*) of section 2;

(*c*) other period under clause (*a*) of sub-section (*1*) of section 3;

(*d*) the form of certificate of registration, the time within which and the conditions subject to which such certificate shall be issued under sub-section (*3*) of section 3;

(*e*) the form of intimation by the employer electronically and the manner of amendment in the certificate electronically under sub-section (*4*) of section 3;

(*f*) the manner of informing closing of establishment and certifying payment to the registering officer under sub-section (*5*) of section 3;

(*g*) procedure for nomination and discharge of functions of Members of National Board under sub-section (*3*) of section 16;

(*h*) the terms and conditions of service of officers and employees of the National Board under sub-section (*4*) of section 16;

(*i*) the number of members of technical committees or advisory committees and their qualifications under sub-section (*5*) of section 16;

(*j*) the form and manner of collecting, compiling and analyzing occupational safety and health statistics under sub-section (*1*) of section 21;

(*k*) the form and manner of maintaining database electronically or otherwise and the documents to be produced under sub-section (*2*) of section 21;

(*l*) health and working conditions under sub-section (*1*) of section 23;

(*m*) regarding matters specified in sub-section (*2*) of section 23;

(*n*) welfare facilities for the employees under sub-section (*1*) of section 24;

(*o*) regarding matters specified in sub-section (*2*) of section 24;

(*p*) facility of crèche under sub-section (*3*) of section 24;

(*q*) definition of "running time" in relation to a working day under clause (*a*) of the *Explanation* to sub-section (*1*) of section 25;

(*r*) the hours of work for working journalist under sub-section (*2*) of section 25;

(*s*) other kinds of leave under clause (*i*) of sub-section (*3*) of section 25;

(*t*) the maximum period of accumulating leave under clause (*ii*) of sub-section (*3*) of section 25;

(*u*) the limit up to which the earned leave may be availed of at a time and the reasons for which such leave may be exceeding under clause (*iii*) of sub-section (*3*) of section 25;

(*v*) conditions and restrictions for entitlement of cash compensation under clause (*iv*) of sub-section (*3*) of section 25;

(*w*) powers and duties of District Magistrate under section 36;

(*x*) requisite qualifications or criteria under sub-section (*1*) of section 47;

(*y*) period of renewal of licence under sub-section (*2*) of section 47;

(*z*) procedure under clause (*b*) of sub-section (*1*) of section 51;

(*za*) form of agreement under clause (*a*), and the name and other particulars under clause (*b*) of sub-section (*2*) of section 66;

(*zb*) the matter which may be saved and the qualifications of sole manager under sub-section (*1*) of section 67;

(*zc*) the conditions relating to number of employees, depth of excavation and other matters under clause (*a*) of sub-section (*1*) of section 68;

(*zd*) conditions relating to workings, opencast workings and explosives under clause (*b*) of sub-section (*1*) of section 68;

(*ze*) to declare the mines and part thereof for the purpose of applicability of the provisions of this Code under sub-section (*2*) of section 68;

(*zf*) the authority, the manner of informing such authority and the time limit for making such information under sub-section (*3*) of section 68;

(*zg*) to provide for medical examination of apprentice, other trainee or employee under sub-section (*3*) of section 70;

(*zh*) to exempt certain persons or category of persons holding positions of supervision or management and the persons employed in mine and the persons employed therein under section 71;

(*zi*) to provide for vocational training and rescue and recovery services to the persons employed in a mine under section 72;

(*zj*) medical authority under sub-section (*2*) of section 117;

(*zk*) rules under sub-section (*4*) of section 121;

(*zl*) the language of the bye-laws under sub-section (*7*) of section 139;

(*zm*) any other matter which is required to be, or may be prescribed.

Power of State Government to make rules.

135. (*1*) The State Government may, subject to the condition of previous publication and by notification, make rules for the carrying out the provisions of this Code.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the constitution, procedure and other matters relating to State Advisory Board under sub-section (*2*) of section 17;

(*b*) the number of members and their qualifications under sub-section (*3*) of section 17;

(*c*) the form of application and the payment of fees under sub-section (*2*) of section 74;

(*d*) the manner of preparing the plan of the place or premises under sub-section (*3*) of section 74;

(*e*) other matters under clause (*e*) of sub-section (*4*) of section 74;

(*f*) fees under sub-section (*6*) of section 74;

(*g*) period under the second proviso to sub-section (*6*) of section 74;

(*h*) the time of filing appeal and fees under section 75;

(*i*) the form of application by the employee and conditions under sub-section (*1*) of section 76;

(*j*) form of maintaining the record of the work under sub-section (*2*) of section 76;

(*k*) the manner of disclosing information by occupier of a factory under sub-section (*1*) of section 84;

(*l*) the interval of informing Chief Inspector-cum-Facilitator and the local authority about the policy with respect to the health and safety of the workers under sub-section (*2*) of section 84;

(*m*) the form and manner of informing Chief Inspector-cum-Facilitator under sub-section (*5*) of section 84;

(*n*) the manner of publicising among the workers and the general public living in the vicinity of the factory the measures and disposal laid down under sub-section (*7*) of section 84;

(*o*) the conditions for accessibility to the record by the workers under clause (*a*) of section 85;

(*p*) the qualification and experience of persons handling hazardous substance and manner of providing necessary facilities for protecting the workers under clause (*b*) of section 85;

(*q*) the manner of providing for medical examination of a worker under sub-clause (*ii*) of clause (*c*) of section 85;

(*r*) the measures or standards under sub-section (*1*) of section 86;

(*s*) the value of the maximum permissible limit of exposure of chemical and toxic substances in manufacturing process in any factory under section 88;

(*t*) requiring every employer to make in his plantation provisions in respect of as specified in clauses (*a*) to (*d*) of sub-section (*1*) of section 92;

(*u*) for prohibiting or, restricting employment of women or adolescents under sub-section (*2*) of section 93;

(*v*) qualifications under sub-section (*3*) of section 93;

(*w*) other matters under sub-section (*4*) of section 93;

(*x*) manner of periodical medical examination of worker under sub-section (*5*) of section 93;

(*y*) the manner of providing facilities, clothing and equipment under sub-section (*7*) of section 93;

(*z*) precautionary notices under sub-section (*9*) of section 93;

(*za*) any other matter which is required to be, or may be, prescribed.

(*3*) The Central Government may, by notification and in consultation with the State Government, make rules for the purposes of bringing uniformity, throughout the country, in occupational safety, health or such other matters as it considers necessary in respect of factories.

Power of Central Government to make regulations in relation to mines and dock work.

136. The Central Government may, by notification, make regulations consistent with this Code for all or any of the following purposes, namely:—

(*a*) for specifying the qualifications required for appointment as Inspector-cum-Facilitator;

(*b*) for specifying and regulating the duties and powers of the Chief Inspector-cum-Facilitator and of Inspector-cum-Facilitators in regard to the inspection of mines under this Code;

(*c*) for specifying the duties of owners, agents and managers of mines and of persons acting under them, and for specifying the qualifications (including age) of agents and managers of mines and of persons acting under them;

(*d*) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mines to be under a manager not having the specified qualifications;

(*h*) for providing for inquiries to be made under this Code, including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Code and for the suspension or cancellation of any such certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects;

5 of 1908.

(*i*) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage, conveyance and use of explosives;

4 of 1884.

(*j*) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such persons and for limiting the weight of any single load that may be carried by any such person;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance there into and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(*l*) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;

(*m*) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction or reduction of pillars or blocks of minerals and the maintenance of sufficient barriers between mine and mine;

(*n*) for the inspection of workings and sealed off fire- areas in a mine, and for the restriction of workings in the vicinity of the sea or any lake or river or any other body of surface water, whether natural or artificial, or of any public road or building, and for requiring due precaution to be taken against the irruption or inrush of water or other liquid matter into, outbreak of fire in or premature collapse of, any workings;

(*o*) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

(*p*) for regulating, subject to the provisions of the Electricity Act, 2003, and of any rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines and of all other machinery and plant therein;

36 of 2003.

(*q*) "for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads and for restricting the use of certain classes of locomotives underground;

(*r*) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;

(*s*) for providing against explosions or ignitions of inflammable gas or dust or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of workings or to result in or to aggravate the collapse of workings or irruptions of water or ignitions in mines;

(*t*) for specifying type of accidents for the purposes of notice under section 10 and for specifying the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters

provided for by regulations, to be furnished by owners, agents and managers of mines, and for specifying the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(*u*) for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for specifying the plans and sections and field notes connected therewith to be kept by them and the manner and places in which such plans, sections and field notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector-cum-Facilitator, and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue;

(*v*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about, mines; for dealing effectively with the situation;

(*w*) for specifying the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 5;

(*x*) for specifying the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within forty-five meters of any railway subject to the provisions of the Indian Railways Act, 1989 or of any public roads or other works as the case may be, which are maintained by the Government or any local authority; 24 of 1989.

(*y*) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1989; 24 of 1989.

(*z*) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner in the same manner as an arrear of land revenue;

(*za*) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public;

(*zb*) for specifying the number of officials to be appointed;

(*zc*) for specifying the qualifications of the officials to be appointed;

(*zd*) for specifying the qualifications and experience of the agents;

(*ze*) for specifying the period during which the agent shall be resident in India;

(*zf*) for specifying duties and responsibilities of suppliers, designers, importer and contractors for safety in mines;

(*zg*) for requiring the owners, agents and managers of mines to formulate, maintain and enforce safety management plan in their mines;

(*zh*) for requiring the managers of mines to formulate and implement codes of practice or standard operating procedure in respect of any machinery or operation used in the mines;

(*zi*) for providing for the safety in opencast mines and associated operations and machineries used therein;

(*zj*) for regulating the extraction of methane from working or abandoned coal mines or from virgin coal seam;

(*zk*) for specifying the forms of returns which shall be filed by the establishments or the class of establishments under this Code;

(*zl*) for the general requirement relating to the construction, equipping and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;

(*zm*) for the safety of any regular approaches over a dock, wharf, quay or other places which dock workers have to use for going for work and for fencing of such places and projects;

(*zn*) for the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;

(*zo*) providing and maintaining adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;

(*zp*) providing for the fire and explosion prevention and protection;

(*zq*) providing for safe means of access to ships, holds, stagings, equipment, lifting appliances and other working places;

(*zr*) providing for the safety of workers engaged in the opening and closing of hatches, protection of ways and other openings in the docks which may be dangerous to them;

(*zs*) providing for the safety of workers on docks from the risk of falling overboard being struck by cargo during loading or unloading operations;

(*zt*) providing for the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;

(*zu*) providing for the safety of workers employed in freight container terminals or other terminals for handling unitised cargo;

(*zv*) providing for the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;

(*zw*) providing for the construction, maintenance and use of staging;

(*zx*) providing for the rigging and use of ship's derricks;

(*zy*) providing for the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work;

(*zz*) providing for the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;

(*zza*) providing for the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;

(*zzb*) providing for the handling of dangerous substances and working in dangerous or harmful environments and the precautions to be taken in connection with such handling;

(*zzc*) providing for the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;

(*zzd*) providing for the employment of persons for handling cargo, handling appliances, power operated hatch covers or other power operated ship's equipment, such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;

(*zze*) providing for the transport of dock workers;

(*zzf*) providing for the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibrations and air pollution at the workplace;

(*zzg*) providing for protective equipment or protective clothing;

(*zzh*) providing for the sanitary, washing and welfare facilities;

(*zzi*) providing for—

(*i*) the medical supervision;

(*ii*) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

(*iii*) the safety and health organisation; and

(*iv*) the training of dock workers and for the obligations and rights of the dock workers for their safety and health at the workplace;

(*zzj*) providing for the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

(*zzk*) providing for the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers; and

(*zzl*) any other matter which is required to be or may be specified by regulation.

Prior publication of rules, etc.

137. The power to make rules, regulations, and bye-laws under this Code shall be subject to the condition of the previous publication of the same being made, in the following manner, namely:—

(*a*) the date to be specified after a draft of rule, regulation, and bye-laws proposed to be made will be taken under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rule, regulation and bye-laws is published for general information;

(*b*) rule, regulation and bye-laws shall be published in the Official Gazette and on such publication, shall have effect as if enacted in this Code.

Power to make regulation without previous publication.

138. Notwithstanding anything contained in section 137, regulations under section 136 may be made without previous publication and without reference to the National Occupational Safety Health Advisory Board constituted under sub-section (*1*) of section 16, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger and to avoid delay it is necessary to dispense with from such publication and reference.

Bye-laws.

139. (*1*) The employer of a mine may, and shall, if called upon to do so by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, frame and submit to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator a draft of such bye-laws, not being inconsistent with this Code or any rules or regulations or standards for the time being in force, governing the use of any particular machinery or the adoption of a particular method of working in the mine, as the employer may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(*2*) If any such employer—

(*a*) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator; or

(*b*) submits a draft of bye-laws which is not in the opinion of the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator sufficient, the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator may—

(*i*) propose a draft of such bye-laws as appear to him to be sufficient; or

(*ii*) propose such amendments in any draft submitted to him by the employer as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the employer for consideration.

(*3*) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator to the employer under the provisions of sub-section (*2*), the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the employer are unable to agree as to the terms of the bye-laws to be made under sub-section (*1*), the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator shall refer the draft bye-laws for settlement to the technical committee constituted under sub-section (*5*) of section 16 in respect of mines.

(*4*) When such draft bye-laws have been agreed to by the employer and the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, or, when they are unable to agree, have been settled by the technical Committee constituted under sub-section (*5*) of section 16 in respect of mines, a copy of the draft bye-laws shall be sent by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator to the Central Government for approval:

Provided that the Central Government may make such modification of the draft bye-laws as it thinks fit:

Provided further that before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, a notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(*5*) Every objection under second proviso to sub-section (*4*) shall be in writing and shall state—

(*i*) the specific grounds of objections, and

(*ii*) the omissions, additions or modifications asked for.

(*6*) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(*7*) The employer shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed by the Central Government, to be pasted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as and when the same become defaced, obliterated or destroyed, shall cause them to be pasted again.

(*8*) The Central Government may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

Powers to regulate general safety and health.

140. Notwithstanding any law for the time being in force, the Central Government may make rules to regulate general safety and health of the persons residing in whole or part of India, in the event of declaration of an epidemic, pandemic or disaster, for such period as may be notified by the Central Government.

Laying of regulations, rules, bye-laws, etc., before Parliament.

141. Every rule, regulation, standard and bye-laws notified or made by the Central Government under this Code shall be laid, as soon as may be after it is notified or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation, standard or bye-law or both Houses agree that the rule, regulation, standard or bye-law should not be made, the rule, regulation, standard or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, standard or bye-law, as the case may be.

Laying of rules made by State Government.

142. Every rule made by the State Government under this Code shall be laid, as soon as may be, after it is made, before the State Legislature.

Repeal and Savings.

143. (*1*) The following enactments shall stand repealed on and from the dates the notification referred to in sub-section (*2*) of section 1 is issued, namely:—

(*a*) The Factories Act, 1948; 63 of 1948.

(*b*) The Plantations Labour Act, 1951; 69 of 1951.

(*c*) The Mines Act, 1952; 35 of 1952.

(*d*) The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955; 45 of 1955.

(*e*) The Working Journalists (Fixation of Rates of Wages) Act, 1958; 29 of 1958.

(*f*) The Motor Transport Workers Act, 1961; 27 of 1961.

(*g*) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966; 32 of 1966.

(*h*) The Contract Labour (Regulation and Abolition) Act, 1970; 37 of 1970.

(*i*) The Sales Promotion Employees (Conditions of Service) Act, 1976; 11 of 1976.

(*j*) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; 30 of 1979.

(*k*) The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981; 50 of 1981.

(*l*) The Dock Workers (Safety, Health and Welfare) Act, 1986; 54 of 1986.

(*m*) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. 27 of 1996.

(*2*) Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed for the purposes under any of the provisions of the enactments repealed by this Code, shall be deemed to have been appointed under this Code for such purposes under this Code.

(*3*) Notwithstanding repeal under sub-section (*1*), anything done or any action taken under the enactments so repealed (including any rule, regulation, bye-laws, notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Code and shall remain in force to the extent they are not contrary to the provisions of this Code till they are repealed by the Central Government.

(*4*) Without prejudice to the provisions of sub-section (*2*), provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

10 of 1897.

THE FIRST SCHEDULE
[*See* section 2(*za*)]

List of Industries involving hazardous processes:

1. Ferrous Metallurgical Industries

— Integrated Iron and Steel

— Ferro-alloys

— Special Steels.

2. Non-ferrous metallurgical Industries

— Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium.

3. Foundries (ferrous and non-ferrous)

— Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting.

4. Coal (including coke) industries

— Coal, Lignite, Coke and like other substances

— Fuel Gases (including Coal Gas, Producer Gas, Water Gas).

5. Power Generating Industries.

6. Pulp and paper (including paper products) industries.

7. Fertiliser Industries

— Nitrogenous

— Phosphatic

— Mixed.

8. Cement Industries

— Portland Cement (including slag cement, puzzolona cement and their products).

9. Petroleum Industries

— Oil Refining

— Lubricating Oils and Greases.

10. Petro-chemical Industries.

11. Drugs and Pharmaceutical Industries

— Narcotics, Drugs and Pharmaceuticals.

12. Fermentation Industries (Distilleries and Breweries).

13. Rubber (Synthetic) Industries.

14. Paints and Pigment Industries.

15. Leather Tanning Industries.

16. Electro-plating Industries.

17. Chemical Industries.

(*a*) Coke Oven by-products and Coaltar Distillation products:

(*b*) Industrial Gases (nitrogen, oxygen, acetylene, argon, carbon dioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, or any like gases);

(*c*) Industrial Carbon;

(*d*) Alkalies and Acids;

(*e*) Chromates and dichromates;

(*f*) Lead and its compounds;

(*g*) Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides);

(*h*) Electrothermal produces (artificial abrasive, calcium carbide);

(*i*) Nitrogenous compounds (cyanides, cyanamides and other nitrogenous compounds);

(*j*) Phosphorous and its compounds;

(*k*) Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine);

(*l*) Explosives (including industrial explosives and detonators and fuses).

18. Insecticides, Fungicides, Herbicides and other Pesticides Industries.

19. Synthetic Resin and plastics.

20. Man made Fibre (Cellulosic and non-cellulosic) industry.

21. Manufacture and repair of electrical accumulators.

22. Glass and Ceramics.

23. Grinding or glazing of metals.

24. Manufacture, handling and processing of asbestos and its products.

25. Extraction of oils and fats from vegetable and animal sources.

26. Manufacture, handling and use of benzene and substances containing benzene.

27. Manufacturing processes and operations involving carbon disulphide.

28. Dyes and Dyestuff including their intermediates.

29. Highly flammable liquids and gases.

30. Printing and dyeing on fabrics in textiles and plywood and laminate manufacturing process.

31. Process involving usage of radium or Radioactive Substances.

32. Stone Crushing industry.

33. Extraction of Oil and Raw material from the scrap tyres.

34. Cigarette manufacturing industry.

35. Ship breaking industry.

36. Hazardous waste and e-waste processing plants.

37. Semiconductor manufacturing industry.

38. Styrene manufacturing, handling and processing industry.

39. Nano-particles utilising industry.

40. Manufacturing, processing, preparation and utilisation of Mercury or Compounds of Mercury, Lead Tetra-ethyl, Manganese, Arsenic, Chrome, Aliphatic series, Beryllium, Phosgene and Isocyanates.

THE SECOND SCHEDULE

[*See* section 18(*2*)(*f*)]

List of matters:

(*1*) fencing of machinery;

(*2*) work on or near machinery in motion;

(*3*) employment of adolescents on dangerous machines;

(*4*) striking gear and devices for cutting off power;

(*5*) self acting machines;

(*6*) casing of new machinery;

(*7*) prohibition of employment of women, children and adolescent near cotton openers;

(*8*) hoists and lifts;

(*9*) lifting machines, chains, ropes and lifting tackles;

(*10*) revolving machinery;

(*11*) pressure plant;

(*12*) floors, stairs and means of access;

(*13*) pits, sumps, openings in floors and other similar indentation of area;

(*14*) safety officers;

(*15*) protection of eyes;

(*16*) precautions against dangerous fumes, gases, etc.;

(*17*) precautions regarding the use of portable electric light;

(*18*) explosive or inflammable dust, gas, and other like dusts or gases;

(*19*) safety committee;

(*20*) power to require specifications of defective parts or tests of stability;

(*21*) safety of buildings and machinery;

(*22*) maintenance of buildings;

(*23*) prohibition in certain cases of danger;

(*24*) notice in respect of accidents;

(*25*) court of inquiry in case of accidents;

(*26*) safety management in plantation;

(*27*) the general requirement relating to the construction, equipments and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;

(*28*) the safety of any regular approaches over a dock, wharf, quay or other places which dock worker have to use for going for work and for fencing of such places and projects;

(*29*) the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;

(*30*) adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;

(*31*) the fire and explosion preventions and protection;

(*32*) safe means of access to ships, holds, stagings, equipment, appliances and other working places;

(*33*) the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;

(*34*) the safety of workers employed in freight container terminals of other terminals for handing unitized cargo;

(*35*) the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;

(*36*) the construction, maintenance and use of staging;

(*37*) the rigging and use of ship's derricks;

(*38*) the testing, examination, inspection and certification as appropriate of' loose gears including chains and ropes and of slings and other lifting devices used in the dock work;

(*39*) the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handing coal of other bulk cargo;

(*40*) the measures to be taken in order to prevent dangerous methods of' working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;

(*41*) the handling of dangerous substances and working, in dangerous or harmful environments and the precautions to be taken in connection with such handling;

(*42*) the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;

(*43*) the employment of persons for handling cargo, handling appliances, power operated batch covers or other power operated ship's equipment such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;

(*44*) the transport of dock workers;

(*45*) the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibration and air pollution at the work place;

(*46*) protective equipment and protective clothing;

(*47*) the sanitary, washing and welfare facilities;

(*48*) the medical supervision;

(*49*) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

(*50*) the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of' notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

(*51*) the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers.

(*52*) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(*53*) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person for the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(*54*) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(*55*) the erection installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(*56*) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;

(*57*) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;

(*58*) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;

(*59*) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;

(*60*) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working only of the operations and as if it were securely fenced;

(*61*) the safe handling and use of plant, including tools and equipment operated by compressed air;

(*62*) the precaution to be taken in case of fire;

(*63*) the limits of weight to be lifted or moved by workers;

(*64*) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(*65*) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;

(*66*) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

(*67*) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipment and floating operational equipments;

(*68*) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(*69*) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefore and the

matters connected therewith, to be framed by the employers and contractors for tile operations to be carried on in a building or other construction work;

(*70*) emergency standards for enforcement of suitable standards in respect of hazardous processes in a factory;

(*71*) the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory;

(*72*) lightning; and

(*73*) any other matter which the Central Government considers under the circumstance for better working condition for safety at the workplace.

THE THIRD SCHEDULE

[*See* section 12(*1*)]

List of Notifiable Diseases:

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.

2. Lead-tetra-ethyle poisoning.

3. Phosphorus poisoning or its sequelae.

4. Mercury poisoning or its sequelae.

5. Manganese poisoning or its sequelae.

6. Arsenic poisoning or its sequelae.

7. Poisoning by nitrous fumes.

8. Carbon bisulphide poisoning.

9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.

10. Chrome ulceration or its sequelae.

11. Anthrax.

12. Silicosis.

13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.

14. Pathological manifestations due to—

(*a*) radium or other radio-active substances;

(*b*) X-rays.

15. Primary epitheliomatous cancer of the skin.

16. Toxic anaemia.

17. Toxic jaundice due to poisonous substances.

18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.

19. Byssionosis.

20. Asbestosis.

21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.

22. Noise induced hearing loss (exposure to high noise levels).

23. Beriyllium poisoning.

24. Carbon monoxide poisoning.

25. Coal miners' pneumoconiosis.

26. Phosgene poisoning.

27. Occupational cancer.

28. Isocyanates poisoning.

29. Toxic nephritis.

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DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 29*th September,* 2020/*Asvina* 7, 1942 (*Saka*)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE CODE ON SOCIAL SECURITY, 2020

NO. 36 OF 2020

[28*th September,* 2020.]

An Act to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Code on Social Security, 2020.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

(*4*) The applicability of the Chapters specified in columns (*1*) and (*2*) of the First Schedule shall, without prejudice to the applicability of the other provisions of this Code, be such as is specified in corresponding entry in column (*3*) of that Schedule.

(*5*) Notwithstanding anything contained in sub-section (*4*), where it appears to the Central Provident Fund Commissioner, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter III should be made applicable to that establishment, the Central Provident Fund Commissioner, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement:

Provided that where the employer of an establishment to which the provisions of Chapter III applied under this sub-section desires to come out of such applicability, he may make an application to the Central Provident Fund Commissioner and the Central Provident Fund Commissioner shall, if satisfied that there is an agreement between the employer and majority of the employees to this effect, make the provisions of that Chapter inapplicable to such establishment, in such manner and subject to such conditions as may be prescribed by the Central Government.

(*6*) The Central Government may, after giving not less than two months' notice of its intention so to do, by notification, apply the provisions of this Code to any establishment employing not less than such number of persons as may be specified in the notification.

(*7*) Notwithstanding anything contained in sub-section (*4*), where it appears to the Director General of the Corporation, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter IV should be made applicable to that establishment, the Director General of the Corporation, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement:

Provided that where the employer of an establishment to which the provisions of Chapter IV applied under this sub-section desires to come out of such applicability, he may make an application to the Director General of the Corporation and Director General of the Corporation shall, if satisfied that there is an agreement between the employer and majority of the employees to this effect, make the provisions of that Chapter inapplicable to such establishment, in such manner and subject to such conditions as may be prescribed by the Central Government.

(*8*) Notwithstanding anything contained in sub-section (*4*), an establishment to which any Chapter applies at the first instance shall continue to be applied thereafter even if the number of employees therein at any subsequent time falls below the threshold specified in the First Schedule in respect of that Chapter.

Definitions.

2. In this Code, unless the context otherwise requires,—

(*1*) "agent" when used in relation to an establishment, means every person, whether appointed as such or not, who acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such establishment or part thereof;

(*2*) "aggregator" means a digital intermediary or a market place for a buyer or user of a service to connect with the seller or the service provider;

(*3*) "appropriate Government" means—

(*a*) in relation to, an establishment carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified by notification in this behalf, by the Central Government or the establishment of railways including metro railways, mines, oil field, major

ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or the central public sector undertaking or subsidiary companies set up by the central public sector undertakings, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, subsidiary companies or autonomous bodies or any company in which not less than fifty-one per cent. of the paid up share capital is held by the Central Government, as the case may be, or in relation to an establishment having departments or branches in more than one State, as the case may be, the Central Government; and

(*b*) in relation to any other establishment, the State Government.

Explanation 1.—For the purposes of this clause, the expression "metro railway" means the metro railway as defined in sub-clause (*i*) of clause (*1*) of section 2 of the Metro Railways (Operation and Maintenance) Act, 2002.

60 of 2002.

Explanation 2.—For the purposes of this clause, the Central Government shall continue to be the appropriate Government for the central public sector undertakings even if the holding of the Central Government reduces to less than fifty per cent. equity in that public sector undertaking after the commencement of this Code;

(*4*) "audio-visual production" means audio-visual produced wholly or partly in India and includes—

(*i*) animation, cartoon depiction, audio-visual advertisement;

(*ii*) digital production or any of the activities in respect of making thereof; and

(*iii*) features films, non-feature films, television, web-based serials, talk shows, reality shows and sport shows;

(*5*) "Authorised Officer" means such officer of the Central Board, or as the case may be, of the Corporation notified by the Central Government;

(*6*) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include any building or other construction work which is related to any factory or mine or any building or other construction work employing less than ten workers in the preceding twelve months or where such work is related to own residential purposes of an individual or group of individuals for their own residence and the total cost of such work does not exceed fifty lakhs rupees or such higher amount and employing more than such number of workers as may be notified by the appropriate Government;

(*7*) "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;

(*8*) "Building Workers' Welfare Board" means the State Building and other Construction Workers' Welfare Board constituted under sub-section (*1*) of section 7;

(*9*) "career centre" means any office (including employment exchange, place or portal) established and maintained in the manner prescribed by the Central Government for providing such career services (including registration, collection and furnishing of information, either by the keeping of registers or otherwise, manually, digitally, virtually or through any other mode) as may be prescribed by the Central Government, which may, *inter alia*, relate generally or specifically to—

(*i*) persons who seek to employ employees;

(*ii*) persons who seek employment;

(*iii*) occurrence of vacancies; and

(*iv*) persons who seek vocational guidance and career counselling or guidance to start self-employment;

(*10*) "Central Board" means the Board of Trustees of the Employees' Provident Fund constituted under section 4;

(*11*) "Central Provident Fund Commissioner" means the Central Provident Fund Commissioner of the Central Board appointed under sub-section (*1*) of section 14;

(*12*) "child", for the purposes of Chapter VI, includes a stillborn child;

(*13*) "Commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;

(*14*) "company" means a company as defined in clause (*20*) of section 2 of the Companies Act, 2013; 18 of 2013.

(*15*) "compensation" means compensation as provided under Chapter VII;

(*16*) "competent authority" means any authority appointed under section 58 for the purposes of Chapter V or notified for the purposes of Chapter VI or appointed under section 91 for the purposes of Chapter VII, as the case may be, as competent authority by the appropriate Government or the State Government, as the case may be;

(*17*) "completed year of service" means continuous service for twelve months;

(*18*) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(*19*) "contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker but does not include an employee (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;

(*20*) "contractor", in relation to an establishment means a person, who—

(*i*) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment through contract labour; or

(*ii*) supplies contract labour for any work of the establishment as mere human resource,

and includes a sub-contractor;

(*21*) "contribution" means the sum of money payable by the employer, under this Code, to the Central Board and to the Corporation, as the case may be, and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Code;

(*22*) "Corporation" means the Employees' State Insurance Corporation constituted under section 5;

(*23*) "delivery" means the birth of a child;

(*24*) "dependant" means any of the following relatives of deceased employee, namely:—

(*a*) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother:

Provided that for the purposes of Chapter IV, a legitimate adopted son, who has not attained the age of twenty-five years, shall be dependant of the deceased employee;

(*b*) if wholly dependant on the earnings of the employee at the time of his death, a legitimate or adopted son or a daughter who has attained the age of eighteen years and who is infirm; except for the purposes of Chapter IV wherein the word "eighteen" occurring in this sub-clause shall be deemed to have been substituted by the word "twenty-five";

(*c*) if wholly or in part dependent on the earnings of the employee at the time of his death,—

(*i*) a widower;

(*ii*) a parent other than a widowed mother;

(*iii*) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;

(*iv*) a minor brother or an unmarried sister or a widowed sister if a minor;

(*v*) a widowed daughter-in-law;

(*vi*) a minor child of a pre-deceased son;

(*vii*) a minor child of a pre-deceased daughter where no parent of the child is alive, or;

(*viii*) a grandparent if no parent of the employee is alive.

Explanation.—For the purposes of sub-clause (*b*) and items (*vi*) and (*vii*) of sub-clause (*c*), references to a son, daughter or child include an adopted son, daughter or child, respectively;

(*25*) "dock work" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—

(*i*) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;

(*ii*) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; and

(*iii*) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area in board the ship or in the docks;

(*26*) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment, either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory,

52 of 1961.

managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:

Provided that for the purposes of Chapter III, except in case of the Employees' Provident Fund Scheme and Chapter IV, the term "employee" shall mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government and includes such other persons or class of persons as the Central Government may by notification, specify to be employee, for the purposes of those Chapters:

Provided further that for the purposes of counting of employees for the coverage of an establishment under Chapter III and Chapter IV, as the case may be, the employees, whose wages are more than the wage ceiling so notified by the Central Government, shall also be taken into account:

Provided also that for the purposes of Chapter VII, the term "employee" shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government, or as the case may be, the State Government may add to the said Schedule, by notification, for the purposes of that Government;

(*27*) "employer" means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified, by the head of such department, in this behalf or where no authority is so specified, the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,—

(*a*) in relation to an establishment which is a factory, the occupier of the factory;

(*b*) in relation to mine, the owner of the mine or agent or manager having requisite qualification under the law for the time being in force and appointed by the owner or agent of the mine as such;

(*c*) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

(*d*) contractor; and

(*e*) legal representative of a deceased employer;

(*28*) "employment injury" means a personal injury to an employee, caused by accident or an occupational disease, as the case may be, arising out of and in the course of his employment,—

(*i*) for the purposes of Chapter IV, if the employee is an insured or insurable employee under section 28 whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India; and

(*ii*) for the purposes of Chapter VII, whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India;

(*29*) "establishment" means—

(*a*) a place where any industry, trade, business, manufacture or occupation is carried on; or

(*b*) a factory, motor transport undertaking, newspaper establishment, audio-visual production, building and other construction work or plantation; or

(*c*) a mine, port or vicinity of port where dock work is carried out.

Explanation.—For the purposes of Chapter III, where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment;

(*30*) "executive officer" means such officer of the appropriate Government as may be notified by that Government for the purposes of Chapter XIII or an officer authorised in writing by such executive officer to discharge his duties under that Chapter;

(*31*) "exempted employee" for the purposes of Chapter III, means an employee to whom any of the schemes referred to in section 15, but for the exemption granted under this Code, would have applied and for the purposes of Chapter IV, means an employee, whose wage is specified in the notification by the Central Government and who is not liable to pay employee's contribution;

(*32*) "factory" means any premises including the precincts thereof—

(*a*) whereon ten or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(*b*) whereon twenty or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

but does not include a mine, or a mobile unit belonging to the Armed Forces of the Union, railways running shed or a hotel, restaurant or eating place.

Explanation 1.—For computing the number of employees for the purposes of this clause, all the employees in (different groups and relays) a day shall be taken into account.

Explanation 2.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(*33*) "family" means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:—

(*a*) a spouse;

(*b*) a minor legitimate or adopted child dependent upon the employee or an unorganised worker, as the case may be;

(*c*) a child who is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, and who is—

(*i*) receiving education, till he attains the age of twenty-one years; and

(*ii*) an unmarried daughter;

(*d*) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, so long as the infirmity continues;

(*e*) dependent parents (including father-in-law and mother-in-law of a woman employee), whose income from all sources does not exceed such income as may be prescribed by the Central Government;

(*f*) in case the employee or an unorganised worker, as the case may be, is unmarried and his parents are not alive, a minor brother or sister wholly dependent upon the earnings of the Insured Person;

(*34*) "fixed term employment" means the engagement of an employee on the basis of a written contract of employment for a fixed period:

Provided that—

(*a*) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent employee doing the same work or work of a similar nature; and

(*b*) he shall be eligible for all benefits, under any law for the time being in force, available to a permanent employee proportionately according to the period of service rendered by him even if his period of employment does not extend to the required qualifying period of employment;

(*35*) "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;

(*36*) "home-based worker" means a person engaged in, the production of goods or services for an employer in his home or other premises of his choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

(*37*) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under section 122;

(*38*) "Insurance Fund" means the Deposit-Linked Insurance Fund established under clause (*c*) of sub-section (*1*) of section 16;

(*39*) "Insured Person" means the Insured Person referred to in section 28;

(*40*) "Insurance Scheme" means the Deposit-Linked Insurance Scheme framed under clause (*c*) of sub-section (*1*) of section 15;

(*41*) "inter-State migrant worker" means a person who is employed in an establishment and who—

(*i*) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or

(*ii*) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State,

under an agreement or other arrangement for such employment and drawing wages not exceeding eighteen thousand rupees per month or such higher amount as may be notified by the Central Government from time to time;

(*42*) "manufacturing process" means any process for—

(*i*) making, altering, repairing, ornamenting, finishing, oiling, washing, cleaning, breaking up, demolishing, refining, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(*ii*) pumping oil, water, sewage or any other substance; or

(*iii*) generating, transforming or transmitting power; or

(*iv*) composing, offset printing, printing by letter press, lithography, photogravure screen printing, three or four dimensional printing, prototyping, flexography or other types of printing process or book binding; or

(*v*) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(*vi*) preserving or storing any article in cold storage; or

(*vii*) such other activities as the Central Government may notify;

(*43*) "maternity benefit", in respect of Chapter VI, means the payment referred to in sub-section (*1*) of section 60;

(*44*) "medical practitioner" means a person registered under any law for the time being in force, or, any person declared by the State Government, by notification, to be qualified as medical practitioner for the purposes of this Code:

Provided that different class or classes of medical practitioner having specific qualification may be notified by the Central Government for the purposes of Chapter IV and by the appropriate Government for other Chapters of this Code;

(*45*) "medical termination of pregnancy" means the termination of pregnancy
34 of 1971. permissible under the provisions of the Medical Termination of Pregnancy Act, 1971;

(*46*) "mine" shall have the meaning assigned to it in clause (*j*) of sub-section (*1*) of
35 of 1952. section 2 of the Mines Act, 1952;

(*47*) "minor" means a person who has not attained the age of eighteen years;

(*48*) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy, but does not include any miscarriage,
45 of 1860. the causing of which is punishable under the Indian Penal Code;

(*49*) "National Social Security Board" means the National Social Security Board for Unorganised Workers constituted under sub-section (*1*) of section 6;

(*50*) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(*51*) "occupational disease" means a disease specified in the Third Schedule as a disease peculiar to the employment of the employee;

(*52*) "occupier" in respect of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

(*a*) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

(*b*) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (*6*) of section 149 of the Companies
18 of 2013. Act, 2013;

(*c*) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier;

(*53*) "oilfield" shall have the meaning assigned to it in clause (*e*) of section 3 of the
53 of 1948. Oilfields (Regulation and Development) Act, 1948;

(*54*) "organised sector" means an enterprise which is not an unorganised sector;

(*55*) "permanent partial disablement" means, where the disablement is of a permanent nature, such disablement as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:

Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement;

(*56*) "permanent total disablement" means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent.;

(*57*) "Pension Fund" means the Pension Fund established under clause (*b*) of sub-section (*1*) of section 16;

(*58*) "Pension Scheme" means the Employees' Pension Scheme framed under clause (*b*) of sub-section (*1*) of section 15;

(*59*) "plantation" means—

(*a*) any land used or intended to be used for—

(*i*) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;

(*ii*) growing any other plant, which admeasures five hectares or more and in which ten or more persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification, so directs.

Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the piece of land first mentioned shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more;

(*b*) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (*a*), notwithstanding that it admeasures less than five hectares:

Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and

(*c*) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (*a*) and sub-clause (*b*); but does not include factory on the premises;

(*60*) "platform work" means a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment;

(*61*) "platform worker" means a person engaged in or undertaking platform work;

(*62*) "port" shall have the meaning assigned to it in clause (*4*) of section 3 of the 15 of 1908. Indian Ports Act, 1908;

(*63*) "Provident Fund" means the Employees' Provident Fund established under clause (*a*) of sub-section (*1*) of section 16;

(*64*) "Provident Fund Scheme" means the Employees' Provident Fund Scheme framed under clause (*a*) of sub-section (*1*) of section 15;

(*65*) "prescribed" means prescribed by rules made under this Code;

(*66*) "railway" shall have the meaning assigned to it in clause (*31*) of section 2 of the 24 of 1989. Railways Act, 1989;

(*67*) "railway company" includes any persons whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway;

(*68*) "Recovery Officer" means any officer of the Central Government, the State Government, the Central Board or the Corporation, who may be authorised by the Central Government or the State Government, as the case may be, by notification, to discharge the functions and to exercise the powers of a Recovery Officer under this Code;

(*69*) "regulations" means regulations made by the Corporation under this Code;

(*70*) "retirement" means termination of the service of an employee otherwise than on superannuation;

(*71*) "sales promotion employees" means the sales promotion employees as defined in clause (*d*) of section 2 of the Sales Promotion Employees (Conditions of Service) 11 of 1976. Act, 1976;

(*72*) "Schedule" means a Schedule to this Code;

(*73*) "seamen" means any person forming part of the crew of any ship, but does not include the master of the ship;

(*74*) "seasonal factory " means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of ground-nuts, the manufacture of indigo, lac, sugar (including gur) or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year in a manufacturing process as the Central Government may, by notification, specify;

(*75*) "self-employed worker" means any person who is not employed by an employer, but engages himself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;

(*76*) "shop", in respect of a State, means a shop as defined in any law for the time being in force dealing with the shop in that State;

(*77*) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical ground;

(*78*) "social security" means the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code;

(*79*) "Social Security Organisation" means any of the following organisations established under this Code, namely:—

(*a*) the Central Board of Trustees of Employees' Provident Fund constituted under section 4;

(*b*) the Employees' State Insurance Corporation constituted under section 5;

(*c*) the National Social Security Board for Unorganised Workers constituted under section 6;

(*d*) the State Unorganised Workers' Social Security Board constituted under section 6;

(*e*) the State Building and other Construction Workers' Welfare Boards constituted under section 7; and

(*f*) any other organisation or special purpose vehicle declared to be the social security organisation by the Central Government;

(*80*) "State Government" includes—

(*a*) in relation to a Union territory with legislature, the Government of the Union territory; and

(*b*) in relation to a Union territory without legislature, the administrator appointed under article 239 of the Constitution as an administrator thereof;

(*81*) "State Unorganised Workers' Board" means the State Unorganised Workers' Social Security Board constituted under sub-section (*9*) of section 6;

(*82*) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service, as the age on the attainment of which the employee shall vacate the employment:

Provided that for the purposes of Chapter III, the age of superannuation shall be fifty-eight years;

(*83*) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of the injury;

(*84*) "Tribunal" means the Industrial Tribunal constituted by the appropriate Government under section 7A of the Industrial Disputes Act, 1947; 14 of 1947.

(*85*) "unorganised sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;

(*86*) "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act, 1947 or Chapters III to VII of this Code; 14 of 1947.

(*87*) "vacancy", for the purposes of Chapter XIII, means an unoccupied post (including newly created post, post of trainee, post to be filled through apprentice or any unoccupied post created in an establishment by any other means) in a cadre or occupation for the purpose of employing a person and carrying remuneration;

(*88*) "wages" means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

(*a*) basic pay;

(*b*) dearness allowance; and

(*c*) retaining allowance, if any,

but does not include—

(*a*) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(*b*) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(*c*) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(*d*) any conveyance allowance or the value of any travelling concession;

(*e*) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(*f*) house rent allowance;

(*g*) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(*h*) any overtime allowance;

(*i*) any commission payable to the employee;

(*j*) any gratuity payable on the termination of employment;

(*k*) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment, under any law for the time being in force:

Provided that for calculating the wages under this clause, if payments made by the employer to the employee under sub-clauses (*a*) to (*i*) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in sub-clauses (*d*), (*f*), (*g*) and (*h*) shall be taken for computation of wage.

Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

(*89*) "wage ceiling" means such amount of wages as may be notified by the Central Government, for the purposes of becoming a member under Chapter III and Chapter IV;

(*90*) "wage worker" means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and the State Government, as the case may be;

(*91*) "woman" means a woman employed, whether directly or through any contractor, for wages in any establishment:

Provided that for the purposes of Chapter IV, a woman who is or was an employee in respect of whom contribution is or were payable under the said Chapter and who is by

reason thereof, entitled to any of the benefits provided under the said Chapter shall be called "insured woman" and shall include—

(*i*) a commissioning mother who as biological mother wishes to have a child and prefers to get embryo implanted in any other woman;

(*ii*) a woman who legally adopts a child of up to three months of age.

Registration and cancellation of an establishment.

3. (*1*) Every establishment to which this Code applies shall be electronically or otherwise, registered within such time and in such manner as may be prescribed by the Central Government:

Provided that the establishment which is already registered under any other Central labour law for the time being in force shall not be required to obtain registration again under this Code and such registration shall be deemed to be registration for the purposes of this Code:

(*2*) Any establishment to which Chapter III or Chapter IV applies, and whose business activities are in the process of closure, may make an application for cancellation of registration granted under this section.

(*3*) The manner of making application for cancellation of the registration under sub-section (*2*), the conditions subject to which the registration shall be cancelled and the procedure of cancellation and other matters relating thereto, shall be such as may be prescribed by the Central Government.

CHAPTER II

SOCIAL SECURITY ORGANISATIONS

Constitution of Board of Trustees of Employees' Provident Fund.

4. (*1*) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Board of Trustees of the Employees' Provident Fund to be called the Central Board, for the purposes of Chapter III and the provisions of this Code relating to that Chapter, for the administration of the funds vested in it in such manner as may be prescribed by the Central Government, consisting of the following members, namely:—

(*a*) a Chairperson and a Vice-Chairperson to be appointed by the Central Government;

(*b*) not more than five persons appointed by the Central Government from amongst its officials;

(*c*) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, to be appointed by the Central Government;

(*d*) ten persons representing employers of the establishments to which the schemes referred to in sub section (*1*) of section 15 applies, to be appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf;

(*e*) ten persons representing employees in the establishments to which schemes referred to in sub-section (*1*) of section 15 applies, who shall be appointed by the Central Government after consultation with such organisations of employees as may be recognised by that Government in this behalf; and

(*f*) the Central Provident Fund Commissioner, *ex officio.*

(*2*) The Central Board shall be a body corporate by the name of Board of Trustees of the Employees' Provident Fund, having perpetual succession and a common seal and shall by the said name sue and be sued.

(*3*) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an Executive Committee from amongst the members of the Central Board to assist the Central Board in performance of its functions in such manner as may be prescribed by the Central Government.

(*4*) The Central Board may, by order, constitute one or more committees of such composition as may be specified in the order to assist it in the discharge of its functions.

(*5*) The Central Board may, by order, delegate to its Chairperson or to its Executive Committee or to any of its officers and a State Board constituted under section 12 may, by order, delegate to its Chairperson or to any of its officers, subject to such conditions and limitations, if any, as it may specify in such order, such of its powers and functions under this Code as it may deem necessary for efficient administration of the schemes referred to in sub-section (*1*) of section 15.

(*6*) The terms and conditions, including tenure of office, subject to which a member of the Central Board and Executive Committee shall discharge their respective duties may be such as may be prescribed by the Central Government:

Provided that a member of the Central Board shall, notwithstanding the expiry of the tenure of his office, continue to hold office until his successor is appointed.

(*7*) The Central Board, apart from the functions specified in this Code, shall also perform such other functions in such manner as may be prescribed by the Central Government.

Constitution of Employees' State Insurance Corporation.

5. (*1*) The Central Government may, by notification, constitute with effect from such date as may be specified therein, the Employees' State Insurance Corporation to be called the Corporation, for the purposes of Chapter IV and the provisions of this Code relating to that Chapter and the administration thereof, in such manner as may be prescribed by the Central Government, consisting of the following members, namely:—

(*a*) a Chairperson to be appointed by the Central Government;

(*b*) a Vice-Chairperson to be appointed by the Central Government;

(*c*) not more than five persons to be appointed by the Central Government from amongst its officials;

(*d*) one person representing each of such States in such manner, as may be prescribed by the Central Government;

(*e*) one person to be appointed by the Central Government to represent the Union territories;

(*f*) ten persons representing employers to be appointed by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;

(*g*) ten persons representing employees to be appointed by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;

(*h*) two persons representing the medical profession to be appointed by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government;

(*i*) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States; and

(*j*) the Director General of the Corporation, *ex officio.*

(*2*) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation, having perpetual succession and a common seal and shall by the said name sue and be sued.

(*3*) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Standing Committee from amongst the members of the Corporation, in such manner as may be prescribed by the Central Government.

(*4*) Subject to the general superintendence and control of the Corporation, the Standing Committee—

(*a*) shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation in such manner as may be prescribed by the Central Government;

(*b*) shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf; and

(*c*) may, in its discretion, submit any other case or matter for the decision of the Corporation.

(*5*) (*a*) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Medical Benefit Committee of such composition as may be specified therein, to assist the Corporation and the Standing Committee in performance of its functions relating to administration of medical benefits.

(*b*) the Medical Benefit Committee shall perform such duties and exercise such powers as may be prescribed by the Central Government.

(*6*) The Corporation may, by order, constitute one or more committees of such composition as may be specified in the regulations to assist it in the discharge of its functions.

(*7*) The terms and conditions, including tenure of office, subject to which a member of the Corporation and Standing Committee shall discharge their respective duties may be such as may be prescribed by the Central Government:

Provided that a member of the Corporation shall, notwithstanding the expiry of the tenure of his office, continue to hold office until his successor is appointed.

National Social Security Board and State Unorganised Workers' Board.

6. (*1*) The Central Government shall, by notification, constitute a National Social Security Board for unorganised workers to exercise the powers conferred on, and to perform the functions assigned to, it under this Code, in such manner as may be prescribed by the Central Government.

(*2*) The National Social Security Board shall consist of the following members, namely:—

(*a*) Union Minister for Labour and Employment as Chairperson;

(*b*) Secretary, Ministry of Labour and Employment as Vice-Chairperson;

(*c*) forty members to be nominated by the Central Government, out of whom—

(*i*) seven members representing unorganised sector workers;

(*ii*) seven members representing employers of unorganised sector;

(*iii*) seven members representing eminent persons from civil society;

(*iv*) two members representing the Lok Sabha and one from the Rajya Sabha;

(*v*) ten members representing Central Government Ministries and Departments concerned;

(*vi*) five members representing State Governments;

(*vii*) one member representing the Union territories; and

(*d*) the Director General Labour Welfare, as Member-Secretary, *ex officio.*

(*3*) All members except Chairperson of the National Social Security Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(*4*) The manner in which members shall be nominated from each of the categories specified in clause (*c*) of sub-section (*2*), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the National Social Security Board shall be such as may be prescribed by the Central Government:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.

(*5*) The term of the National Social Security Board shall be three years.

(*6*) The National Social Security Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed by the Central Government.

(*7*) The National Social Security Board shall perform the following functions, namely:—

(*a*) recommend to the Central Government for framing suitable schemes for different sections of unorganised workers, gig workers and platform workers;

(*b*) advise the Central Government on such matters arising out of the administration of this Code as may be referred to it;

(*c*) monitor such social welfare schemes for unorganised workers, gig workers and platform workers as are administered by the Central Government;

(*d*) review the record keeping functions performed at the State level;

(*e*) review the expenditure from the fund and account; and

(*f*) undertake such other functions as are assigned to it by the Central Government from time to time.

(*8*) The Central Government may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the Central Government upon such matters arising out of the administration of this Code relating to unorganised workers and such other matters as the Central Government may refer to it for advice.

(*9*) Every State Government shall, by notification, constitute a State Board to be known as (name of the State) Unorganised Workers' Social Security Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Code, in such manner as may be prescribed by the State Government.

(*10*) Every State Unorganised Workers' Board shall consist of the following members, namely:—

(*a*) Minister of Labour and Employment of the concerned State as Chairperson, *ex officio;*

(*b*) Principal Secretary or Secretary (Labour) as Vice-Chairperson;

(*c*) one member representing the Central Government in the Ministry of Labour and Employment;

(*d*) thirty-one members to be nominated by the State Government, out of whom—

(*i*) seven representing the unorganised workers;

(*ii*) seven representing employers of unorganised workers;

(*iii*) two members representing the Legislative Assembly of the concerned State;

(*iv*) five members representing eminent persons from civil society;

(*v*) ten members representing the State Government Departments concerned; and

(*e*) Member-Secretary as notified by the State Government.

(*11*) All members except Chairperson of the State Unorganised Workers' Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(*12*) The manner in which members shall be nominated from each of the categories specified in clause (*d*) of sub-section (*10*), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Unorganised Workers' Board shall be such as may be prescribed by the State Government:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.

(*13*) The term of the State Unorganised Workers' Board shall be three years.

(*14*) The State Unorganised Workers' Board shall meet at least once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed by the State Government.

(*15*) The State Board shall perform the following functions, namely:—

(*a*) recommend the State Government for framing suitable schemes for different sections of the unorganised sector workers;

(*b*) advise the State Government on such matters arising out of the administration of this Code as may be referred to it;

(*c*) monitor such social welfare schemes for unorganised workers as are administered by the State Government;

(*d*) review the record keeping functions performed at the district level;

(*e*) review the progress of registration and issue of cards to unorganised sector workers;

(*f*) review the expenditure from the funds under various schemes; and

(*g*) undertake such other functions as are assigned to it by the State Government from time to time.

(*16*) The State Government may, by notification, constitute with effect from such date as may be specified therein, one or more advisory committee to advise the State Government upon such matters arising out of the administration of this Code relating to unorganised workers and such other matters as the State Government may refer to it for advice.

Constitution of State Building Workers' Welfare Boards.

7. (*1*) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the.....(name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this section and Chapter VIII.

(*2*) The Building Workers' Welfare Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(*3*) The Building Workers' Welfare Board shall consist of a chairperson to be nominated by the State Government, one member to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:

Provided that the Building Workers' Welfare Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman.

(*4*) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Building Workers' Welfare Board, and the manner of filling of casual vacancies of the members of the Building Workers' Welfare Board, shall be such as may be prescribed by the State Government.

(*5*) (*a*) The Building Workers' Welfare Board shall appoint a Secretary and such officers and employees as it considers necessary for the efficient discharge of its functions under this Code.

(*b*) The Secretary of the Building Workers' Welfare Board shall be its chief executive officer.

(*c*) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Building Workers' Welfare Board shall be such as may be prescribed by the State Government.

(*6*) The Building Workers' Welfare Board shall perform the following functions, namely:—

(*a*) provide death and disability benefits to a beneficiary or his dependants;

(*b*) make payment of pension to the beneficiaries who have completed the age of sixty years;

(*c*) pay such amount in connection with premium for Group Insurance Scheme of the beneficiaries as may be prescribed by the appropriate Government;

(*d*) frame educational schemes for the benefit of children of the beneficiaries as may be prescribed by the appropriate Government;

(*e*) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed by the appropriate Government;

(*f*) make payment of maternity benefit to the beneficiaries;

(*g*) frame skill development and awareness schemes for the beneficiaries;

(*h*) provide transit accommodation or hostel facility to the beneficiaries;

(*i*) formulation of any other welfare scheme for the building worker beneficiaries by State Government in concurrence with the Central Government; and

(*j*) make provision and improvement of such other welfare measures and facilities as may be prescribed by the Central Government.

(*7*) The State Government may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the State Government upon such matters arising out of the administration of this Code relating to building workers and such other matters as the State Government may refer to it for advice.

Disqualification and removal of a member of any Social Security Organisation.

8. (*1*) No person shall be chosen as, or continue to be, a member of a Social Security Organisation, or any Committee thereof who,—

(*a*) is or at any time has been adjudged an insolvent; or

(*b*) is found to be a lunatic or becomes of unsound mind; or

(*c*) is or has been convicted of any offence involving moral turpitude; or

(*d*) is an employer in an establishment and has defaulted in the payment of any dues under this Code;

(*e*) is a member of a Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, when he ceases to be such member of the Parliament or State Legislative Assembly, as the case may be; or

(*f*) is a member of Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, and he becomes a—

(*i*) Minister of Central or State Government; or

(*ii*) Speaker or Deputy Speaker of House of the People or a State Legislative Assembly; or

(*iii*) Deputy Chairman of the Council of States.

Explanation 1.—If any question arises whether any person is disqualified under clause (*d*), it shall be referred to the appropriate Government and the decision of the appropriate Government on any such question shall be final.

Explanation 2.—Clause (*f*) shall not apply in case of persons who are members of the Social Security Organisation *ex officio*, by virtue of being a Minister.

(*2*) The Central Government, in case of the Central Board, the Corporation and the National Social Security Board and the State Government in case of the State Unorganised Workers' Board and the Building Workers' Welfare Board, may remove any member of such Social Security Organisation from his office, who,—

(*a*) is or has become subject to any of the disqualifications mentioned in sub-section (*1*); or

(*b*) is absent without leave of the Social Security Organisation of which he is a member for more than three consecutive meetings of the Social Security Organisation or a Committee thereof;

(*c*) in the opinion of such Government, has so abused the position of his office as to render that member's continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member in the opinion of such Government:

Provided that no person shall be removed under clauses (*b*) and (*c*), unless that person has been given an opportunity to show cause as to why he should not be removed:

Provided further that a member of the Executive Committee of the Central Board or the Standing Committee of the Corporation shall cease to hold office if he ceases to be a member of the Central Board or the Corporation, as the case may be.

(*3*) Any member of a Social Security Organisation or a Committee thereof may at any time resign from his office in writing under his hand addressed to the Central Government or the State Government, as the case may be, which had made his appointment and on acceptance of such resignation, his office shall become vacant.

(*4*) If in a Social Security Organisation or a Committee thereof, the Central Government or the State Government, as the case may be, is of the opinion that—

(*a*) any member thereof representing employers or the employees or the unorganised workers, as the case may be, ceases to adequately represent so; or

(*b*) any member thereof representing to be an expert in a specified area, is later on found not to possess sufficient expertise in that area; or

(*c*) having regard to exigencies of circumstances or services in such Government, the member thereof representing such Government cannot continue to represent the Government,

then, such Government may, by order, remove such member from his office:

Provided that no person shall be removed under clause (*a*) or clause (*b*), unless that person has been given an opportunity to show cause as to why he should not be removed.

(*5*) If any member of a Social Security Organisation or a Committee thereof, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration of the Social Security Organisation or a Committee thereof, then, he shall, as soon as may be possible after such fact of interest has come to his knowledge, disclose the nature of the interest and such disclosure shall be recorded in the proceedings of the Social Security Organisation or the Committee thereof, as the case may be, and such member, thereafter, shall not take part in any proceeding or decision of the Social Security Organisation, or a Committee thereof relating to that matter.

Procedure for transaction of business of Social Security Organisation, etc.

9. (*1*) A Social Security Organisation or any Committee thereof shall meet at such intervals and observe such procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed by the Central Government.

(*2*) All orders and decisions of the Social Security Organisation shall be authenticated by the Central Provident Fund Commissioner, Director General, Director General Labour Welfare, State Principal Secretary or Secretary (Labour) of the respective Social Security Organisations or such other officer as may be notified by the appropriate Government and all other instruments issued by the Social Security Organisation shall be authenticated by the signature of such officer as may be authorised by an order by the respective Social Security Organisations.

(*3*) No act done or proceeding taken by a Social Security Organisation or any Committee thereof shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Social Security Organisation or the Committee thereof, as the case may be.

(*4*) Such members of a Social Security Organisation or any Committee thereof shall be entitled for such fee and allowances as may be prescribed by the Central Government.

Executive Heads of Central Board and Corporation.

10. The Central Provident Fund Commissioner and the Director General shall be the whole-time officer of the Central Board and the Corporation, respectively, and such officer shall not undertake any work unconnected with his office without the prior approval of the Central Government.

Supersession of Corporation, Central Board, National Social Security Board or State Unorganised Workers' Board or the Building Workers' Welfare Board.

11. (*1*) If the Central Government in case of the Central Board, the Corporation or the National Social Security Board and the State Government, in case of the State Unorganised Workers' Board or the Building Workers' Welfare Board, is of the opinion that the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board or any of the Committee thereof, as the case may be, is unable to perform its functions, or, has persistently made delay in the discharge of its functions or has exceeded or abused its powers or jurisdiction, then such Government may, by notification, supersede the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board, or any of the Committees thereof, as the case may be, and reconstitute it in such manner as may be prescribed by the Central Government:

Provided that, before issuing a notification under this sub-section on any of the grounds specified herein, such Government shall give an opportunity to the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board or any Committee thereof, as the case may be, to show cause as to why it should not be superseded and shall consider the explanations and objections raised by it and take appropriate action thereon.

(*2*) After the supersession of the Corporation, or the Central Board or the National Social Security Board, the State Unorganised Workers' Board or the Building Workers' Welfare Board, or any of the Committee thereof, as the case may be, and until it is reconstituted, the Central Government or the State Government, as the case may be, shall make such alternate arrangements for the purpose of administration of the relevant provisions of this Code, as may be prescribed by the Central Government.

(*3*) The Central Government or the State Government, as the case may be, shall cause, a full report of any action taken by it under this section and the circumstances leading to such action, to be laid before each House of Parliament or the State Legislature, as the case may be, at the earliest opportunity and in any case not later than three months from the date of the notification of supersession issued under sub-section (*1*).

State Board, Regional Boards, local committees, etc.

12. (*1*) The Central Government may, by notification,—

(*i*) after consultation with the Government of any State, constitute for that State, a Board of Trustees (hereinafter in this Code referred to as a State Board) which shall exercise such powers and perform such functions as may be assigned by notification, to it by the Central Government from time to time;

(*ii*) specify the manner of constitution of a State Board, the terms and conditions of the appointment of its members and the procedure of its meeting and other proceedings relating thereto.

(*2*) The Corporation may, by order, appoint Regional Boards and local committees in such area and in such manner to perform such functions and to exercise such powers as may be specified in the regulations.

Entrustment of additional functions to Social Security Organisations.

13. Notwithstanding anything contained in this Code, the Central Government may, by notification,—

(*i*) assign additional functions to a Social Security Organisation including administration of any other Act or scheme relating to social security subject to such provisions as may be specified in this behalf in the notification:

Provided that while the additional function of administering the Act or scheme are assigned under this clause to a Social Security Organisation, the officer or authority of such organisation, to whom such function has been assigned, shall exercise the powers under the enactment or scheme required for discharging such function in the manner as may be specified in the notification:

Provided further that the Social Security Organisations may assign such additional functions to existing officers or appoint or engage new officers necessary for such purpose, if such functions may not be performed and completed with the assistance of its personnel as existing immediately before the assignment of the additional functions;

(*ii*) specify the terms and conditions of discharging the functions under clause (*i*) by the Social Security Organisation;

(*iii*) provide that the expenditure incurred in discharging the functions specified in clause (*i*) including appointment or engagement of personnel necessary for proper discharge of such functions shall be borne by the Central Government;

(*iv*) specify the powers which the Social Security Organisation shall exercise while discharging the functions specified in clause (*i*); and

(*v*) provide that any expenditure referred to in clause (*iii*) shall be made by the Social Security Organisation after prior approval of the Central Government.

CHAPTER III

EMPLOYEES' PROVIDENT FUND

Appointment of officers of Central Board.

14. (*1*) The Central Government may appoint a Central Provident Fund Commissioner who shall be the Chief Executive Officer of the Central Board and shall also function as head of the Employees' Provident Fund Organisation.

Explanation.—For the purposes of this Code, the expression "Employees' Provident Fund Organisation" means the organisation consisting of officers and employees of the Central Board.

(*2*) The Central Provident Fund Commissioner shall be subject to the general control and superintendence of the Central Board in the discharge of his functions under this Code.

(*3*) The Central Government shall also appoint a Financial Advisor and Chief Accounts Officer to assist the Central Provident Fund Commissioner in the discharge of his duties.

(*4*) The Central Board may appoint, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and such other officers and employees as it may consider necessary for the efficient administration of the Provident Fund Scheme, the Pension Scheme and the Insurance Scheme or other responsibilities assigned to the Central Board from time to time by the Central Government.

(*5*) No appointment to the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Adviser and Chief Accounts Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' post under the Central Government shall be made except after consultation with the Union Public Service Commission:

Provided that no such consultation shall be necessary in regard to any such appointment—

(*a*) for a period not exceeding one year; or

(*b*) if the person to be appointed is, at the time of his appointment,—

(*i*) a member of the Indian Administrative Service, or

(*ii*) in the service of the Central Government or the Central Board in a Group 'A' or Group 'B' post.

(*6*) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner and the Financial Adviser and Chief Accounts Officer shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Provident Fund.

(*7*) (*a*) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government:

Provided further that the salary and allowances of the officers specified in this clause shall not exceed the scale of pay respectively provided in the Provident Fund Scheme.

(*b*) In determining the corresponding scales of pay of officers and employees under clause (*a*), the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.

Schemes.

15. (*1*) The Central Government may, by notification—

(*a*) frame a scheme to be called the Employees' Provident Fund Scheme for which the provident funds shall be established under this Chapter for employees or for any class of employees and specify the establishments or class of establishments to which the said scheme shall apply;

(*b*) frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(*i*) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies;

(*ii*) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; and

(*iii*) nominee pension;

(*c*) frame a scheme to be called the Employees' Deposit Linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Chapter applies;

(*d*) frame any other scheme or schemes for the purposes of providing social security benefits under this Code to self-employed workers or any other class of persons; and

(*e*) modify any scheme referred to in clauses (*a*), (*b*), (*c*) and (*d*) by adding thereto, amending or varying therein, either prospectively or retrospectively.

(*2*) Subject to the provisions of this Chapter, the schemes referred to in clauses (*a*), (*b*) and (*c*) of sub-section (*1*) may provide for all or any of the matters respectively specified in Part A, Part B and Part C of the Fifth Schedule.

(*3*) The schemes may provide that all or any of its provisions shall take effect either prospectively or retrospectively on and from such date as may be specified in that behalf in the scheme.

Funds.

16. (*1*) The Central Government may, for the purposes of—

(*a*) the Provident Fund Scheme, establish a Provident Fund where the contributions paid by the employer to the fund shall be ten per cent. of the wages for the time being payable to each of the employees (whether employed by him directly or by or through a contactor), and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten per cent. of the wages, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section:

Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification, specify, this section shall be subject to the modification that for the words "ten per cent." at both the places where they occur, the words "twelve per cent." shall be substituted:

Provided further that the Central Government, after making such inquiry as it deems fit, may, by notification, specify rates of employees' contributions and the period for which such rates shall apply for any class of employee;

(*b*) the Pension Scheme, establish a Pension Fund in the manner specified in that scheme by that Government into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(*i*) such sums from the employer's contribution under clause (*a*) not exceeding eight and one-third per cent. of the wages or such per cent. of wages as may be notified by the Central Government;

(*ii*) such sums payable as contribution to the Pension Fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 143 to which the pension scheme applies;

(*iii*) such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify;

(*c*) the Insurance Scheme, establish a Deposit-Linked Insurance Fund in the manner specified in that scheme by that Government into which there shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent. of the wages or such per cent. of wages as may be notified by the Central Government for the time being payable in relation to such employee:

Provided that the employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under this clause, as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under the Insurance Scheme.

(*2*) The Provident Fund, the Pension Fund and the Insurance Fund shall vest in, and be administered by, the Central Board in such manner as may be specified in the respective schemes.

Contribution in respect of employees and contractors.

17. (*1*) The amount of contribution (that is to say, the employer's contribution as well as the employee's contribution in pursuance of any scheme and the employer's contribution in pursuance of the Insurance Scheme) and any charge for meeting the cost of administering the fund paid or payable by an employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(*2*) A contractor from whom the amounts mentioned in sub-section (*1*) may be recovered in respect of any employee employed by or through him may recover from such employee, the employee's contribution under any scheme by deduction from the wages payable to such employee.

(*3*) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section (*1*) from the wages payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

Fund to be recognised under Act 43 of 1961.

18. For the purposes of the Income-tax Act, 1961, the Provident Fund shall be deemed to be a recognised provident fund within the meaning of clause (*38*) of section 2 of that Act:

Provided that nothing contained in the said Act shall operate to render ineffective any provision of the Provident Fund Scheme (under which the Provident Fund is established) which is repugnant to any of the provisions of that Act or of the rules made thereunder.

Priority of payment of contributions over other debts.

19. Notwithstanding anything contained in any other law for the time being in force, any amount due under this Chapter shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016.

31 of 2016.

Chapter not to apply to certain establishments.

20. (*1*) This Chapter shall not apply—

2 of 1912.

(*a*) to any establishment registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State relating to co-operative societies employing less than fifty persons and working without the aid of power; or

(*b*) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

(*c*) to any other establishment set up under any Central or State or any other law for the time being in force and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that law governing such benefits; or

(*d*) to the employees who, immediately before the commencement of this Code, were receiving benefits of Provident Fund under any Central or State enactment.

(*2*) If the Central Government is of the opinion that having regard to the financial position of any class of establishment or other circumstances of the case, it is necessary or expedient so to do, it may, by notification and subject to such conditions, as may be specified in the notification, exempt, whether prospectively or retrospectively, that class of establishments from the operation of this Chapter for such period as may be specified in the notification.

Authorising certain employers to maintain provident fund accounts.

21. (*1*) The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer by an order in writing, to maintain a provident fund account in relation to the establishment, in such manner as may be prescribed by the Central Government and subject to such terms and conditions as may be specified in the Provident Fund Scheme:

Provided that no authorisation shall be made under this sub-section if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Code during the three years immediately preceding the date of such authorisation.

(*2*) Where an establishment is authorised to maintain a provident fund account under sub-section (*1*), the employer in relation to such establishment shall maintain such account, submit such return, deposit the contribution in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Provident Fund Scheme.

(*3*) Any authorisation made under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Code:

Provided that before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard.

Transfer of accounts.

22. Where an employee,—

(*a*) employed in an establishment to which this Chapter applies, relinquishes his employment therefrom and obtains employment in any other establishment to which this Chapter applies or not; or

(*b*) employed in an establishment to which this Chapter does not apply, relinquishes his employment therefrom and obtains employment in an establishment to which this Chapter applies,

then, his accumulated amount in provident fund account or pension account, as the case may be, shall be transferred or dealt with in the manner as may be specified in the Provident Fund Scheme or the Pension Scheme, as the case may be.

Appeal to Tribunal.

23. (*1*) Any person aggrieved by an order passed by any authority in regard to the following matters may prefer an appeal to the Tribunal constituted by the Central Government, namely:—

(*a*) determination and assessment of dues under section 125 relating to Chapter III; and

(*b*) levy of damages under section 128 relating to Chapter III.

(*2*) Every appeal under sub-section (*1*) shall be filed in such form and manner, within such time and accompanied by such fees as may be prescribed by the Central Government.

(*3*) No appeal under clause (*a*) of sub-section (*1*) by the employer shall be entertained by the Tribunal unless he has deposited with Social Security Organisation concerned twenty-five per cent. of the amount due from him as determined by an officer under section 125.

(*4*) The Tribunal shall endeavour to decide the appeal within a period of one year from the date on which the appeal has been preferred.

CHAPTER IV

EMPLOYEES STATE INSURANCE CORPORATION

Principal Officers and other staff.

24. (*1*) The Central Government may appoint a Director General of the Corporation and a Financial Commissioner, who shall be the Principal Officers of the Corporation.

(*2*) The Director General and the Financial Commissioner shall hold office for such period, not exceeding five years, as may be specified in the order of appointment:

Provided that outgoing Director General or Financial Commissioner, as the case may be, shall be eligible for re-appointment if he is otherwise qualified.

(*3*) The Director General or the Financial Commissioner shall receive such salary and allowances as may be prescribed by the Central Government.

(*4*) The Director General and the Financial Commissioner shall exercise such powers and discharge such duties as may be prescribed by the Central Government and shall perform such other functions as may be specified in the regulations.

(*5*) A person shall be disqualified from being appointed as or for being the Director General of the Corporation or the Financial Commissioner if he is subject to any of the disqualifications specified in section 8.

(*6*) The Central Government may at any time remove the Director General of the Corporation or the Financial Commissioner from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-third of the total strength of the Corporation.

(*7*) The Corporation may employ such other officers and employees as may be necessary for the efficient transaction of its business and for discharge of any other responsibilities assigned to the Corporation from time to time by the Central Government:

Provided that the sanction of the Central Government shall be obtained for the creation of any post the maximum monthly salary of which exceeds such salary as may be prescribed by the Central Government.

(*8*) (*a*) The method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees of the Corporation shall be such as may be specified in the regulations in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that the terms and conditions of service including pay and allowances of such posts of medical specialists and super specialists in the Corporation possessing comparable qualifications and expertise, as may be notified by the Central Government, with the equivalent posts of the specialists and super specialists in the All India Institute of Medical Sciences or in the Post Graduate Institutes of Medical Sciences and Research or other similar institutions established by the Central Government, shall respectively be similar:

Provided further that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government:

Provided also that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis.

(*b*) In determining the corresponding scales of pay of officers and employees under clause (*a*), the Corporation shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Corporation shall refer the matter to the Central Government whose decision thereon shall be final.

(*9*) Every appointment to posts (other than medical, nursing or para-medical posts) corresponding to Group 'A' and Group 'B' Gazetted posts under the Central Government shall be made in consultation with the Union Public Service Commission:

Provided that the provisions of this sub-section shall not apply to an officiating or temporary appointment for a period not exceeding one year:

Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade.

(*10*) If any question arises whether a post corresponds to a Group 'A' and Group 'B' posts under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.

Employees' State Insurance Fund.

25. (*1*) All contributions and user charges paid under this Chapter and all other moneys received on behalf of the Corporation shall be paid into a fund (hereinafter referred to as the Employees' State Insurance Fund) which shall be held and administered by the Corporation for the purposes of this Code:

Provided that the user charges collected from the other beneficiaries referred to in section 44 shall be deemed to be contribution and shall form part of Employees' State Insurance Corporation.

(*2*) The Corporation may accept grants, donations, Corporate Social Responsibility Fund and gifts from the Central or any State Government, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Chapter.

(*3*) Subject to the other provisions contained in this Code and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be deposited in such bank or banks as may be approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund.

(*4*) The Employees State Insurance Fund or any other money which is held by the Corporation shall be deposited or invested in the manner prescribed by the Central Government and the account referred to in sub-section (*3*) shall be operated by such officers as may be authorised by the Committee constituted under sub-section (*3*) of section 5 (hereinafter referred to as the Standing Committee) with the approval of the Corporation.

Purposes for which Employees' State Insurance Fund may be expended.

26. Subject to the provisions of this Chapter and the rules and regulations relating thereto, made under this Code, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:—

(*a*) payment of benefits and provision of medical treatment and attendance to Insured Persons referred to in section 28 and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Chapter and the rules and regulations relating thereto and defraying the charges and costs in connection therewith;

(*b*) payment of fees and allowances to members of the Corporation, the Standing Committee, the Medical Benefit Committee or other Committees thereof;

(*c*) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and staff of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Code relating to this Chapter;

(*d*) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit

of Insured Persons referred to in section 28 and, where the medical benefit is extended to their families;

(*e*) payment of contributions to any State Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to Insured Persons referred to in section 28 and, where the medical benefit is extended to their families, their families, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;

(*f*) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;

(*g*) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Chapter;

(*h*) payment of any sums under any contract entered into for the purposes of this Code by Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;

(*i*) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or staff for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;

(*j*) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Code relating to this Chapter;

(*k*) defraying expenditure, within the limits prescribed by the Central Government after consultation with the Corporation, on measures for the improvement of the health and welfare of Insured Persons and for the rehabilitation and re-employment of Insured Persons referred to in section 28 who have been disabled or injured; and

(*l*) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

Holding of property, etc.

27. (*1*) The Corporation may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.

(*2*) Subject to such conditions as may be prescribed by the Central Government, the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Code and may, subject to as aforesaid, from time to time re-invest or realise such investments.

(*3*) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.

(*4*) The Corporation may constitute for the benefit of its officers and staff or any class of them, such provident or other benefit fund as it may think fit.

All employees to be insured.

28. (*1*) Subject to the provisions of this Code, every employee in an establishment to which this Chapter applies shall be insured in such manner whether electronically or otherwise, as may be prescribed by the Central Government.

(*2*) An employee whether insured or insurable under sub-section (*1*) in respect of whom contributions are or were payable and who is by reason thereof, entitled to any of the benefits provided under this Chapter, shall be called "Insured Person".

Contributions.

29. (*1*) The contribution payable under this Chapter in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

(*2*) The contributions (employer's contribution and the employee's contribution both) shall be paid at such rates as may be prescribed by the Central Government.

(*3*) The wage period in relation to an employee shall be the unit as specified in the regulations (hereinafter referred to as the wage period) in respect of which all contributions shall be payable under this Chapter.

(*4*) The contributions payable in respect of each wage period shall ordinarily fall due on the last day of the wage period, and where an employee is employed for part of the wage period, or is employed under two or more employers during the same wage period, the contributions shall fall due on such days as may be specified in the regulations.

Administrative expenses.

30. The types of expenses which may be termed as administrative expenses and the percentage of the income of the Corporation which may be spent for such expenses shall be such as may be prescribed by the Central Government and the Corporation shall keep its administrative expenses within the limit so prescribed by the Central Government.

Provisions as to payment of contributions by employer, etc.

31. (*1*) The employer shall pay in respect of every employee, whether directly employed by him or by or through a contractor, both the employer's contribution and the employee's contribution.

(*2*) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Code and the rules and regulations, if any, made thereunder in this behalf, the employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by reduction from his wages and not otherwise:

Provided that no such deduction shall be made from any wages other than such as relates to the period or part of the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period.

(*3*) Notwithstanding any contract to the contrary, neither the employer nor the contractor shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.

(*4*) Any sum deducted by the employer from wages under this Chapter shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(*5*) The employer shall bear the expenses of remitting the contributions to the Corporation.

(*6*) An employer, who has paid contribution in respect of an employee employed by or through a contractor, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any,) from the contractor, either by deduction from any amount payable to him by the employer under any contract, or as a debt payable by the contractor.

(*7*) The contractor shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the employer before the settlement of any amount payable under sub-section (*6*).

(*8*) In the case referred to in sub-section (*6*), the contractor shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to such conditions as specified in the proviso to sub-section (*2*).

(*9*) Subject to the provisions of this Code, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Chapter.

Benefits.

32. (*1*) Subject to the provisions of this Code, the Insured Persons, their dependants or the persons hereinafter mentioned, as the case may be, shall be entitled to the following benefits, namely:—

(*a*) periodical payments to any Insured Person in case of his sickness certified by a duly appointed medical practitioner or by any other person possessing such qualifications and experience as the Corporation may, by the regulations, specify in this behalf (hereinafter referred to as sickness benefit);

(*b*) periodical payments to an Insured Person being a woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);

(*c*) periodical payments to an Insured Person suffering from disablement as a result of an employment injury sustained by him as an employee for the purposes of this Chapter and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit);

(*d*) periodical payments to such dependants of an Insured Person who dies as a result of an employment injury sustained by him as an employee for the purposes of this Chapter, as are entitled under this Chapter (hereinafter referred to as dependants' benefit);

(*e*) medical treatment for and attendance on Insured Persons (hereinafter referred to as medical benefit); and

(*f*) payment to the eldest surviving member of the family of an Insured Person who has died, towards the expenditure on the funeral of the deceased Insured Person, or, where the Insured Person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased Insured Person (to be known as funeral expenses):

Provided that the amount of payment under this clause shall not exceed such amount as may be prescribed by the Central Government and the claim for such payment shall be made within three months of the death of the Insured Person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow.

(*2*) The Corporation may, subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an Insured Person.

(*3*) The qualification of a person to claim sickness benefit, maternity benefit, disablement benefit and dependants' benefit and the conditions subject to which such benefit may be given and the rate and period thereof, shall be such as may be prescribed by the Central Government.

(*4*) Subject to the provisions of this Code and the rules made thereunder relating to this Chapter, the Corporation may make regulations for any matter relating or incidental to the accrual and payment of benefits payable under this Chapter.

Corporation's power to promote measures for health, etc., of Insured Persons.

33. The Corporation may, in addition to the benefits specified in this Chapter, promote measures for the improvement of the health and welfare of Insured Persons and for the rehabilitation and re-employment of Insured Persons who have been disabled or injured and may incur in respect of such measures, expenditure from the Employees' State Insurance Fund within such limits as may be prescribed by the Central Government.

Presumption as to accident arising in course of employment.

34. (*1*) For the purposes of this Chapter, an accident arising in the course of an employee's employment shall be presumed, in the absence of evidence to the contrary, to have arisen out of that employment.

(*2*) An accident happening to an employee in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(*3*) An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.

(*4*) An accident happening while an employee is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—

(*a*) the accident would have been deemed so to have arisen had he been under such obligation; and

(*b*) at the time of the accident, the vehicle—

(*i*) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and

(*ii*) is not being operated in the ordinary course of public transport service.

Explanation.—In this section, "vehicle" includes a vessel and an aircraft.

Accidents happening while acting in breach of law, etc.

35. An accident shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(*a*) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(*b*) the act is done for the purpose of and in connection with the employer's trade or business.

Occupational disease.

36. (*1*) If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify by regulations in respect of each such employment, contracts any disease specified in such Part C as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury ", arising out of and in the course of employment.

(*2*) Save as provided by sub-section (*1*), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(*3*) The provisions of sub-section (*1*) of section 34 shall not apply to the cases to which this section applies.

References to medical board.

37. (*1*) Any question—

(*a*) whether the relevant accident has resulted in permanent disablement; or

(*b*) whether the extent of loss of earning capacity can be assessed provisionally or finally; or

(*c*) whether the assessment of the proportion of the loss of earning capacity is provisional or final; or

(*d*) in the case of provisional assessment, as to the period for which such assessment shall hold good,

shall be determined by a medical board constituted in accordance with the provisions of the regulations (hereinafter referred to as medical board) and any such question shall hereafter be referred to as the "disablement question".

(*2*) The case of any Insured Person for permanent disablement benefit shall be referred by the Corporation to a medical board for determination of the disablement in question and if, on that or any subsequent reference, the extent of loss of earning capacity of the Insured Person is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.

(*3*) Any decision under this Chapter of a medical board may be reviewed at any time by the medical board if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact whether the non-disclosure or misrepresentation was or was not fraudulent.

(*4*) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury:

Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of the opinion, having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, that substantial injustice will be done by not reviewing it.

(*5*) Except with the leave of a medical appeal tribunal constituted by regulations, an assessment shall not be reviewed under sub-section (*4*) on any application made less than five years, or in the case of a provisional assessment, six months, from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.

(*6*) Subject to the foregoing provisions of this section, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment notwithstanding that the assessment under review was final and the provisions of sub-section (*2*) shall apply to an application for review under this sub-section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under that sub-section and to a decision of the medical board in connection with such case.

(*7*) (*a*) If the Insured Person or the Corporation is aggrieved by any decision of the medical board, the Insured Person or the Corporation, as the case may be, may appeal in such manner and within such time as may be prescribed by the Central Government to—

(*i*) the medical appeal tribunal constituted in accordance with the provisions of the regulations; or

(*ii*) the Employees' Insurance Court directly:

Provided that no appeal by an Insured Person shall lie under this sub-section if such person has applied for commutation of disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefits:

Provided further that no appeal by the Corporation shall lie under this sub-section if the Corporation paid the commuted value of the disablement benefit on the basis of the decision of the medical board.

(*b*) Where the Insured Person or the Corporation preferred appeal to the medical appeal tribunal under sub-clause (*i*) of clause (*a*) instead of to the Employees' Insurance Court under sub-clause (*ii*) of that clause, then, he or it, as the case may be, shall have the further right to file second appeal to the Employees' Insurance Court in such manner and within such time as may be prescribed by the appropriate Government.

Dependants' benefit.

38. (*1*) If an Insured Person dies as a result of an employment injury sustained as an employee under this Chapter (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit shall be payable to his dependants specified in sub-clause (*a*) and sub-clause (*b*) of clause (*24*) of section 2 at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.

(*2*) In case the Insured Person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.

(*3*) Any decision awarding dependants' benefit under this Chapter may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Chapter due to any birth or death or due to the marriage, re-marriage, or ceasing of infirmity, or attainment of the age of twenty-five years by, a claimant.

(*4*) Subject to the provisions of this Chapter, the Corporation may, on such review under sub-section (*3*), direct that the dependants' benefit be continued, increased, reduced or discontinued.

Medical benefit.

39. (*1*) An Insured Person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(*2*) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the Insured Person or treatment as in-patient in a hospital or other institution.

(*3*) The qualification of an Insured Person and (where such medical benefit is extended to his family) his family, to claim medical benefit and the conditions subject to which such benefit may be given, the scale and period thereof shall be such as may be prescribed by the Central Government:

Provided that a person in respect of whom contribution ceases to be payable under this Chapter may be allowed medical benefit for such period and of such nature as may be provided by the regulations:

Provided further that an Insured Person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be specified in the regulations:

Provided also that an Insured Person who ceases to be in insurable employment on account of permanent disablement caused due to employment injury shall continue to receive medical benefits, subject to payment of contribution and other conditions as may be prescribed by the Central Government:

Provided also that the conditions for grant of medical benefits to the Insured Person during employment injury shall be as specified in the regulations.

(*4*) (*a*) The Corporation may establish medical education institutions, including colleges, dental colleges, nursing colleges and the training institutes for its officers and staff with a view to improve the quality of their services.

(*b*) The medical education institutions referred to in clause (*a*) shall require its students to furnish a bond for serving the Corporation for such time and in such manner, as may be specified in the regulations.

(*5*) The medical education institutions and training institutes referred to in sub-section (*4*) may be run by the Corporation itself or on the request of the Corporation, by the Central Government, any State Government, Public Sector Undertaking of the Central Government or the State Government or any other body notified by the Central Government.

Explanation.—For the purposes of this sub-section, the expression "other body" means any such organisation of persons which the Central Government considers capable to run colleges and training institutions referred to in sub-section (*4*).

(*6*) The Corporation may, in order to take preventive and curative measures for welfare of the Insured Persons, carry out such occupational and epidemiological surveys and studies for assessment of health and working conditions of Insured Persons in such manner as may be specified in the regulations.

Provision of medical treatment by State Government or by Corporation.

40. (*1*) The State Government shall provide for Insured Persons and (where such benefit is extended to their families) their families in the State, reasonable medical, surgical and obstetric treatment:

Provided that the State Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(*2*) Where the incidence of sickness benefit payment to Insured Persons in any State is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the State Government in such proportion as may be fixed by agreement between them:

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the State Government.

(*3*) The Corporation may enter into an agreement with a State Government in regard to the nature and scale of the medical treatment that should be provided to Insured Persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to Insured Persons between the Corporation and the State Government.

(*4*) In default of agreement between the Corporation and any State Government as aforesaid, the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator who shall be appointed by the Central Government in consultation with the State Government.

(*5*) The State Government may, in addition to the Corporation under this Code, with the previous approval of the Central Government, establish such organisation (by whatever

name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

Provided that any reference to the State Government in this Code relating to this Chapter shall also include reference to the organisation as and when such organisation is established by the State Government.

(*6*) The organisation referred to in sub-section (*5*) shall have such structure, discharge functions, exercise powers and undertake such activities as may be prescribed by the Central Government.

(*7*) The Corporation may establish and maintain in a State such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of Insured Persons and (where such medical benefit is extended to their families), their families.

(*8*) The Corporation may enter into agreement with any local authority, private body or individual in regard to the provision of medical treatment and attendance for Insured Persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

(*9*) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to Insured Persons and (where such medical benefit has been extended to their families), to their families.

(*10*) Notwithstanding anything contained in any other provision of this Chapter, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to Insured Persons and (where such medical benefit is extended to their families), to the families of such Insured Persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.

(*11*) In the event of the Corporation exercising its power under sub-section (*10*), the provisions relating to medical benefit under this Chapter shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.

(*12*) Notwithstanding anything contained in this Code, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government.

General provisions as to benefits.

41. (*1*) Save as may be provided in the regulations, no person shall be entitled to commute for a lump sum any disablement benefit admissible under this Chapter.

(*2*) Save as may be provided in the regulations, no person shall be entitled to sickness benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives wages or on any day on which he remains on strike.

(*3*) A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement) —

(*a*) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Chapter, and shall carry out the instructions given by the medical officer or medical attendant in-charge thereof;

(*b*) shall not while under treatment do anything which might retard or prejudice his chances of recovery;

(*c*) shall not leave the area in which medical treatment provided by this Chapter is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and

(*d*) shall allow himself to be examined by any duly appointed medical officer or other person authorised by the Corporation in this behalf.

(*4*) An Insured Person shall not be entitled to receive for the same period—

(*a*) both sickness benefit and maternity benefit; or

(*b*) both sickness benefit and disablement benefit for temporary disablement; or

(*c*) both maternity benefit and disablement benefit for temporary disablement.

(*5*) Where a person is entitled to more than one of the benefits mentioned in sub-section (*4*), he shall be entitled to choose which benefit he shall receive.

(*6*) If a person dies during any period for which he is entitled to a cash benefit under this Chapter, the amount of such benefit up to and including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.

(*7*) (*a*) Any person eligible for availing dependant or disablement benefit under this Chapter shall not be entitled to claim Employees' Compensation from his employer under Chapter VII.

(*b*) Any women employee eligible for availing maternity benefit under this Chapter shall not be entitled to claim maternity benefit from her employer under Chapter VI.

(*8*) Where any person has received any benefit or payment under this Chapter when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of death, his legal representative shall be liable to repay the same from the assets of the deceased devolved on him.

(*9*) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(*10*) The amount recoverable under this section may be recovered in the manner specified under sections 129 to 132.

Corporation's rights when an employer fails to register, etc.

42. (*1*) If any employer, —

(*a*) fails or neglects to insure under section 28, an employee at the time of his appointment or within such extended period as may be prescribed by the Central Government, as a result of which the employee becomes disentitled to any benefit under this Chapter; or

(*b*) insures under section 28, an employee on or after the date of accident which resulted in personal injury to such employee which has the effect of making such employee disentitled to receive any dependant benefit or disablement benefit from the Corporation; or

(*c*) fails or neglects to pay any contribution which under this Chapter he is liable to pay in respect of any employee and by reason thereof such employee becomes disentitled to any benefit or becomes entitled to a benefit on a lower scale,

then, the Corporation may, on being satisfied in the manner prescribed by the Central Government that the benefit is payable to the employee, pay to the employee benefit at such rate to which he is entitled or would have been entitled if the failure or neglect would not have occurred, and the Corporation shall be entitled to recover from the employer, subject to the employer being given an opportunity of being heard, the capitalised value of the benefit paid to the employee, to be calculated in such manner as may be prescribed by the Central Government:

Provided that the capitalised value to be calculated may be adjusted for the payment of any contribution and interest or damages that the employer is liable to pay for delay in the payment of or non-payment of such contribution.

(*2*) The amount recoverable under this section may be recovered as if it were an arrear of land revenue or recovered in the manner specified under sections 129 to 132.

Liability of owner or occupier of factories, etc., for excessive sickness benefit.

43. (*1*) Where the Corporation considers that the incidence of sickness among Insured Persons is excessive by reason of—

(*a*) insanitary working conditions in a factory or other establishment or the neglect of the owner or occupier of the factory or other establishment to observe any health regulations enjoined on him by or under any enactment for the time being in force, or

(*b*) insanitary conditions of any tenements or lodgings occupied by Insured Persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactments for the time being in force,

then, the Corporation may send to the owner or occupier of the factory or other establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.

(*2*) If the appropriate Government is of the opinion that a *prima facie* case for inquiry is made out, it may appoint a competent person or persons to hold an inquiry into the matter referred under sub-section (*1*).

(*3*) If upon inquiry under sub-section (*2*), it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the Insured Persons is due to the default or neglect of the owner or occupier of the factory or other establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine, the amount of the extra expenditure incurred as sickness benefit as well as the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

(*4*) A determination under sub-section (*3*) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

(*5*) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

Scheme for other beneficiaries.

44. Notwithstanding anything contained in this Chapter, the Central Government may, by notification, frame, amend, vary or rescind scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilised on payment of user charges, and prescribe the terms and conditions subject to which the scheme may be operated.

Explanation.— For the purposes of this section,—

(*a*) "other beneficiaries" means persons other than employees insured under section 28;

(*b*) "underutilised hospital" means any hospital not fully utilised by the employees insured under section 28; and

(*c*) "user charges" means the amount which is to be charged from other beneficiaries for medical facilities as may be specified in the regulations after prior approval of the Central Government.

Schemes for unorganised workers, gig workers and platform workers.

45. (*1*) Notwithstanding anything contained in this Chapter, the Central Government may, by notification, frame scheme for unorganised workers, gig workers and platform workers and the members of their families for providing benefits admissible under this Chapter by the Corporation.

(*2*) The contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions subject to which the scheme may be operated shall be such as may be specified in the scheme.

Exemption of factories or other establishments belonging to Government or any local authority.

46. The appropriate Government may, after consultation with the Corporation, by notification and subject to such conditions as may be specified in the notification, exempt any factory or other establishment belonging to the Government or any local authority, from the operation of this Chapter if the employees in any such factory or other establishment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Chapter.

Contributions, etc., due to Corporation to have priority over other debts.

47. Notwithstanding anything contained in any other law for the time being in force, any amount due under this Chapter shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

Constitution of Employees' Insurance Court.

48. (*1*) The State Government shall, by notification, constitute an Employees' Insurance Court for such local area as may be specified in the notification.

(*2*) The Employees' Insurance Court shall consist of such number of Judges as the State Government may think fit.

(*3*) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.

(*4*) The State Government may appoint the same Court for two or more local areas or two or more Employees' Insurance Courts for the same local area.

(*5*) Where more than one Employees' Insurance Court has been appointed for the same local area, the State Government may by general or special order regulate the distribution of business between them.

Matters to be decided by Employees' Insurance Court.

49. (*1*) If any question or dispute or claim arises as to—

(*a*) whether any person is an employee within the meaning of this Code relating to this Chapter or whether he is liable to pay the employee's contribution; or

(*b*) the rate of wages or average daily wages of an employee for the purposes of this Chapter; or

(*c*) the rate of contribution payable by an employer in respect of any employee under this Chapter; or

(*d*) the person who is or was the employer in respect of any employee for the purposes of this Chapter; or

(*e*) the right of any person to any benefit under this Chapter and as to the amount and duration thereof; or

(*f*) any direction issued by the Corporation on a review of any payment of dependants' benefit under this Chapter; or

(*g*) any other matter which is in dispute between an employer and the Corporation relating to this Chapter, or between an employer and a Contractor relating to this Chapter or between a person and the Corporation relating to this Chapter or between an employee and an employer or Contractor relating to this Chapter, in respect of any contribution or benefit or other dues payable or recoverable under this Code relating to this Chapter; or

(*h*) claim for the recovery of contributions from the employer under this Code relating to this Chapter; or

(*i*) claim under sub-section (*8*) of section 41 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; or

(*j*) claim against an employer under section 42; or

(*k*) order of the appellate authority under section 126 in respect of Chapter IV; or

(*l*) claim by an employer to recover contributions from any contractor under this Code relating to this Chapter; or

(*m*) any other claim for the recovery of any benefit admissible under this Chapter,

such matter shall be decided by the Employers' Insurance Court.

(*2*) No matter which is in dispute between an employer and the Corporation in respect of any contribution or any other dues under this Chapter shall be raised by the employer in the Employees' Insurance Court unless he has deposited with that Court fifty per cent. of the amount due from him as claimed by the Corporation:

Provided that the Employees' Insurance Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section.

(*3*) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as specified in sub-section (*1*) or to adjudicate on any liability which by or under this Code relating to this Chapter is to be decided by a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court.

Powers of Employees' Insurance Court.

50. (*1*) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such court shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 2 of 1974.

(*2*) The Employees' Insurance Court shall follow such procedure as may be prescribed by the State Government.

(*3*) All costs incidental to any proceeding before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the State Government, be in the discretion of that court.

(*4*) An order of the Employees' Insurance Court shall be enforceable by it as if it were a decree passed in a suit by a Civil Court.

Proceedings of Employees' Insurance Courts.

51. (*1*) The manner of commencement of proceedings before the Employees' Insurance Court, fees and procedure thereof shall be such as may be prescribed by the appropriate Government:

Provided that the limitation for initiating the proceedings by the aggrieved person in the Employees' Insurance Court shall be three years from the date on which the cause of action arises:

Provided further that the "arising of cause of action" in respect of a claim by the Insured Person or dependants; by the Corporation for recovering contribution (including interests and damages) from the employer; and the claim by the employer for recovering contributions from a Contractor and the time within which such claims, recovery or contribution, from employer by the Corporation and recovery of contribution by the employer from the Contractor, shall be as specified in the regulations.

(*2*) Any application, appearance or act required to be made or done by any person to, or before, an Employees' Insurance Court (other than appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of that Court, by any other person so authorised.

(*3*) An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

Appeal to High Court.

52. (*1*) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

(*2*) An appeal shall lie to the High Court from an order of an Employees' Insurance Court, if it involves a substantial question of law.

(*3*) The appeal shall be filed under this section within a period of sixty days from the date of the order made by the Employees' Insurance Court.

36 of 1963.

(*4*) The provisions of sections 5 and 12 of the Limitation Act, 1963 shall apply to appeals under this section.

(*5*) Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court, shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

CHAPTER V

GRATUITY

Payment of gratuity.

53. (*1*) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

(*a*) on his superannuation; or

(*b*) on his retirement or resignation; or

(*c*) on his death or disablement due to accident or disease; or

(*d*) on termination of his contract period under fixed term employment; or

(*e*) on happening of any such event as may be notified by the Central Government:

Provided that in case of working journalist as defined in clause (*f*) of section 2 of the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years:

45 of 1955.

Provided further that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed term employment or happening of any such event as may be notified by the Central Government:

Provided also that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the competent authority as may be notified by the appropriate Government who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed by the appropriate Government, until such minor attains majority.

(*2*) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages or such number of days as may be notified by the Central Government, based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days' wages for each season:

Provided also that in the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on *pro rata* basis.

(*3*) The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government.

(*4*) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(*5*) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(*6*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(*b*) the gratuity payable to an employee may be wholly or partially forfeited—

(*i*) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(*ii*) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided such offence is committed by him in the course of his employment.

Explanation 1.— For the purposes of this Chapter, employee does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.

Explanation 2.— For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease, resulting in such disablement.

Explanation 3.— For the purposes of this section, it is clarified that in the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

Continuous service.

54. For the purposes of this Chapter,—

(*A*) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Code;

(*B*) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (*A*), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—

(*a*) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(*i*) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(*ii*) two hundred and forty days, in any other case;

(*b*) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than—

(*i*) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(*ii*) one hundred and twenty days, in any other case.

Explanation.— For the purposes of this clause, the number of days on which an employee has actually worked under an employer shall include the days on which—

(*i*) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment; 20 of 1946. 14 of 1947.

(*ii*) he has been on leave with full wages, earned in the previous year;

(*iii*) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(*iv*) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twenty-six weeks;

(*C*) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (*A*), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during such period.

Nomination.

55. (*1*) Each employee, who has completed one year of service, shall make, a nomination within such time, in such form and in such manner, as may be prescribed by the appropriate Government.

(*2*) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Chapter amongst more than one nominee.

(*3*) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family shall be void.

(*4*) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires

a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed by the appropriate Government, a fresh nomination in favour of one or more members of his family.

(*5*) A nomination may, subject to the provisions of sub-sections (*3*) and (*4*), be modified by an employee at any time, after giving to his employer a written intimation in such form and in such manner as may be prescribed by the appropriate Government, of his intention to do so.

(*6*) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the form prescribed by the appropriate Government, in respect of such interest.

(*7*) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

Determination of amount of gratuity.

56. (*1*) A person who is eligible for payment of gratuity under this Chapter or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed by the appropriate Government, for payment of such gratuity.

(*2*) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (*1*) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the competent authority specifying the amount of gratuity so determined.

(*3*) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(*4*) If the amount of gratuity payable under sub-section (*3*) is not paid by the employer within the period specified in sub-section (*3*), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the competent authority for the delayed payment on this ground.

(*5*) (*a*) If there is any dispute as to the amount of gratuity payable to an employee under this Chapter or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the competent authority such amount as he admits to be payable by him as gratuity.

(*b*) Where there is a dispute with regard to any matter or matters specified in clause (*a*), the employer or employee or any other person raising the dispute may make an application to the competent authority in the form prescribed by the appropriate Government for deciding the dispute.

(*c*) The competent authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the competent authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.

(*d*) The competent authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

(*e*) As soon as may be after a deposit is made under clause (*a*), the competent authority shall pay the amount of the deposit—

(*i*) to the applicant where he is the employee; or

(*ii*) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or heir of the employee if the competent authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(*6*) For the purpose of conducting an inquiry under sub-section (*5*), the competent authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(*a*) enforcing the attendance of any person or examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) issuing commissions for the examination of witnesses.

(*7*) Any inquiry under this section shall be a judicial proceeding within the meaning of section 193, section 228 and for the purpose of section 196 of the Indian Penal Code. 45 of 1860.

(*8*) Any person aggrieved by an order under sub-section (*5*) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the competent authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (*5*), or deposits with the appellate authority such amount.

(*9*) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify, or reverse the decision of the competent authority.

Compulsory insurance.

57. (*1*) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (*2*), obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity under this Chapter, from any insurance company regulated by the Authority as defined under clause (*b*) of sub-section (*1*) of section 2 of the Insurance Regulatory and Development Authority Act, 1999: 41 of 1999.

Provided that different dates may be appointed for different establishments or class of establishments or for different areas.

(*2*) The appropriate Government may, subject to such conditions as may be prescribed by the Central Government, exempt any employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement, and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed by the Central Government from the provisions of sub-section (*1*).

(*3*) For the purposes of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed by the Central Government get his establishment registered with the competent authority in the manner prescribed by the appropriate Government and no employer shall be registered under the provisions of this

section unless he has taken an insurance referred to in sub-section (*1*) or has established an approved gratuity fund referred to in sub-section (*2*).

(*4*) The appropriate Government may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (*1*), or as the case may be, the Board of Trustees of the approved gratuity fund, in such manner as may be prescribed.

(*5*) Where an employer fails to make any payment by way of premium in respect of the insurance referred to in sub-section (*1*) or by way of contribution to an approved gratuity fund referred to in sub-section (*2*), he shall be liable to pay the amount of gratuity due under this Chapter (including interest, if any, for delayed payments) forthwith to the competent authority.

Explanation.— In this section, "approved gratuity fund" shall have the same meaning as assigned to it in sub-section (*5*) of section 2 of the Income-tax Act, 1961. 43 of 1961.

Competent authority.

58. (*1*) The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification.

(*2*) Where more than one competent authority has been appointed for any area, the appropriate Government may, by general or special order, regulate the distribution of business among them.

(*3*) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under reference to assist him in holding the inquiry relating thereto.

CHAPTER VI

MATERNITY BENEFIT

Employment of, or work by, women prohibited during certain period.

59. (*1*) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

(*2*) No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

(*3*) Without prejudice to the provisions of section 62, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do, during the period specified in sub-section (*4*), any work which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus or is likely to cause her miscarriage or otherwise to adversely affect her health.

(*4*) The period referred to in sub-section (*3*) shall be—

(*a*) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(*b*) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 62.

Explanation.— For the purposes of this section, the expression "any work of arduous nature" shall mean any work which involve or require strenuous effort or is difficult and tiring in nature.

Right to payment of maternity benefit.

60. (*1*) Subject to the other provisions of this Code, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day.

Explanation.—For the purposes of this sub-section, "the average daily wage" means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, subject to the minimum rate of wage fixed or revised under the Code on Wages, 2019. 29 of 2019.

(*2*) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery.

Explanation.— For the purposes of calculating the period under this sub-section, the days on which a woman has actually worked in the establishment, the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the expected date of her delivery shall be taken into account.

(*3*) The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the expected date of her delivery:

Provided that the maximum period entitled to maternity benefit by a woman having two or more surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:

Provided further that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

Explanation.— For the purposes of this sub-section, "child" includes a stillborn child.

(*4*) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(*5*) In case the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

Continuance of payment of maternity benefit in certain cases.

61. Every woman entitled to the payment of maternity benefit under this Chapter, shall, notwithstanding the application of Chapter IV to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 32.

Notice of claim for maternity benefit and payment thereof.

62. (*1*) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Chapter may give notice in writing in such form as may be prescribed by the Central Government, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Chapter may be paid to her

or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(*2*) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than eight weeks from the date of her expected delivery.

(*3*) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

(*4*) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.

(*5*) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed by the Central Government that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed by the Central Government that the woman has been delivered of a child.

(*6*) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Chapter if she is otherwise entitled to such benefit or amount and in any such case an Inspector-cum-Facilitator may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.

Payment of maternity benefit in case of death of a woman.

63. If a woman entitled to maternity benefit or any other amount under this Chapter, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (*3*) of section 60, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 62 and in case there is no such nominee, to her legal representative.

Payment of medical bonus.

64. Every woman entitled to maternity benefit under this Chapter shall also be entitled to receive from her employer a medical bonus of three thousand five hundred rupees or such amount as may be notified by the Central Government, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

Leave for miscarriage, etc.

65. (*1*) In case of miscarriage, or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.

(*2*) In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

(*3*) A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy shall, on production of such proof as may be prescribed by the Central Government, be entitled, in addition to the period of absence allowed to her under section 62, or, as the case may be, under sub-section (*1*), to leave with wages at the rate of maternity benefit for a maximum period of one month.

Nursing breaks.

66. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of such duration as may be prescribed by the Central Government, for nursing the child until the child attains the age of fifteen months.

Creche facility.

67. (*1*) Every establishment to which this Chapter applies, in which fifty employees or such number of employees as may be prescribed by the Central Government, are employed

shall have the facility of crèche within such distance as may be prescribed by the Central Government, either separately or along with common facilities:

Provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the intervals of rest allowed to her:

Provided further that an establishment may avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation or group of establishments who may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.

(*2*) Every establishment to which this Chapter applies shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit available under this Chapter.

Dismissal for absence during pregnancy.

68. (*1*) When a woman absents herself from work in accordance with the provisions of this Chapter, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service:

Provided that the discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus under this Chapter, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided further that where the dismissal is for any gross misconduct as may be prescribed by the Central Government, the employer may, by order in writing, communicated to the woman, deprive her of the maternity benefit or medical bonus, or both.

(*2*) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed under sub-section (*1*), may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to the competent authority, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, or discharged or dismissed, shall be final.

No deduction of wages in certain cases.

69. No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Chapter shall be made by reason only of—

(*a*) the nature of work assigned to her by virtue of the provisions contained in section 59; or

(*b*) breaks for nursing the child allowed to her under the provisions of section 66.

Forfeiture of maternity benefit.

70. A woman who works for remuneration during the period she has been permitted by an employer to absent herself for availing the maternity benefits provided under this Chapter shall not be entitled to receive maternity benefit for such period.

Duties of employer.

71. An abstract of the provisions of this Chapter and the rules relating thereto in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

Power of Inspector-cum-Facilitator to direct payments to be made.

72. (*1*) Any woman claiming that,—

(*a*) maternity benefit or any other amount to which she is entitled under this Chapter and any person claiming that payment due under this Chapter has been improperly withheld;

(*b*) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Chapter,

may make a complaint to the Inspector-cum-Facilitator.

(*2*) The Inspector-cum-Facilitator may, on receipt of a complaint referred to in sub-section (*1*), make an inquiry or cause an inquiry to be made and if satisfied that—

(*a*) payment has been wrongfully withheld, may direct the payment to be made in accordance with his order in writing;

(*b*) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Chapter,

may pass such orders as he deems just and proper according to the circumstances of the case.

(*3*) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (*2*) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government.

(*4*) The decision of the authority referred to in sub-section (*3*), where an appeal has been preferred to it under that sub-section or of the Inspector-cum-Facilitator where no such appeal has been preferred, shall be final.

CHAPTER VII

EMPLOYEE'S COMPENSATION

Reports of fatal accidents and serious bodily injuries.

73. (*1*) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring in his premises which results in death or serious bodily injury, the person required to give the notice shall, within seven days of the death or serious bodily injury, send a report to the competent authority giving the circumstances attending the death or serious bodily injury:

Provided that where the State Government has so specified, the person required to give the notice may instead of sending such report to the competent authority send it to the authority to whom he is required to give the notice.

Explanation.— For the purposes of this sub-section, "serious bodily injury" means an injury which involves, or in all probability will involve the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.

(*2*) The State Government may, by notification, extend the provisions of sub-section (*1*) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the competent authority.

(*3*) Nothing in this section shall apply to establishments to which Chapter IV, relating to Employees' State Insurance Corporation, applies.

Employer's liability for compensation.

74. (*1*) If personal injury is caused to an employee by accident or an occupational disease listed in the Third Schedule arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

(*a*) in respect of such injury which does not result in the total or partial disablement of the employee for a period exceeding three days; and

(*b*) in respect of such injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to—

(*i*) the employee having been at the time thereof under the influence of drink or drugs, or

(*ii*) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or

(*iii*) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

(*2*) An accident or an occupational disease referred to in sub-section (*1*) shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident or at the time of contracting the occupational disease, referred to in that sub-section, acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(*a*) such accident or contracting of such occupational disease would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(*b*) the act is done for the purpose of, and in connection with, the employer's trade or business.

(*3*) If an employee employed in any employment specified in the Second Schedule contracts any disease specified in the Third Schedule, being an occupational disease peculiar to that employment whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months, then, such disease shall be deemed to be an injury by accident within the meaning of this section and unless the contrary is proved, the accident shall be deemed to have arisen out of and in the course of the employment.

(*4*) An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and his employment is established.

(*5*) The Central Government or the State Government, after giving, by notification, not less than three months' notice of its intention so to do, may, by a like notification, modify or add any description of employment to the employments specified in the Second Schedule, and occupational diseases specified in the Third Schedule and shall specify in the case of employments so modified or added, the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (*2*) shall apply, in the case of a notification by the Central Government, within the territories to which this Code extends or, in case of a notification by the State Government, within that State as if such diseases had been declared by this Code to be occupational diseases peculiar to those employments.

(*6*) Save as provided by sub-sections (*2*), (*3*) and (*4*), no compensation shall be payable to an employee in respect of any accident or disease unless the accident or disease is directly attributable to a specific injury by accident or disease arising out of and in the course of his employment.

(*7*) Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any accident or disease if he has instituted in a civil court a suit for damages in respect of the accident or disease against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of such accident or disease—

(*a*) if he has instituted a claim to compensation in respect of the accident or disease before a competent authority; or

(*b*) if an agreement has been made between the employee and his employer providing for the payment of compensation in respect of the accident or disease in accordance with the provisions of this Chapter.

Compensation in case of death of or injury in plantation.

75. If death or injury is caused to any worker or a member of his family as a result of the collapse of a house provided by the employer in a plantation, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to a natural calamity, the employer shall be liable to pay compensation under section 76 and the Sixth Schedule, so far as may be applicable.

Explanation.— For the purposes of this section, the expression "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, and includes a person employed on contract for more than sixty days in a year, but does not include—

(*i*) a medical officer employed in the plantation;

(*ii*) any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed the amount as determined by the appropriate Government, by notification, from time to time;

(*iii*) any person employed in the plantation primarily in a managerial or administrative capacity, notwithstanding that his monthly wages do not exceed the amount as determined by the appropriate Government, by notification, from time to time;

(*iv*) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges, drains or canals.

Amount of compensation.

76. (*1*) Subject to the provisions of this Chapter, the amount of compensation shall be,—

(*a*) where death results from the injury, an amount equal to fifty per cent. of the monthly wages of the deceased employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more;

(*b*) where permanent total disablement results from the injury, an amount equal to sixty per cent. of the monthly wages of the injured employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more:

Provided that the Central Government may, by notification, from time to time, enhance the amount of compensation specified in clauses (*a*) and (*b*).

Explanation.— For the purposes of clauses (*a*) and (*b*), "relevant factor", in relation to an employee means the factor specified in column (3) of the Sixth Schedule relating to factors against the corresponding entry in column (2) thereof, specifying the number of years which are the same as the completed years of the age of the employee on his last birthday immediately preceding the date on which the compensation fell due;

(*c*) where permanent partial disablement results from the injury,—

(*i*) in the case of an injury specified in Part II of the Fourth Schedule, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and

(*ii*) in the case of an injury not specified in the Fourth Schedule, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the medical practitioner) permanently caused by the injury.

Explanation 1.— For the purposes of this clause, where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

Explanation 2.— In assessing the loss of earning capacity under sub-clause (*ii*), the medical practitioner shall have due regard to the percentage of loss of earning capacity in relation to different injuries specified in the Fourth Schedule;

(*d*) where temporary disablement, whether total or partial, results from the injury, a half-monthly payment of the sum equivalent to twenty-five per cent. of monthly wages of the employee, to be paid in accordance with the provisions of sub-section (*4*).

(*2*) Notwithstanding anything contained in sub-section (*1*), while fixing the amount of compensation payable to an employee in respect of an accident which occurred outside India, the competent authority shall take into account the amount of compensation, if any, awarded to such employee in accordance with the law of the country in which the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the employee in accordance with the law of that country.

(*3*) The Central Government may, by notification, specify for the purposes of sub-section (*1*), such monthly wages in relation to an employee as it may consider necessary.

(*4*) The half-monthly payment referred to in clause (*d*) of sub-section (*1*) shall be payable on the sixteenth day—

(*i*) from the date of disablement where such disablement lasts for a period of twenty-eight days or more; or

(*ii*) after the expiry of a waiting period of three days from the date of disablement, where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever is shorter:

Provided that—

(*a*) there shall be deducted from any lump sum or half-monthly payments to which the employee is entitled, the amount of any payment or allowance which the employee has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and such payment or allowance which the employee has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation;

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the employee before the accident exceeds half the amount of such wages which he is earning after the accident.

(*5*) The employee shall be reimbursed, the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment, by his employer.

(*6*) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

(*7*) If the injury of the employee results in his death, the employer shall, in addition to the compensation under sub-section (*1*), deposit with the competent authority a sum of not less than fifteen thousand rupees or such amount as may be prescribed by the State Government, for payment of the same to the eldest surviving dependant of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependant or was not living with his dependant at the time of his death, to the person who actually incurred such expenditure:

Provided that the Central Government may, by notification from time to time, enhance the amount specified in this sub-section.

Compensation to be paid when due and damages for default.

77. (*1*) Compensation under section 76 shall be paid as soon as it falls due.

(*2*) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the competent authority or made to the employee, as the case may be, without prejudice to the right of the employee to make any further claim.

(*3*) Where any employer is in default in paying the compensation due under this Chapter within one month from the date it fell due, the competent authority shall,—

(*a*) direct that the employer shall, in addition to the amount of the arrears, pay interest at such rate as may be prescribed by the Central Government, on the amount due; and

(*b*) if in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent. of such amount of arrears by way of damages:

Provided that an order for the payment of damages shall not be passed under clause (*b*) without giving a reasonable opportunity to the employer to show cause as to why it should not be passed.

(*4*) The interest and the damages payable under sub-section (*3*) shall be paid to the employee or his dependant, as the case may be.

Method of calculating monthly wages for purposes of compensation.

78. For the purposes of this Chapter, the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:—

(*a*) where the employee has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the employee shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(*b*) where the whole of the continuous period of service immediately preceding the accident during which the employee was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the employee shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by an employee employed on the same work by the same employer, or, if there was no employee so employed, by an employee employed on similar work in the same locality;

(*c*) in other cases including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (*b*), the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation.—For the purposes of this section, "a period of service" shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review.

79. (*1*) Any half-monthly payment payable under this Chapter, either under an agreement between the parties or under the order of a competent authority, may be reviewed by the competent authority, on the application either of the employer or of the employee accompanied by the certificate of a medical practitioner that there has been a change in the condition of the employee or, subject to such conditions as may be prescribed by the State Government, on application made without such certificate.

(*2*) Any half-monthly payment may, on review under this section, subject to the provisions of this Chapter, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the employee is entitled less any amount which he has already received by way of half-monthly payments.

Commutation of half-monthly payments.

80. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the competent authority be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the competent authority, as the case may be.

Distribution of compensation.

81. (*1*) No payment of compensation in respect of an employee whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the competent authority, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased employee, an employer may make to any dependant, advances on account of compensation of an amount equal to three months' wages of such employee and so much of such amount as does not exceed the compensation payable to that dependant shall be deducted by the competent authority from such compensation and repaid to the employer.

(*2*) Any other sum amounting to not less than five thousand rupees which is payable as compensation may be deposited with the competent authority on behalf of the person entitled thereto.

(*3*) The receipt of the competent authority shall be a sufficient discharge in respect of any compensation deposited with him.

(*4*) (*a*) On the deposit of any money under sub-section (*1*) as compensation in respect of a deceased employee, the competent authority shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation.

(*b*) If the competent authority is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid.

(*c*) The competent authority shall, on an application by the employer, furnish a statement showing in detail all disbursements made.

(*5*) The compensation deposited in respect of a deceased employee shall, subject to any deduction made under sub-section (*1*), be apportioned by order by the competent authority among the dependants of the deceased employee or any of them in such proportion as the competent authority thinks fit, or may, in the discretion of the competent authority, be allotted to any one dependant:

Provided that the competent authority shall not make any order under this sub-section without hearing the dependants and shall record reasons in the order for the apportionment of such compensation among dependants or any of them, as the case may be.

(*6*) Where any compensation deposited with the competent authority is payable to any person, other than a woman or a person under legal disability, the competent authority may pay the compensation to the person entitled thereto.

(*7*) Where any lump sum deposited with the competent authority is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the competent authority may direct; and where a half-monthly payment is payable to any person under a legal disability, the competent authority may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the employee or to any other person, whom the competent authority thinks fit to provide for the welfare of the employee.

(*8*) Where, on application made to him in this behalf or otherwise, the competent authority is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the competent authority as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the competent authority may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause as to why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(*9*) Where the competent authority varies any order under sub-section (*8*) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner as specified in sub-section (*10*).

(*10*) The competent authority may recover as an arrear of land revenue any amount referred to in sub-section (*9*), and for such purpose the competent authority shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890. 1 of 1890.

Notice and claim.

82. (*1*) No claim for compensation shall be entertained by a competent authority unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or, in case of death, within two years from the date of death:

Provided that where the accident is the contracting of a disease in respect of which the provisions of sub-section (*3*) of section 74 are applicable, the accident shall be deemed to have occurred on the first of the days during which the employee was continuously absent from work in consequence of the disablement caused by the disease:

Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the employee to absent himself from work, the period of two years shall be counted from the day the employee gives notice of the disablement to his employer:

Provided also that if an employee who, having been employed in an employment for a continuous period specified under sub-section (*3*) of section 74 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease

peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected.

(*2*) The want of or any defect or irregularity, in a notice given under sub-section (*1*), shall not be a bar to the entertainment of a claim—

(*a*) if the claim is preferred in respect of the death of an employee resulting from an accident which occurred on the premises of the employer, or at any place where the employee at the time of the accident was working under the control of the employer or of any person employed by him, and the employee died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed had knowledge of the accident from any other source at or about the time when it occurred:

Provided that the competent authority may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time as provided under sub-section (*1*), if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(*3*) Every such notice shall give the name and address of the person injured and shall state the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed.

(*4*) The appropriate Government may require that any class of employers as may be prescribed by that Government shall maintain, at their premises at which employees are employed, a notice-book, in such form as may be prescribed by that Government, which shall be readily accessible at all reasonable times to any injured employee employed on the premises and to any person acting *bona fide* on his behalf.

(*5*) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or where possible, electronically or, where a notice-book is maintained, by entry in the notice-book.

Special provisions relating to accidents occurring outside Indian territory.

83. (*1*) The provisions of this section shall, subject to the modifications specified in this section, apply in case of employees who are—

(*a*) masters of ships or seamen; or

(*b*) captain and other members of crew of aircraft;

(*c*) persons recruited by companies registered in India and working as such abroad;

(*d*) persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 as drivers, helpers, mechanics, cleaners or other employees.

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(*2*) The notice of the accident and the claim for compensation by a person injured may be served on the following persons, as if they were the employer—

(*a*) in case of accident where the person injured is a seamen, but not the master of the ship, on the master of the ship;

(*b*) in case of accident where the person injured is a member of crew of an aircraft, but not the captain of the aircraft, on the captain of the aircraft;

(*c*) in case of persons recruited by companies registered in India and working as such abroad, on the local agent of the company;

(*d*) in case of persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees, on the local agent of the owner of the motor vehicle, in the country of the accident:

Provided that where the accident happened and the disablement commenced on board, the ship or aircraft, as the case may be, then, it shall not be necessary for any seaman or members of the crew of aircraft to give any notice of the accident.

(*3*) The claim of compensation shall be made—

(*a*) in the case of the death of an employee referred to in sub-section (*1*), one year after the news of the death has been received by the claimant;

(*b*) in the case where the ship or the aircraft as the case may be, has been or is deemed to have been lost with all hands, eighteen months of the date on which the ship or the aircraft was, or is deemed to have been, so lost:

Provided that the competent authority may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

(*4*) Where an injured employee referred to in sub-section (*1*) is discharged or left behind in any part of India or in any foreign country, then, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

(*a*) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(*b*) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(*c*) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(*5*) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law for the time being in force relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

(*6*) Failure to give a notice or make a claim or commence proceedings within the time required by this section shall not be a bar to the maintenance of proceedings under this Chapter in respect of any personal injury, if such proceedings under this Chapter are commenced within one month from the date on which the certificate of the State to that effect Government was furnished to the person commencing the proceedings.

Medical examination.

84. (*1*) Where an employee has given notice of an accident, he, shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a medical practitioner, submit himself for such examination, and any employee who is in receipt of a half-monthly payment

under this Chapter shall, if so required, submit himself for such examination from time to time:

Provided that an employee shall not be required to submit himself for examination by a medical practitioner at more than such frequent interval as may be prescribed by the State Government.

(*2*) If an employee, on being required to do so by the employer under sub-section (*1*) or by the competent authority at any time, refuses to submit himself for examination by a medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(*3*) If an employee, before the expiry of the period within which he is liable under sub-section (*1*) to be required to submit himself for medical examination, voluntarily leaves the vicinity of the place in which he was employed without having been so examined, his right to compensation shall be suspended until he returns and offers himself for such examination:

Provided that where such employee proves before the medical practitioner that he could not so submit himself for medical examination due to the circumstances beyond his control and he was also handicapped to communicate such information in writing, the medical practitioner may after recording such reasons in writing, condone the delay and his right to compensation shall be revived as if no such suspension was made.

(*4*) Where an employee, whose right to compensation has been suspended under sub-section (*2*) or sub-section (*3*), dies without having submitted himself for medical examination as required by either of those sub-sections, the competent authority may, if he thinks fit, direct the payment of compensation to the dependants of the deceased employee.

(*5*) Where under sub-section (*2*) or sub-section (*3*), a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (*ii*) of sub-section (*4*) of section 76, the waiting period shall be increased by the period during which the suspension continues.

(*6*) Where an injured employee has refused to be attended by a medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the employee has not thereafter been regularly attended by a medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the employee had been regularly attended by a medical practitioner, whose instructions he had followed, and compensation, if any, shall be payable accordingly.

Contracting.

85. (*1*) Where any employer in the course of or for the purposes of his trade or business contracts with a contractor for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the employer, the employer shall be liable to pay to any employee employed in the execution of the work any compensation, which he would have been liable to pay if that employee had been immediately employed by him; and that the amount of compensation shall be calculated with reference to the wages of the employee under the employer by whom he is immediately employed.

(*2*) Where the employer is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the employee could have recovered the compensation and where a contractor who is himself an employer is liable to pay compensation or to indemnify an employer under this section, he shall be entitled to be indemnified by any person standing to him in relation of a contractor from

whom the employee could have recovered the compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the competent authority.

(*3*) Nothing in this section shall be construed as preventing an employee from recovering compensation referred to in sub-section (*2*) from the contractor instead of the employer.

(*4*) The provisions of this section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the employer has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against stranger.

86. Where an employee has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 85 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency of employer.

87. (*1*) Where any employer has entered into a contract with any insurers in respect of any liability under this Chapter to any employee, then, in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the employee, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the employee than they would have been under the employer.

(*2*) If the liability of the insurers to the employee is less than the liability of the employer to the employee, the burden of proof shall lie on the employee for the balance in the insolvency proceedings or liquidation.

(*3*) Where in any case such as is referred to in sub-section (*1*), the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premium), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the employee:

Provided that the provisions of this sub-section shall not apply in any case in which the employee fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(*4*) There shall be deemed to be included among the debts which under the Insolvency and Bankruptcy Code, 2016 or under the provisions of the Companies Act, 2013 are in the distribution of the assets of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation, the liability accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and the provisions of that Code and Act shall have effect accordingly. 31 of 2016. 18 of 2013.

(*5*) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if applications were made for that purpose under section 80, and a certificate of the competent authority as to the amount of such sum shall be conclusive proof thereof.

(*6*) The provisions of sub-section (*4*) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (*3*), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (*1*).

(*7*) The provisions of this section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Power to require from employers statements regarding fatal accidents.

88. (*1*) Where a competent authority receives information from any source that an employee has died as a result of an accident arising out of and in the course of his employment, he may send by registered post or where possible, electronically a notice to the employee's employer requiring him to submit, within thirty days of the service of the notice, a statement, in such form as may be prescribed by the State Government, giving the circumstances attending the death of the employee, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death and a copy of such notice shall also be sent by the competent authority in the same manner to the dependants of such employee ascertained by the competent authority.

(*2*) If the employer is of the opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(*3*) If the employer is of the opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(*4*) Where the employer has so disclaimed liability, the competent authority, after such inquiry as he may think fit, may inform any of the dependants of the deceased employee, that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

(*5*) Where in the opinion of the competent authority, a dependant of the deceased employee is not in a position to engage an advocate to file a claim for compensation, the competent authority may provide an advocate to such dependant, from the panel of advocates maintained by the State Government.

Registration of agreements.

89. (*1*) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman, or a person under a legal disability, a memorandum thereof shall be sent by the employer to the competent authority, who shall, on being satisfied as to its genuineness, record the memorandum in a register, electronically or otherwise, in such manner as may be prescribed by the appropriate Government:

Provided that—

(*a*) no such memorandum shall be recorded before seven days after communication by the competent authority of notice to the parties concerned;

(*b*) the competent authority may at any time rectify the register;

(*c*) where it appears to the competent authority that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, the competent authority may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as the competent authority thinks just in the circumstances.

(*2*) An agreement for the payment of compensation which has been registered under sub-section (*1*) shall be enforceable under this Code notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force. 9 of 1872.

(*3*) Where a memorandum of any agreement, the registration of which is required under this section, is not sent to the competent authority as required by this section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Chapter, and notwithstanding anything contained in the proviso to sub-section (*1*) of section 76, shall not, unless the competent authority otherwise directs, be entitled to deduct more than half of any amount paid to the employee by way of compensation whether under the agreement or otherwise.

Reference to competent authority.

90. (*1*) If any question arises in any proceedings under this Chapter as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not an employee) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a competent authority.

(*2*) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Chapter required to be settled, decided or dealt with by a competent authority or to enforce any liability incurred under this Chapter.

Appointment of competent authority.

91. (*1*) The State Government may, by notification, appoint any person who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the appropriate Government to be a competent authority for the purposes of this Chapter and for such area as may be specified in the notification.

(*2*) Where more than one competent authority has been appointed for any area, the State Government may, by general or special order, regulate the distribution of business amongst them.

(*3*) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

Venue of proceedings and transfer.

92. (*1*) Where any matter under this Chapter is to be done by or before a competent authority, the same shall, subject to the provisions of this Chapter and in the manner prescribed in this behalf by the State Government, be done by or before the competent authority for the area in which—

(*a*) the accident took place which resulted in the injury; or

(*b*) the employee or in case of his death, the dependant claiming the compensation ordinarily resides; or

(*c*) the employer has his registered office:

Provided that no matter shall be processed before or by a competent authority, other than the competent authority having jurisdiction over the area in which the accident took place, without his giving notice electronically or otherwise in the manner prescribed by the Central Government to the competent authority having jurisdiction over the area and the State Government concerned:

Provided further that, where the employee, being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or an employee in a motor vehicle or a company, meets with the accident outside India, any such matter may be done by or before

a competent authority for the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.

(*2*) If a competent authority, other than the competent authority with whom any money has been deposited under section 81, proceeds with a matter under this Chapter, the former may for the proper disposal of the matter call for transfer of any records or moneys remaining with the latter and on receipt of such a request, he shall comply with the same.

(*3*) If a competent authority is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other competent authority, whether in the same State or not, he may, subject to rules made under this Code relating to this Chapter, order such matter to be transferred to such other competent authority either for report or for disposal, and, if he does so, shall forthwith transmit to such other competent authority all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the manner as may be prescribed by the Central Government any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that the competent authority shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard.

(*4*) The competent authority to whom any matter is so transferred shall, subject to rules made under this Code relating to this Chapter, inquire therein to and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(*5*) On receipt of a report from a competent authority to whom any matter has been transferred for report under sub-section (*3*), the competent authority by whom it was referred shall decide the matter referred to in conformity with such report.

(*6*) The State Government may transfer any matter from any competent authority appointed by it to any other competent authority appointed by it.

Form of application.

93. (*1*) Where an accident occurs in respect of which liability to pay compensation under this Chapter arises, a claim for such compensation may, subject to the provisions of this Chapter, be made before the competent authority.

(*2*) Subject to the provisions of sub-section (*1*), no application for the settlement of any matter by competent authority, other than an application by a dependant or joint application by dependants for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(*3*) An application to a competent authority for claim under sub-section (*1*) or settlement under sub-section (*2*) may be made electronically or otherwise in such form and in such manner accompanied by such fee, if any, as may be prescribed by the Central Government.

(*4*) The time-limit for the disposal of applications under this section and the costs incidental to the proceedings under this section to be imposed by the competent authority shall be such as may be prescribed by the State Government.

Power of competent authority to require further deposit in cases of fatal accident.

94. (*1*) Where any sum has been deposited by an employer as compensation payable in respect of an employee whose injury has resulted in death, and in the opinion of the competent authority such sum is insufficient, the competent authority may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(*2*) If the employer fails to show cause to the satisfaction of the competent authority, the competent authority may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

Powers and procedure of competent authority.

95. The competent authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such competent authority is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the competent authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973. 5 of 1908. 2 of 1974.

Appearance of parties.

96. Any appearance, application or act required to be made or done by any person before or to a competent authority (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector-cum-Facilitator appointed under sub-section (*1*) of section 122 or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the competent authority, by any other person so authorised.

Method of recording evidence.

97. The competent authority shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be authenticated under the hand of the competent authority or in the manner as may be prescribed by the State Government and shall form part of the record:

Provided that, if the competent authority is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Power to submit cases.

98. A competent authority may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Appeal against order of competent authority.

99. (*1*) An appeal shall lie to the High Court from the following orders of a competent authority under this Chapter, namely:—

(*a*) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(*b*) an order awarding interest or damages under section 77;

(*c*) an order refusing to allow redemption of a half-monthly payment;

(*d*) an order providing for the distribution of compensation among the dependants of a deceased employee, or disallowing any claim of a person alleging himself to be such dependant;

(*e*) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (*2*) of section 85; or

(*f*) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order referred to in clause (*c*), unless the amount in dispute in the appeal is not less than ten thousand rupees or such higher amount as the Central Government may, by notification, specify:

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the competent authority, or in which the order of the competent authority gives effect to an agreement arrived at by the parties:

Provided also that no appeal by an employer under clause (*a*) shall lie unless the memorandum of appeal is accompanied by a certificate by the competent authority to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(*2*) The period of limitation for an appeal under this section shall be sixty days from the date of passing of the order.

36 of 1963.

(*3*) The provisions of section 5 of the Limitation Act, 1963, shall be applicable to appeal under this section.

CHAPTER VIII

SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS

Levy and collection of cess.

100. (*1*) There shall be levied and collected a cess for the purposes of social security and welfare of building workers at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by notification, from time to time, specify.

Explanation.—For the purposes of this sub-section, the cost of construction shall not include,—

(*a*) the cost of land; and

(*b*) any compensation paid or payable to an employee or his kin under Chapter VII.

(*2*) The cess levied under sub-section (*1*) shall be collected from every employer undertaking building or other construction work in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority or such other authority notified by the State Government is required, as may be prescribed by the Central Government.

(*3*) The proceeds of the cess collected under sub-section (*2*) shall be deposited by the local authority or such other authority notified by the State Government to the Building Workers' Welfare Board in such manner as may be prescribed by the Central Government.

(*4*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), the cess leviable under this Chapter including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed by the Central Government on the basis of the quantum of the building or other construction work involved.

Interest payable on delay in payment of cess.

101. If any employer fails to pay any amount of cess payable under section 100 within such time as may be prescribed by the appropriate Government, such employer shall be liable to pay interest at such rate as may be prescribed by the Central Government, on the amount of cess, to be paid, for the period from the date on which such payment is due till such amount is actually paid.

Power to exempt from cess.

102. Notwithstanding anything contained in this Chapter, the appropriate Government may, by notification, exempt any employer or class of employers in a State from the payment of cess payable under this Chapter where such cess is already levied and payable under any corresponding law in force in that State.

Self-assessment of cess.

103. (*1*) The employer shall, within sixty days or such period as may be notified by the Central Government of the completion of his each building and other construction work, pay such cess (adjusting the advance cess already paid under section 100) payable under this Chapter on the basis of his self-assessment on the cost of construction worked out on the basis of the documents and in the manner prescribed by the Central Government and after such payment of cess, he shall file a return under clause (*d*) of section 123.

(*2*) If the officer or the authority to whom or to which the return has been filed under sub-section (*1*) finds any discrepancy in the payment under the self-assessment and the payment required under the return referred to in that sub-section, then, he or it shall, after making or causing to be made such inquiry as he or it thinks fit and after such inquiry make the appropriate assessment order.

(*3*) An order of assessment made under sub-section (*2*) shall specify the date within which the cess shall be paid by the employer, if any.

Penalty for non-payment of cess within the specified time.

104. If any amount of cess payable by any employer under section 103 is not paid within the date specified in the order of assessment made under sub-section (*2*) of that section, it shall be deemed to be in arrears and the authority prescribed by the Central Government in this behalf may, after making such inquiry as it deems fit, impose on such employer a penalty not exceeding the amount of cess:

Provided that, before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

Appeal to appellate authority.

105. (*1*) Any employer aggrieved by an order of assessment made under section 103 or by an order imposing penalty made under section 104 may, within such time as may be prescribed by the Central Government, appeal to such appellate authority in such form and in such manner as may be prescribed by the Central Government.

(*2*) Every appeal preferred under sub-section (*1*) shall be accompanied by such fees as may be prescribed by the appropriate Government.

(*3*) After the receipt of any appeal under sub-section (*1*), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(*4*) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

Registration of building workers as beneficiaries.

106. Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be registered by the officer authorised by the Building Workers' Welfare Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government.

Cessation as a beneficiary.

107. (*1*) A building worker who has been registered as a beneficiary under section 106 shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

(*2*) Notwithstanding anything contained in sub-section (*1*), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, then, he shall be eligible to get such benefits as may be prescribed by the Central Government.

Explanation.—For computing the period of three years under this sub-section as a beneficiary registered with a Building Workers' Welfare Board, there shall be added any period for which a person had been a beneficiary registered with any other such Board immediately before his registration with the Building Workers' Welfare Board.

Building and Other Construction Workers' Welfare Fund and its application.

108. (*1*) There shall be constituted by a Building Workers' Welfare Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto—

(*a*) the amount of any cess levied under sub-section (*1*) of section 100;

(*b*) any grants and loans made to the Building Workers' Welfare Board by the Central Government; and

(*c*) all sums received by the Building Workers' Welfare Board from such other sources as may be decided by the Central Government.

(*2*) The Building and Other Construction Workers' Welfare Fund shall be applied for meeting—

(*a*) expenses of the Building Workers' Welfare Board in the discharge of its functions under sub-section (*6*) of section 7;

(*b*) salaries, allowances and other remuneration of the members, officers and other employees of the Building Workers' Welfare Board; and

(*c*) expenses on objects and for purposes authorised by this Code.

(*3*) No Building Workers' Welfare Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year.

CHAPTER IX

SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS

Framing of schemes for unorganised workers.

109. (*1*) The Central Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—

(*i*) life and disability cover;

(*ii*) health and maternity benefits;

(*iii*) old age protection;

(*iv*) education; and

(*v*) any other benefit as may be determined by the Central Government.

(*2*) The State Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—

(*i*) provident fund;

(*ii*) employment injury benefit;

(*iii*) housing;

(*iv*) educational schemes for children;

(*v*) skill upgradation of workers;

(*vi*) funeral assistance; and

(*vii*) old age homes.

(*3*) Any scheme notified by the Central Government under sub-section (*1*), may be—

(*i*) wholly funded by the Central Government; or

(*ii*) partly funded by the Central Government and partly funded by the State Government; or

(*iii*) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the Central Government; or

(*iv*) funded from any source including corporate social responsibility fund within the meaning of the Companies Act, 2013 or any other such source as may be specified in the scheme. 18 of 2013.

(*4*) Every scheme notified by the Central Government under sub-section (*1*) shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to all or any of the following, namely:—

(*i*) scope of the scheme;

(*ii*) authority to implement the scheme;

(*iii*) beneficiaries of the scheme;

(*iv*) resources of the scheme;

(*v*) agency or agencies that will implement the scheme;

(*vi*) redressal of grievances; and

(*vii*) any other relevant matter,

and a special purpose vehicle may also be constituted by the Central Government for the purpose of implementation of any such scheme.

Funding of State Government schemes.

110. (*1*) Any scheme notified by the State Government under sub-section (*2*) of section 109 may be—

(*a*) wholly funded by the State Government; or

(*b*) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the State Government; or

(*c*) funded from any source including corporate social responsibility fund referred to in clause (*iv*) of sub-section (*3*) of section 109 or any other such source as may be specified in the scheme.

(*2*) The State Government may seek financial assistance from the Central Government for the schemes framed by it.

(*3*) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

Record keeping.

111. The Government formulating and notifying the scheme under this Chapter shall provide therein the form and manner of keeping the records electronically or otherwise relating to the scheme and the authority by whom such records shall be maintained:

Provided that such records shall, as far as may be possible, bear continuous number for the purpose of proper management of the scheme and for avoiding any duplication and overlapping in records.

Helpline, facilitation centre, etc., for unorganised workers, gig workers and platform workers.

112. The appropriate Government may set up a toll free call centre or helpline or such facilitation centres as may be considered necessary from time to time to perform any or more of the following functions, namely:—

(*a*) to disseminate information on available social security schemes for the unorganised workers, gig workers and platform workers;

(*b*) to facilitate filing, processing and forwarding of application forms for registration of unorganised workers, gig workers and platform workers;

(*c*) to assist unorganised workers, gig workers and platform workers to obtain registration; and

(*d*) to facilitate the enrolment of the registered unorganised workers, gig workers and platform workers in the social security schemes.

Registration of unorganised workers, gig workers and platform workers.

113. (*1*) Every unorganised worker, gig worker or platform worker shall be required to be registered for the purposes of this Chapter, subject to the fulfilment of the following conditions, namely:—

(*a*) he has completed sixteen years of age or such age as may be prescribed by the Central Government;

(*b*) he has submitted a self-declaration electronically or otherwise in such form and in such manner containing such information as may be prescribed by the Central Government.

(*2*) Every eligible unorganised worker, gig worker or platform worker referred to in sub-section (*1*) shall make an application for registration in such form along with such documents including Aadhaar number as may be prescribed by the Central Government and such worker shall be assigned a distinguishable number to his application:

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.

(*3*) A registered unorganised worker, gig worker or platform worker shall be eligible to avail the benefit of the concerned scheme framed under this Chapter.

(*4*) The Central Government, or as the case may be, the State Government shall make such contribution in a scheme as may be specified therein.

Explanation.—For the purposes of this section, the term "Aadhaar" shall have the same meaning as is assigned to it in section 142.

Schemes for gig workers and platform workers.

114. (*1*) The Central Government may frame and notify, from time to time, suitable social security schemes for gig workers and platform workers on matters relating to—

(*a*) life and disability cover;

(*b*) accident insurance;

(*c*) health and maternity benefits;

(*d*) old age protection;

(*e*) crèche; and

(*f*) any other benefit as may be determined by the Central Government.

(*2*) Every scheme framed and notified under sub-section (*1*) may provide for—

(*a*) the manner of administration of the scheme;

(*b*) the agency or agencies for implementing the scheme;

(*c*) the role of aggregators in the scheme;

(*d*) the sources of funding of the scheme; and

(*e*) any other matter as the Central Government may consider necessary for the efficient administration of the scheme.

(*3*) Any scheme notified by the Central Government under sub-section (*1*), may be—

(*a*) wholly funded by the Central Government; or

(*b*) partly funded by the Central Government and partly funded by the State Government; or

(*c*) wholly funded by the contributions of the aggregators; or

(*d*) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the aggregators, as may be specified in the scheme framed by the Central Government; or

(*e*) funded from corporate social responsibility fund within the meaning of Companies Act, 2013; or 18 of 2013.

(*f*) any other source.

(*4*) The contribution to be paid by the aggregators for the funding referred to in clause (*ii*) of sub-section (*1*) of section 141, shall be at such rate not exceeding two per cent., but not less than one per cent., as may be notified by the Central Government, of the annual turnover of every such aggregator who falls within a category of aggregators, as are specified in the Seventh Schedule:

Provided that the contribution by an aggregator shall not exceed five per cent. of the amount paid or payable by an aggregator to gig workers and platform workers.

Explanation.—For the purposes of this sub-section, the annual turnover of an aggregator shall not include any tax, levy and cess paid or payable to the Central Government.

(*5*) The date of commencement of contribution from aggregator under this section shall be notified by the Central Government.

(*6*) The National Social Security Board constituted under sub-section (*1*) of section 6 shall be the Board for the purposes of the welfare of gig workers and platform workers under the provisions of this Code:

Provided that while such Board serves the purposes of welfare of, or matters relating to, gig workers and platform workers, the following members shall constitute the Board instead of the members specified in clauses (*c*) and (*d*) of sub-section (*2*) of section 6, namely:—

(*a*) five representatives of the aggregators as the Central Government may nominate;

(*b*) five representatives of the gig workers and platform workers as the Central Government may nominate;

(*c*) Director General of the Corporation;

(*d*) Central Provident Fund Commissioner of the Central Board;

(*e*) such expert members as the Central Government may consider appropriate;

(*f*) five representatives of the State Governments by such rotation as the Central Government may consider appropriate;

(*g*) Joint Secretary to the Government of India in the Ministry of Labour and Employment, who shall be the Member Secretary to the Board.

(*7*) (*i*) The Central Government may provide that—

(*a*) the authority to collect and to expend the proceeds of contribution collected;

(*b*) the rate of interest to be paid by an aggregator in case of delayed payment, less payment or non-payment of contribution;

(*c*) self-assessment of contribution by aggregators;

(*d*) conditions for cessation of a gig worker or a platform worker; and

(*e*) any other matter relating to smooth functioning of the social security scheme notified under this section,

shall be such as may be prescribed by that Government.

(*ii*) The Central Government may by notification, exempt such aggregator or class of aggregators from paying of contribution under sub-section (*4*), subject to such conditions as may be specified in the notification.

Explanation.—For the purposes of this section, an aggregator having more than one business shall be treated as a separate business entity or aggregator.

CHAPTER X

FINANCE AND ACCOUNTS

Accounts.

115. Each of the Social Security Organisations shall maintain proper accounts of its income and expenditure in such form and in such manner as the appropriate Government may, after consultation with the Comptroller and Auditor-General of India, specify.

Audit.

116. (*1*) The accounts of each of the Social Security Organisations shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the respective Social Security Organisation to the Comptroller and Auditor-General of India.

(*2*) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of a Social Security Organisation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and to inspect any of the offices of the Social Security Organisation.

(*3*) The accounts of a Social Security Organisation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Social Security Organisation which shall along with its comments on the audit report of the Comptroller and Auditor-General of India forward the same to the appropriate Government.

Budget estimates.

117. (*1*) Each of the Social Security Organisations shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the appropriate Government before such date as may be fixed by it in that behalf.

(*2*) The budget shall contain provisions adequate in the opinion of the appropriate Government for the discharge of the liabilities incurred by the Social Security Organisation and for the maintenance of a working balance.

Annual report.

118. (*1*) Each of the Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities and the budget finally adopted by the Social Security Organisation.

(*2*) The appropriate Government shall cause a copy of the annual report, budget and the audited accounts together with the report of the Comptroller and Auditor-General of

India and the comments of the respective Social Security Organisation thereon to be laid before each House of Parliament or the State legislature, as the case may be.

Valuation of assets and liabilities.

119. Each of the fund maintained by a Social Security Organisation or by an establishment under this Code shall have a valuation of its assets and liabilities made by a valuer or actuary, as the case may be, appointed, with the prior approval of the appropriate Government, by such Social Security Organisation or the establishment, as the case may be, in the following manner, namely:—

(*a*) in case of Central Board, annually;

(*b*) in case of Corporation, once in every three years;

(*c*) in case of any other Social Security Organisation or establishment, as specified by the appropriate Government, by order:

Provided that the appropriate Government, if it considers necessary, may direct such valuation to be made at such intervals other than provided in this section.

Holding of property, etc., by Social Security Organisation.

120. (*1*) A Social Security Organisation (except Corporation) may, subject to such conditions as may by Social Security Organisation be prescribed by the appropriate Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation is established.

(*2*) Subject to such conditions as may be prescribed by the appropriate Government, a Social Security Organisation may, from time to time invest any moneys vested in it, which are not immediately required for expenses properly defrayable and may, subject to as aforesaid, from time to time re-invest or realise such investments:

Provided that in case of Provident Fund, Pension Fund or Insurance Fund, such investment, re-investment or realisation shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.

(*3*) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, raise loans and take measures for discharging such loans.

(*4*) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, constitute for the benefit of its officers and staff or any class of them, such provident or other benefit funds as it may think fit:

Provided that in case of officers and staff of the Central Board, such terms shall be specified in the Provident Fund Scheme.

Writing off of losses.

121. Subject to the conditions as may be prescribed by the appropriate Government, where any of the Social Security Organisations is of the opinion that the amount of contribution, cess, interest and damages due to it, under this Code, is irrecoverable, the concerned Social Security Organisation may sanction the writing off of the said amount in such manner as may be prescribed by the appropriate Government:

Provided that in the case of Provident Fund, Pension Fund or Insurance Fund, such writing off shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.

CHAPTER XI

AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY

Appointment of Inspector-cum-Facilitators and their powers.

122. (*1*) The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters, and the appropriate Government for the purposes of other provisions of this Code, may, by notification, appoint Inspector-cum-Facilitators who shall discharge his duties under this Code and exercise the powers

conferred on them under sub-section (*6*) in accordance with the inspection scheme referred to in sub-section (*2*).

(*2*) The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters and the appropriate Government in respect of other provisions of this Code, may, by notification, lay down an inspection scheme which may provide for generation of a web-based inspection and calling of information relating to the inspection under this Code electronically and such scheme shall, *inter alia*, have provisions to cater to special circumstances for assigning inspections and calling for information from the establishment or any other person.

(*3*) Without prejudice to the provisions of sub-section (*2*), the Central Government for the purposes of Chapter III and Chapter IV and the other provisions in this Code relating to those Chapters and the appropriate Government in relation to other provisions of this Code, may, by notification, confer such jurisdiction of randomised selection of inspection for the purposes of this Code, to the Inspector-cum-Facilitators as may be specified in such notification.

(*4*) Without prejudice to the powers of the Central Government or the appropriate Government, as the case may be, under this section, the inspection scheme may be designed taking into account, *inter alia*, the following factors, namely:—

(*a*) assignment of unique number to each establishment (which will be same as the registration number allotted to that establishment), each Inspector-cum-Facilitator and each inspection in such manner as may be notified for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government;

(*b*) timely uploading of inspection reports in such manner and subject to such conditions as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government;

(*c*) provisions for special inspections based on such parameters as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government; and

(*d*) the characteristics of employment relationships, the nature of work and characteristics of the workplaces based on such parameters as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government.

(*5*) The Inspector-cum-Facilitator may—

(*a*) advice the employers and employees relating to compliance with the provisions of this Code; and

(*b*) inspect the establishments as assigned to him under the provisions of this Code,

subject to the instructions or guidelines issued by the appropriate Government from time to time.

(*6*) Subject to the provisions of sub-section (*4*), the Inspector-cum-Facilitator may,—

(*a*) examine any person who is found in any premises of the establishment, whom the Inspector-cum-Facilitator has reasonable cause to believe, is an employee of the establishment;

(*b*) require any person whom the Inspector-cum-Facilitator has reasonable cause to believe, is an employer of the establishment, to produce any document or to give any information, which is in his power with respect to any of the purposes for which the inspection is made;

(*c*) search, seize or take copies of such register, record of wages or notices or portions thereof as the Inspector-cum-Facilitator may consider relevant in respect of an offence under this Code and which the Inspector-cum-Facilitator has reason to believe has been committed by the employer;

(*d*) bring to the notice of the appropriate Government defects or abuses not covered by any law for the time being in force; and

(*e*) exercise such other powers as may be prescribed by the appropriate Government.

(*7*) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator for the purposes of sub-section (*6*) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code. 45 of 1860.

(*8*) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure for the purposes of sub-section (*6*), as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974.

Maintenance of records, registers, returns, etc.

123. An employer of an establishment shall—

(*a*) maintain records and registers in the form prescribed by the appropriate Government, electronically or otherwise, containing such particulars and details with regard to persons employed, muster roll, wages and such other particulars and details, in such manner, as may be prescribed by the appropriate Government including—

(*i*) number of days for which work performed by employees;

(*ii*) number of hours of work performed by the employees;

(*iii*) wage paid;

(*iv*) leave, leave wages, wages for overtime work and attendance;

(*v*) employees identification number, by whatever nomenclature it may be called;

(*vi*) number of dangerous occurrences, accidents, injuries in respect of which compensation has been paid by the employer and the amount of such compensation relating to Chapter IV and Chapter VII, respectively;

(*vii*) statutory deductions made by employer from the wages of an employee in respect of Chapter III and Chapter IV;

(*viii*) details as to cess paid in respect of building and other construction work;

(*ix*) total number of employees (regular, contractual or fixed term employment) on the day specified;

(*x*) persons recruited during a particular period;

(*xi*) occupational details of the employees; and

(*xii*) vacancies for which suitable candidates were not available during the specified period.

(*b*) display notices at the workplaces of the employees in such manner and form as may be prescribed by the appropriate Government;

(*c*) issue wage slips to the employees, in electronic forms or otherwise; and

(*d*) file such return electronically or otherwise to such officer or authority in such manner and during such periods as may be prescribed by the appropriate Government:

Provided that matters to be provided under the rules required to be made under this section relating to Chapter III shall, instead of providing them in rules to be made by the Central Government, be provided in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be:

Provided further that the forms of records and registers and that of the returns to be filed under Chapter IV shall be specified in the regulations instead of providing them in the rules.

Employer not to reduce wages, etc.

124. No employer in relation to an establishment to which this Code or any scheme framed thereunder applies shall, by reason only of his liability for the payment of any contribution under this Code, or any charges thereunder reduce whether directly or indirectly, the wages of any employee to whom the provisions of this Code or any scheme framed thereunder applies or the total quantum of benefits to which such employee is entitled under the terms of his employment, express or implied.

Assessment and determination of dues from employer.

125. (*1*) The Central Government may, by notification, authorise, such officers of the Central Board or the Corporation, as the case may be, not below the rank of Group 'A' officer of that Government, to function as the Authorised Officers for the purposes of Chapter III or Chapter IV, as the case may be, who may, by order—

(*a*) in a case where a dispute arises regarding the applicability of Chapter III or Chapter IV, as the case may be, to an establishment, decide such dispute; and

(*b*) determine the amount due from any employer under any provision of Chapter III or Chapter IV, as the case may be, or the schemes, or rules, regulations made under such Chapter; and

(*c*) for any of the purposes relating to clause (*a*) and clause (*b*), conduct such inquiry, as he may deem necessary for such purposes:

Provided that no proceeding under this sub-section shall be initiated after the expiry of the period of five years from the date on which the dispute referred to in clause (*a*) is alleged to have been arisen or, as the case may be, the amount referred to in clause (*b*) is alleged to have been due from an employer.

5 of 1908.

(*2*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the inquiry under sub-section (*1*), as far as practicable, shall be held on day-to-day basis and endeavour shall be made to ensure that the inquiry is concluded within a period of two years:

Provided that where the inquiry is not concluded within the said period of two years, the Authorised Officer conducting such inquiry shall record the circumstances and reasons for not having concluded so and submit the circumstances and reasons so recorded to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or such other officer authorised by him in this behalf:

Provided further that the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, after considering the circumstances and the reasons which have been submitted by the Authorised Officer may grant an extension for a period up to one year to conclude the said inquiry:

Provided also that the inquiries which are pending immediately before the date of commencement of this Code shall be concluded by the Authorised Officer within a period not exceeding two years from the date of such commencement.

(*3*) The Authorised Officer conducting the inquiry under sub-section (*1*) shall, for the purposes of such inquiry have the same powers as are vested in a court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:— 5 of 1908.

(*a*) enforcing the attendance of any person or examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavit; and

(*d*) issuing commissions for the examination of witnesses,

and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code. 45 of 1860.

(*4*) No order shall be made under sub-section (*1*), unless the employer concerned is given a reasonable opportunity of representing his case.

(*5*) Where the employer, employee or any other person required to attend the inquiry under sub-section (*1*) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so by the Authorised Officer conducting the inquiry, such inquiry officer may decide the applicability of the relevant provisions of this Code or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.

(*6*) Where an order under sub-section (*1*) is passed against an employer *ex parte*, he may, within three months from the date of communication of such order, apply to the Authorised Officer for setting aside such order and if the Authorised Officer is satisfied that the show cause notice was not duly served or that such employer was prevented by any sufficient cause from appearing when the inquiry was held, the Authorised Officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry:

Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the Authorised Officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the Authorised Officer.

Explanation.—Where an appeal has been preferred under this Code against an order passed *ex parte* and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the *ex parte* order.

(*7*) No order passed under this section shall be set aside on any application under sub-section (*6*) unless notice thereof has been served on the opposite party.

Appeal against order of Authorised Officer relating to Chapter IV.

126. If an employer is not satisfied with the order referred to in section 125 and relates to Chapter IV, he may prefer an appeal to the appellate authority not below the rank of the Joint Director of the Corporation as may be provided by regulations, within sixty days from the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

Provided that the appellate authority shall decide the appeal within a period of six months from the date of preferring the appeal:

Provided further that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulations.

Interest on amount due.

127. Except where expressly provided otherwise in this Code, the employer shall be liable to pay simple interest at such rate as may be notified from time to time by the Central Government, from the date on which any amount has become due under this Code till the date of its actual payment.

Power to recover damages.

128. Where an employer makes default in the payment of any contribution which he is liable to pay in accordance with the provisions of Chapter III or Chapter IV, as the case may be, or any scheme framed thereunder or in the transfer of accumulations under Chapter III, or in the payment of any charges payable under any other provision of this Code, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or such other officer as may be authorised, by notification, by the appropriate Government, may levy on, and recover from, the employer by way of damages, an amount not exceeding the amount of arrears, in such manner as may be specified in the regulations for the purposes of Chapter IV and in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, such levy and recovery shall be in the manner as may be specified in the respective schemes framed by the Central Government:

Provided that before levying and recovering such damages, the employer shall be given an opportunity of being heard:

Provided further that the Central Board or the Corporation, as the case may be, may reduce or waive the damages levied under this section in relation to an establishment for which a resolution plan or repayment plan recommending such waiver has been approved by the adjudicating authority established under the Insolvency and Bankruptcy Code, 2016 subject to the terms and conditions as may be specified by notification, by the Central Government.

31 of 2016.

Recovery of amount due.

129. (*1*) Any amount due from an employer or any other person in relation to an establishment including any contribution or cess payable, charges, interest, damages, or benefit or any other amount may, if the amount is in arrear, be recovered in the manner specified in this section and sections 130 to 132.

(*2*) Where any amount is in arrear under this Code, the Authorised Officer, or the competent authority, as the case may be, shall issue to the Recovery Officer referred to in sub-section (*4*), a certificate electronically or otherwise, specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below, namely:—

(*a*) attachment and sale of the movable or immovable property of the establishment or, as the case may be, of the employer;

(*b*) arrest of the employer and his detention in prison;

(*c*) appointing a receiver for the management of the movable or immovable properties of the defaulter:

Provided that the attachment and sale of any property under this section shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount or arrears specified in the certificate, the Recovery Officer may move such proceeding against the property of the employer for recovery of the whole or any part of such arrears.

(*3*) The Authorised Officer or the competent authority, as the case may be, may issue a certificate under sub-section (*2*), notwithstanding that proceeding for recovery of the arrears by any other mode has been taken.

(*4*) The Authorised Officer or the competent authority, as the case may be, may forward the certificate issued under this section, to the Recovery Officer within whose jurisdiction the employer—

(*a*) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or

(*b*) resides or any movable or immovable property of, the establishment or, the employer is situated.

(*5*) Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officer and the Recovery Officer to whom a certificate is sent by the Authorised Officer or the competent authority, as the case may be—

(*a*) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

(*b*) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified by him, specifying the amount to be recovered, to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the Authorised Officer or the competent authority, as the case may be.

Validity of certificate and amendment thereof.

130. (*1*) When the Authorised Officer or the competent authority, as the case may be, issues a certificate to a Recovery Officer under section 129, it shall not be open to the employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall be entertained by the Recovery Officer.

(*2*) Notwithstanding the issue of a certificate to a Recovery Officer, the Authorised Officer or the competent authority, as the case may be, shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending intimation to the Recovery Officer.

(*3*) The Authorised Officer or the competent authority, as the case may be, shall intimate to the Recovery Officer any orders of withdrawing or cancelling a certificate or any correction made by him in respect of the said certificate under sub-section (*2*).

(*4*) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Authorised Officer or the competent authority, as the case may be, may grant time to the employer for payment of the amount recoverable under the certificate and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(*5*) Where a certificate for the recovery of amount has been issued, the Authorised Officer or the competent authority, as the case may be, shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

(*6*) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued under section 129 has been modified in appeal or other proceeding under this Code, resulting in reduction of the demand but the order is the subject matter of further proceeding under this Code, the Authorised Officer or the competent authority, as the case may be, shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(*7*) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Code, the Authorised Officer or the competent authority, as the case may be, shall, when the order being the subject matter of such appeal or other proceeding becomes final and conclusive, amend the certificate or withdraw it, as the case may be in consonance with such finality or conclusion.

Other modes of recovery.

131. (*1*) Notwithstanding the issue of a certificate to the Recovery Officer under section 129, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation so authorised by it in this behalf, may, recover the amount by any one or more of the modes provided in this section.

(*2*) If any amount is due from any person to any employer who is in arrears, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, may, require such person to deduct from the said amount the arrears so due, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation so authorised by it in this behalf:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

5 of 1908.

(*3*) (*a*) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently hold money for or on account of the employer or, as the case may be, the establishment, to pay to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer authorised by it in this behalf either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the employer in respect of arrears or the whole of the money when it is equal to or less than that amount.

(*b*) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the employer jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(*c*) A copy of the notice shall be forwarded to the employer at his last address known to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf and in the case of a joint account to all the joint holders at their last addresses so known.

(*d*) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.

(*e*) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(*f*) Where a person to whom a notice under this sub-section is sent objects to it by statement on oath that the sum demanded or any part thereof is not due to the employer or that he does not hold any money for or on account of the employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, to the extent of his own liability to the employer on the date of the notice, or to the extent of the employer's liability for any sum due under this Code, whichever is less.

(*g*) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(*h*) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the employer to the extent of the amount so paid.

(*i*) Any person discharging any liability to the employer after the receipt of a notice under this sub-section shall be personally liable to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this Code, whichever is less.

(*j*) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceeding may be moved against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 129 to 132 and the notice shall have the same effect as an attachment of amount in arrears by the Recovery Officer in exercise of his powers under section 129.

(*4*) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.

(*5*) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, if so authorised by the Central Government by general or special order, recover any arrears of amount due from an employer or, as the case may be, from the establishment by distraint and sale of his or its movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961. 43 of 1961.

Application of certain provisions of Income-tax Act.

132. The provisions of the Second Schedule and the Third Schedule to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to the amount in arrears of the amount mentioned in section 129 of this Code instead of to the income-tax:

Provided that any reference in the said provisions and the rules to the "assessees"

shall be construed as a reference to an employer or establishment, as the case may be.

CHAPTER XII

OFFENCES AND PENALTIES

Penalty for failure to pay contributions, etc.

133. If any person,—

(*a*) being an employer, fails to pay any contribution which he is liable to pay under this Code or rules, regulations or schemes made thereunder; or

(*b*) deducts or attempts to deduct from the wages of an employee, the whole or any part of employer's contribution; or

(*c*) in contravention of the provisions of this Code, reduces the wages or any privilege or benefits admissible to an employee; or

(*d*) in contravention of the provisions of Chapter IV or Chapter VI or rules, regulations or schemes made or framed under this Code respectively, relating to such Chapters, dismisses, discharges, reduces in rank or otherwise penalises a woman employee; or

(*e*) fails or refuses to submit any return, report, statement or any other information required under this Code or any rules, regulations or schemes made or framed thereunder; or

(*f*) obstructs any Inspector-cum-Facilitator or other officer or staff of the Central Board or the Corporation or other Social Security Organisation or a competent authority in the discharge of his duties; or

(*g*) fails to pay any amount of gratuity to which an employee is entitled under this Code; or

(*h*) fails to pay any amount of compensation to which an employee is entitled under this Code; or

(*i*) fails to provide any maternity benefit to which a woman is entitled under this Code; or

(*j*) fails to send to a competent authority a statement which he is required to send under Chapter VII; or

(*k*) fails to produce on demand by the Inspector-cum-Facilitator any register or document in his custody kept in pursuance of this Code or the rules, regulations or schemes made or framed thereunder; or

(*l*) fails to pay the cess for building workers which he is liable to pay under this Code; or

(*m*) is guilty of any contravention of or non-compliance with any of the requirements of this Code or the rules or the regulations or schemes made or framed thereunder in respect of which no special penalty is provided in this Chapter; or

(*n*) obstructs executive officer in exercising his functions under Chapter XIII; or

(*o*) dishonestly makes a false return, report, statement or information to be submitted thereunder; or

(*p*) fails or makes default in complying with any condition subject to which exemption under section 143 was granted; or

(*q*) fails to pay any administrative or inspection charges payable under any of the schemes framed under Chapter III,

he shall be punishable,—

(*i*) where he commits an offence under clause (*a*), with imprisonment for a term which may extend to three years, but—

(*a*) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of one lakh rupees;

(*b*) which shall not be less than two months but may be extended to six months, in any other case and shall also be liable to fine of fifty thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term;

(*ii*) where he commits an offence under clause (*g*), with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both;

(*iii*) where he commits an offence under any of the clauses (*d*), (*f*), (*i*), (*k*), (*l*) or (*o*), with imprisonment for a term which may extend to six months or with a fine which may extend to fifty thousand rupees, or with both;

(*iv*) where he commits an offence under any of the clauses (*b*), (*c*), (*e*), (*h*), (*j*), (*m*), (*n*), (*p*) or (*q*), with fine which may extend to fifty thousand rupees.

Enhanced punishment in certain cases after previous conviction.

134. Whoever, having been convicted by a court of an offence punishable under this Code, commits the same offence shall, for second, or every subsequent such offence, be punishable with imprisonment for a term which may extend to two years and with fine of two lakh rupees:

Provided that where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation which under this Code he is liable to pay, he shall, for such second or subsequent offence, be punishable with imprisonment for a term which may extend to three years but which shall not be less than two years and shall also be liable to fine of three lakh rupees.

Offences by companies.

135. (*1*) Where an offence under this Chapter has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, secretary or other officer of the company, such director, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate, and includes a firm or other association of individuals; and

(*b*) "Director", in relation to a firm, means a partner in the firm.

Cognizance of offences.

136. (*1*) No court shall take cognizance of an offence punishable under this Code, except on a complaint made by an aggrieved person or such officer as may be notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV

and the rules, regulations or schemes made or framed under this Code relating to those Chapters, and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed thereunder, by the officer notified by the appropriate Government.

(*2*) Notwithstanding anything contained in sub-section (*1*), no prosecution under this Code shall be instituted, except by or with the previous sanction of the authority notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed thereunder, the authority notified by the appropriate Government.

(*3*) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Chapter.

(*4*) Notwithstanding anything contained in sub-section (*1*), a single complaint may be filed under that sub-section by more than one aggrieved persons if they are aggrieved by the same or similar offence committed at a place or different places within the jurisdiction of the court.

Prior opportunity before prosecution.

137. Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator or any other officer notified for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government, shall, before initiation of prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to the employer to comply with the aforesaid relevant provisions by way of a written direction, which shall lay down a time period for such compliance, and, if the employer complies with the direction within such period, then, no such proceeding shall be initiated against the employer; but no such opportunity shall be accorded to an employer, if the violation of the same nature of such provisions is repeated within a period of three years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of this Chapter.

Compounding of offences.

2 of 1974.

138. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed for the first time, punishable under this Chapter, being an offence—

(*i*) punishable with fine only; or

(*ii*) punishable with imprisonment for a term which is not more than one year and also with fine,

may, on an application made, either before or after the institution of any prosecution, be compounded by an officer authorised by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government, in such manner as may be prescribed by the Central Government on payment by the offender to the appropriate Government the amount—

(*i*) in the case of an offence punishable with fine only, the half of the maximum fine provided for that offence; and

(*ii*) in the case of an offence punishable with imprisonment for a term which is not more than one year and also with fine, the three-fourth of the maximum fine provided for that offence.

(*2*) Nothing contained in sub-section (*1*) shall apply to an offence committed by a person for the second time or thereafter within a period of three years from the date—

(*i*) of commission of a similar offence which was earlier compounded; or

(*ii*) of commission of similar offence for which such person was earlier convicted.

(*3*) Every officer referred to in sub-section (*1*) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government.

(*4*) Every application for the compounding of an offence shall be made in such form and in such manner as may be prescribed by the appropriate Government.

(*5*) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(*6*) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the court in which the prosecution is pending in writing by the officer referred to in sub-section (*1*), and on such notice of the compounding of the offence being given to the court, the person against whom the offence is so compounded shall be discharged.

(*7*) Any person who fails to comply with the order made by the officer referred to in sub-section (*1*), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

CHAPTER XIII

EMPLOYMENT INFORMATION AND MONITORING

Reporting of vacancies to career centres.

139. (*1*) The appropriate Government may, by notification, require that from such date as may be specified in the notification, the employer in every establishment or any class or category of establishments, before filling up any vacancy in any employment in that establishment or such class or category of establishments, as the case may be, shall report or cause to be reported, that vacancy to such career centre as may be specified in the notification, and the employer shall thereupon comply with such requisition.

(*2*) For the purposes of sub-section (*1*), the appropriate Government may prescribe the following, namely:—

(*i*) the manner in which the vacancies, referred to in sub-section (*1*), shall be reported to the career centres electronically or otherwise;

(*ii*) the form in which such vacancies shall be reported to the career centres; and

(*iii*) the manner and form of filing the return by the employer, to the concerned career centre.

(*3*) Nothing in sub-sections (*1*) and (*2*) shall be deemed to impose any obligation upon any employer to recruit any person through the career centre to fill any vacancy merely because such vacancy has been reported.

(*4*) The executive officer shall have access to any record or document in the possession of any employer required to furnish any information or returns for the purposes of this Chapter and may enter, at any reasonable time, any premises where he believes such record or document to be and inspect or take copies of such records or documents or ask any question necessary for obtaining any information required.

Exclusions from application of this Chapter.

140. (*1*) The provisions of section 139 shall not apply in relation to vacancies,—

(*a*) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment in plantation; or

(*b*) in any employment in domestic service; or

(*c*) in any employment connected with the staff of Parliament or any State Legislature; or

(*d*) in any employment the total duration of which is less than ninety days; or

(*e*) in any class or category of establishments as may be notified by the Central Government; or

(*f*) in any establishment (other than Government establishment) with less than twenty or such number of employees as may be notified by the Central Government; and

(*g*) in any other employment as may be notified by the Central Government.

(*2*) Unless the Central Government, by notification direct, the provisions of this Chapter shall not apply in relation to—

(*a*) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or through independent recruitment agencies such as Union Public Service Commission, Staff Selection Commission or a State Public Service Commission or any other agencies as may be notified by the Central Government; or

(*b*) vacancies in an employment which carries a monthly remuneration of less than an amount notified by the appropriate Government.

CHAPTER XIV

MISCELLANEOUS

Social Security Fund.

141. (*1*) There shall be established by the Central Government a Social Security Fund for social security and welfare of the unorganised workers, gig workers and platform workers and the sources of the fund shall comprise of funding received—

(*i*) under sub-section (*3*) of section 109;

(*ii*) under sub-section (*3*) of section 114;

(*iii*) from the composition of the offences under this Code relating to Central Government and from any other Social Security Fund established under any other central labour law.

(*2*) A separate account shall be established and maintained for the funding mentioned under each of the clauses (*i*), (*ii*) and (*iii*).

(*3*) Social Security Fund referred to in sub-section (*1*) shall be expended for the purposes for which each separate account has been established and maintained under sub-section (*2*).

(*4*) The Social Security Fund shall be established and administered in the manner prescribed by the Central Government.

(*5*) There shall be established by the State Government a Social Security Fund for the welfare of the unorganised workers in which there shall be credited the amount received from—

(*i*) the composition of offences under this Code relating to the State Government; and

(*ii*) such other sources as may be prescribed by the State Government,

and the fund shall be administered and expended for the welfare of the unorganised workers in such manner as may be prescribed by the State Government.

Application of Aadhaar.

142. (*1*) An employee or unorganised worker or any other person, as the case may be, for—

(*a*) registration as member or beneficiary; or

(*b*) seeking benefit whether in kind, cash or medical sickness benefit or pension, gratuity or maternity benefit or any other benefit or for withdrawal of fund; or

(*c*) availing services of career centre; or

(*d*) receiving any payment or medical attendance as Insured Person himself or for his dependants,

under this Code or rules, regulations or schemes made or framed thereunder, shall establish his identity or, as the case may be, the identity of his family members or dependants through Aadhaar number and for such purpose the expression "Aadhaar" shall have the meaning as defined in clause (*a*) of section 2 of the Aadhaar (The Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016: 18 of 2016.

Provided that any foreigner employee shall obtain and submit Aadhaar number for establishing his identity, as soon as possible, on becoming resident within the meaning of clause (*v*) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016. 18 of 2016.

(*2*) For the purposes of sub-section (*1*), the Aadhaar number issued to an individual shall be in accordance with the provisions of section 3 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016. 18 of 2016.

Power to exempt establishment.

143. (*1*) Notwithstanding anything contained in this Code, the appropriate Government may, by notification, and subject to the conditions which may include the eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption, as may be prescribed by the Central Government in this behalf, grant exemption to an establishment or class of establishments (including factory or other establishments under the control of Central Government or State Government or local bodies) or employees or class of employees, from any or all of the provisions of this Code or the scheme framed thereunder as may be specified in the notification and may renew for further period such exemption by like notification:

Provided that no such exemption,—

(*i*) in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, without prior consultation with the Central Board; and

(*ii*) in respect of Chapter IV, without prior consultation with the Corporation,

shall be granted or renewed and the Central Board or the Corporation, as the case may be, shall on such consultation forward its view to the appropriate Government within such time as may be prescribed by that Government.

(*2*) The appropriate Government may, in the notification referred to in sub-section (*1*), specify therein conditions as may be prescribed by that Government, which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption:

Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, the terms and conditions of exemption shall be specified in such respective schemes.

(*3*) The exemption granted under sub-section (*1*) to an establishment or class of establishments or an employee or class of employees, as the case may be, shall be initially for a period of three years from the date of publication of such notification and may be extended by the appropriate Government to the extent of such period as may be prescribed by the Central Government:

Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, exemption may be extended for such period as may be specified in such respective schemes.

(*4*) The exemption granted under sub-section (*1*) shall only be granted if the employees in the establishment or class of establishments or an employee or the class of employees so exempted are otherwise in receipt of benefits substantially similar or superior to the benefits provided in the provisions of the Code or the scheme framed thereunder.

(*5*) For the purposes of administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the fund created, and any other matter specified in the scheme for any exempted establishment or class of establishments, or employees or class of employees, a board of trustees shall be constituted by the employer which will be a legal entity which can sue and can be sued and the conditions for management of the trust shall be prescribed by the appropriate Government as part of the conditions for exemption:

Provided that conditions for administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the fund created, in respect of exemption from Provident Fund Scheme, Pension Scheme and Insurance Scheme shall be specified in such respective schemes.

(*6*) Where an exemption is granted under this section from operation of any or all the provisions of the Code or any of the scheme under Chapter III, to any establishment, class of establishments, employee or class of employees, the employer in relation to such establishment shall furnish such returns electronically in respect of persons employed, accounts maintained in respect of employees, investments made from the fund, provide facilities for inspection and pay such inspection charges as the Central Government may direct.

(*7*) If employer in relation to any establishment or class of establishments or employee or class of employees in respect of whom the exemption has been granted under sub-section (*1*), fails to comply with any of the conditions specified under this section, then, the appropriate Government may on such failure, cancel the exemption so granted.

(*8*) Where any exemption granted under sub-section (*1*) is cancelled, the entire amount of surplus and reserves, if any, and accumulations to the credit of every employee, to whom such exemption applied, in the exempted fund of the establishment in which he is employed, shall be transferred to the respective statutory fund created under this Code within such time and manner as specified in the conditions for grant of exemption:

Provided that in respect of any cancellation of exemption from the Provident Fund Scheme, Pension Scheme and Insurance Scheme, the time limit, form and manner of transfer of accumulations of exempted employees from the exempted funds to such respective funds shall be specified in such respective schemes.

(*9*) Notwithstanding anything contained in this section, the employer of an establishment exempted under sub-section (*1*), after the resolution of the board of trustees of the establishment to that effect may make an application to the appropriate Government for surrender of the exemption granted under that sub-section from the date specified in the application and the appropriate Government may on receipt of that application, allow the employer to remit the contribution in the statutory funds under this Code from the date specified in the application and process the application for cancellation of exemption and on such cancellation, the employer and the board of trustees shall transfer accumulation of

each employee and surplus and reserves from the fund referred to in sub-section (*5*), to the concerned statutory funds under this Code within such time and in such manner as may be notified by the appropriate Government:

Provided that in respect of any surrender of exemption from the Provident Fund Scheme, the Pension Scheme and the Insurance Scheme, the time limit, form and manner of transfer of accumulation of exempted employees and surplus and reserves from the fund referred to in sub-section (*5*), to the concerned statutory funds under this Code shall be such as may be specified in the concerned schemes framed under Chapter III.

Power to defer or reduce.

144. Notwithstanding anything contained in Chapter III or Chapter IV, the Central Government may by order, defer or reduce employer's contribution, or employee's contribution, or both, payable under Chapter III or Chapter IV, as the case may be, for a period up to three months at a time, in respect of establishment to which Chapter III or Chapter IV, as the case may be, applies, for whole of India or part thereof in the event of pandemic, endemic or national disaster.

Liability in case of transfer of establishment.

145. Where an employer transfers his establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any liabilities, cess or any other amount payable under this Code in respect of the periods up to the date of such transfer:

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.

Members, officers and staff to be public servants.

146. Every member of a Social Security Organisation and the officers and staff thereof, any Inspector-cum-Facilitator, competent authority, Authorised Officer, Recovery Officer and any other person discharging any function under this Code, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

147. No suit, prosecution or other legal proceeding shall lie against—

(*i*) the Central Government;

(*ii*) a State Government;

(*iii*) a Social Security Organisation;

(*iv*) a competent authority;

(*v*) any officer or staff of a Social Security Organisation; or

(*vi*) any other person or authority,

discharging the functions or exercising the powers under this Code, for anything which is in good faith done or intended to be done in pursuance of this Code or of any rules, regulations or schemes made or framed thereunder.

Misuse of benefits.

148. If the appropriate Government is satisfied in the manner prescribed by it that any establishment or any other person has misused any benefit provided to him under this Code or rules, regulations or schemes made or framed thereunder, then, such Government may, by notification, deprive such establishment or other person, as the case may be, from such benefit for such time as may be specified in the notification:

Provided that no such order shall be passed unless an opportunity of being heard is given to such establishment or other person, as the case may be:

Provided further that the manner to ascertain misuse of any benefit under this section relating to Chapter III, shall be specified in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be.

Power of Central Government to give directions to State Government and Social Security Organisations.

149. The Central Government may give directions to—

(*i*) any State Government or a State Board constituted under section 12 to execute in that State, of any of the provisions of this Code; or

(*ii*) any of the Social Security Organisations in respect of the matters relating to the implementation of the provisions of this Code.

Power to frame schemes.

150. The appropriate Government may, subject to the condition of previous publication, frame schemes not inconsistent with this Code, for the purposes of giving effect to the provisions thereof.

Protection against attachment, etc.

151. (*1*) Notwithstanding anything contained in any other law for the time being in force, the amount standing to be credited in favour of the employee under Chapters III, IV, V, VI or VII of any member of any fund under this Code, or of any exempted employee in a provident fund maintained by his employer, shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by such employee or member or the exempted employee, as the case may be.

(*2*) Any amount standing to the credit of a member in the fund or of an exempted employee in a provident fund maintained by his employer at the time of the death of such member or the exempted employee, as the case may be, and payable to his nominee or in case of failure of nomination, to his family under the scheme or the rules of the fund shall, subject to any deduction authorised by the said scheme or rules, as the case may be, vest in the nominee or such family and shall be free from any debt or other liability incurred by the deceased or the nominee before his death and shall also not be liable to attachment under any decree or order of any court.

(*3*) Notwithstanding anything contained in any other law for the time being in force, any amount due under the Chapters referred to in sub-section (*1*) shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

Power to amend Schedule.

152. (*1*) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the First Schedule, Fourth Schedule, Fifth Schedule, Sixth Schedule and Seventh Schedule by way of addition or deletion therein and upon such addition or deletion, the Schedules shall stand to have been amended accordingly.

(*2*) If the appropriate Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the Second Schedule and Third Schedule by way of addition therein and not otherwise, and upon such addition, the Schedules shall stand to have been amended accordingly.

Transitional provisions.

153. Notwithstanding anything contained in this Code, the following organisations constituted or established under the enactments repealed under section 164, namely:—

(*i*) the Central Board constituted under section 5A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 19 of 1952.

(*ii*) Executive Committee constituted under section 5AA of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 19 of 1952.

(*iii*) the Corporation established under section 3 of the Employees' State Insurance Act, 1948; 34 of 1948.

(*iv*) the Medical Benefit Council constituted under section 10 of the Employees' State Insurance Act, 1948; 34 of 1948.

(*v*) the Standing Committee of the Corporation constituted under section 8 of the Employees' State Insurance Act, 1948; and 34 of 1948.

(*vi*) the Board constituted under sub-section (*1*) of section 18 of the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, 27 of 1996.

shall, after the commencement of this Code, continue to exercise the powers and discharge the functions of the corresponding organisations under this Code, respectively, the Central Board of Trustees for Employees Provident Fund constituted under section 4, the Executive Committee constituted under sub-section (*3*) of section 4, the Employees State Insurance Corporation, constituted under section 5, the Medical Benefit Committee constituted under sub-section (*5*) of section 5, the Standing Committee constituted under sub-section (*3*) of section 5, Building Workers' Welfare Board constituted under sub-section (*1*) of section 7, as if such organisations constituted or, as the case may be, established under such repealed enactments, had been constituted under the respective provisions of this Code, till such corresponding organisations are constituted under this Code or till their respective time period under the repealed enactments expire, whichever is earlier.

Power of appropriate Government to make rules.

154. (*1*) The appropriate Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code for the purpose of giving effect to the provisions thereof.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the amount in connection with premium for Group Insurance Scheme of the beneficiaries under clause (*c*), the educational schemes for the benefit of children of the beneficiaries under clause (*d*) and the medical expenses for treatment of major ailments of a beneficiary or, such dependant under clause (*e*) of sub-section (*6*) of section 7;

(*b*) manner and time within which second appeal may be filed to the Employees' Insurance Court by the Insured Person or the Corporation under clause (*b*) of sub-section (*7*) of section 37;

(*c*) the manner of commencement of proceedings before the Employees' Insurance Court, fees and procedure thereof under sub-section (*1*) of section 51;

(*d*) bank or other financial institution in which the gratuity shall be invested for the benefit of minor under the third proviso to sub-section (*1*) of section 53;

(*e*) the time, form and manner of nomination by an employee under sub-section (*1*), the time to make fresh nomination under sub-section (*4*), the form and manner of modification of a nomination under sub-section (*5*) and the form for fresh nomination under sub-section (*6*) of section 55;

(*f*) time within which and the form in which a written application shall be made under sub-section (*1*) and the form of application to the competent authority under clause (*b*) of sub-section (*5*) of section 56;

(*g*) the manner of registration of an establishment by the employer under sub-section (*3*) and the manner of composition of the Board of Trustees of the approved gratuity fund and the manner in which the competent authority may recover the amount of the gratuity payable to an employee from the insurer under sub-section (*4*) of section 57;

(*h*) the qualifications and experience of the officer appointed as the competent authority under sub-section (*1*) of section 58;

(*i*) authority to whom an appeal may be preferred under sub-section (*3*) of section 72;

(*j*) class of employers and the form of notice-book under sub-section (*4*) of section 82;

(*k*) the manner of recording the memorandum in a register by the competnet authority under sub-section (*1*) of section 89;

(*l*) such other experience and qualifications for appointment as a competent authority under sub-section (*1*) of section 91;

(*m*) time limit to pay the amount of cess under section 101;

(*n*) fees for appeal under sub-section (*2*) of section 105;

(*o*) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (*1*), conditions to invest moneys, re-invest or realise investments under sub-section (*2*) terms to raise loans and take measures for discharging such loans under sub-section (*3*) and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds under sub-section (*4*) of section 120;

(*p*) conditions and manner of writing off irrecoverable dues under section 121;

(*q*) other powers of Inspector-cum-Facilitator under clause (*e*) of sub-section (*6*) of section 122;

(*r*) form and manner for maintenance of records and registers and other particulars and details under clause (*a*), manner and form for display of notices at the work places of the employees under clause (*b*) and the manner and period of filing returns to the officers or authority under clause (*d*) of section 123;

(*s*) the form and manner of application for compounding of an offence under sub-section (*4*) of section 138;

(*t*) the manner and form for reporting vacancies and form for filing the return by the employer, to the concerned career centre under sub-section (*2*) of section 139;

(*u*) the time within which the Central Board or the Corporation, as the case may be, shall forward its view to the appropriate Government under sub-section (*1*), conditions which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption under sub-section (*2*) and conditions for management of the trust under sub-section (*5*) of section 143;

(*v*) manner of determining the misuse of any benefit by an establishment or by any other person under section 148; and

(*w*) any other matter which is required to be, or may be, prescribed by the appropriate Government under the provisions of this Code.

Power of Central Government to make rules.

155. (*1*) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner, and the conditions subject to which, the provisions of Chapter III shall be made inapplicable to an establishment by the Central Provident Fund Commissioner, under sub-section (*5*) and the manner, and the conditions subject to which the provisions of that Chapter IV shall be made inapplicable to an establishment by the Director General of the Corporation under sub-section (*7*) of section 1;

(*b*) manner of establishment and maintenance of career centre and the career services under clause (*9*), the income of dependant parents (including father-in-law and mother-in-law of a woman employee), under sub-clause (*e*) of clause (*33*) and other authority who shall be deemed to be the occupier under sub-clause (*c*) and the matters which are directly related to the condition of ship, for which the owner of ship shall be deemed to be the occupier under the proviso to the said sub-clause (*c*) of clause (*52*), of section 2;

(*c*) the time and manner of registration of establishment, the manner of making application for cancellation of the registration, the conditions subject to which the

registration shall be cancelled and the procedure of cancellation and other matters relating thereto in respect of an establishment to which Chapter III or Chapter IV applies, and whose business activities are in the process of closure, under section 3;

(*d*) the manner of administration of the funds vested in the Central Board under sub-section (*1*), the manner to assist the Central Board in performance of its functions by Executive Committee under sub-section (*3*), the terms and conditions, including tenure of office of members of the Central Board and Executive Committee under sub-section (*6*) and the other functions and the manner of performing such functions under sub-section (*7*), of section 4;

(*e*) the manner of administration of the Corporation and the manner of representation of States under clause (*d*) of sub-section (*1*), the manner of constitution of Standing Committee under sub-section (*3*), the manner of administration of the affairs of the Corporation, exercise of powers and performance of functions by the Standing Committee under clause (*a*) of sub-section (*4*), the duties and powers of Medical Benefit Committee under clause (*b*) of sub-section (*5*) and the terms and conditions, including tenure of office, subject to which a member of the Corporation and Standing Committee shall discharge their respective duties under sub-section (*7*) of section 5;

(*f*) the manner of exercising the powers and performance of the functions by the National Social Security Board under sub-section (*1*), the manner of nomination of members, their term of office and other conditions of service, procedure to be followed in the discharge of their functions and manner of filling vacancies under sub-section (*4*) and time, place and rules of procedure relating to the transaction of business under sub-section (*6*) of section 6;

(*g*) other welfare measures and facilities under clause (*j*) of sub-section (*6*) of section 7;

(*h*) the intervals at which Social Security Organisation or any Committee thereof shall meet and the procedure in regard to the transaction of business at meetings under sub-section (*1*), and the fee and allowances of members of such Social Security Organisation or Committee under sub-section (*4*) of section 9;

(*i*) manner of reconstitution of the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board or any of the Committees under sub-section (*1*) and the alternate arrangements for the purpose of administration of the relevant provisions of this Code under sub-section (*2*) of section 11;

(*j*) the manner of maintenance of a provident fund account in relation to the establishment under sub-section (*1*) of section 21;

(*k*) the form, manner, time limits and fees for filing of appeal under sub-section (*2*) of section 23;

(*l*) salary and allowances of the Director General or the Financial Commissioner under sub-section (*3*), their powers and duties under sub-section (*4*) and maximum monthly salary limit under the proviso to sub-section (*7*) of section 24;

(*m*) the manner of investment of Employees' State Insurance Fund or any other money which is held by Corporation under sub-section (*4*) of section 25;

(*n*) limits for defraying of expenditure under clause (*k*) of section 26;

(*o*) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (*1*), conditions to invest moneys by the Corporation under sub-section (*2*) and the terms to raise loans and taking measures for discharging such loans under sub-section (*3*) of section 27;

(*p*) manner of insurance of employees under sub-section (*1*) of section 28;

(*q*) the rate of contributions under sub-section (*2*) of section 29;

(*r*) the type of administrative expenses and percentage of income which may be spent on expenses and the limits for such expenses under section 30;

(*s*) the limit for the amount of payment under the proviso to clause (*f*) of sub-section (*1*), and the qualifications to claim benefits, conditions, rate and period thereof under sub-section (*3*) of section 32;

(*t*) the limits within which the Corporation may incur expenditure from the Employees' State Insurance Fund under section 33;

(*u*) the manner and time within which the Insured person or the Corporation may file appeal under clause (*a*) of sub-section (*7*) of section 37;

(*v*) the rates, periods and conditions for payment of dependants' benefit under sub-section (*1*) and to other dependants under sub-section (*2*), of section 38;

(*w*) the qualification of an Insured Person and his family to claim medical benefit and the conditions subject to which such benefit may be given and the scale and period thereof, under sub-section (*3*) of section 39, and the payment of contribution and other conditions under the third proviso thereof;

(*x*) the structure, functions, powers and activities of the organisation for providing certain benefits to employees in case of sickness, maternity and employment injury, under sub-section (*6*) of section 40;

(*y*) extended period for insurance, the manner of satisfaction and the manner of calculation of capitalised value of benefit payable to the employee under sub-section (*1*) of section 42;

(*z*) terms and conditions subject to which the scheme may be operated under section 44;

(*za*) the manner of obtaining an insurance by every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government under sub-section (*1*) and conditions to exempt and manner of establishing an approved gratuity fund under sub-section (*2*) and the time limit to get establishment registered by the employer under sub-section (*3*), of section 57;

(*zb*) the form of notice under sub-section (*1*) and the proof of pregnancy and proof of delivery under sub-section (*5*) of section 62;

(*zc*) the proof of miscarriage or medical termination of pregnancy under sub-section (*1*), the proof of tubectomy operation under sub-section (*2*) and the proof of illness under sub-section (*3*) of section 65;

(*zd*) the duration of breaks under section 66;

(*ze*) the number of employees and distance for crèche facility under sub-section (*1*) of section 67;

(*zf*) gross misconduct under the second proviso to sub-section (*1*) of section 68;

(*zg*) rate of interest to be paid by the employer under clause (*a*) of sub-section (*3*) of section 77;

(*zh*) the manner of notice under sub-section (*1*) and the manner of transmitting money under sub-section (*3*), of section 92;

(*zi*) the form, manner and fee for application for claim or settlement under sub-section (*3*) of section 93;

(*zj*) the manner and time of collection of cess under sub-section (*2*), manner of deposit of the cess so collected under sub-section (*3*), and the uniform rate or rates of advance cess under sub-section (*4*) of section 100;

(*zk*) the rate of interest in case of delayed payment of cess under section 101;

(*zl*) the manner of self-assessment of cess under sub-section (*1*) of section 103;

(*zm*) the authority to inquire and impose penalty under section 104;

(*zn*) time limit to prefer appeal, appellate authority, form and manner of appeal under sub-section (*1*) of section 105;

(*zo*) manner of registration as beneficiary under section 106;

(*zp*) benefits of a beneficiary under sub-section (*2*) of section 107;

(*zq*) eligible age for registration under clause (*a*) and form and manner of information under clause (*b*), of sub-section (*1*) and the form of application, documents for registration and manner of self registration under sub-section (*2*), of section 113;

(*zr*) carrying out the matters specified in clause (*i*) of sub-section (*7*) of section 114;

(*zs*) manner of compounding of offences under sub-section (*1*) of section 138;

(*zt*) the manner of establishment and administration of the Social Security Fund under sub-section (*4*) of section 141;

(*zu*) eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption under sub-section (*1*); and extension period of exemption under sub-section (*3*) of section 143; and

(*zv*) any other matter which is required to be, or may be, prescribed by the Central Government under the provisions of this Code.

Power of State Government to make rules.

156. (*1*) The State Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner of exercising the powers and performance of functions by State Unorganised Workers' Board under sub-section (*9*), the manner of nomination of members of the Board, their term of office and other conditions of service, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the Board under sub-section (*12*), and the time, place and rules of procedure relating to the transaction of business at its meetings under sub-section (*14*) of section 6;

(*b*) the terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Building Workers' Welfare Board and the manner of filling of casual vacancies of such members, under sub-section (*4*), the terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the said Board under clause (*c*) of sub-section (*5*) of section 7;

(*c*) procedure to be followed by the Employees' Insurance Court under sub-section (*2*) and the rules under sub-section (*3*) of section 50;

(*d*) the amount to be deposited towards the expenditure of the funeral of the employee with the competent authority by the employer under sub-section (*7*) of section 76;

(*e*) conditions when application for review is made without certificate of a medical practitioner under sub-section (*1*) of section 79;

(*f*) the frequent interval for medical examination under the proviso to sub-section (*1*) of section 84;

(*g*) the form of statement to be submitted by the employer under sub-section (*1*) of section 88;

(*h*) the manner in which matters may be dealt with by or before a competent authority under sub-section (*1*) of section 92;

(*i*) time-limit for disposal of application and costs incidental to the proceedings under sub-section (*4*) of section 93;

(*j*) the manner of authentication of memorandum under section 97;

(*k*) such other sources of funding and the manner of administering and expending of the fund under sub-section (*5*) of section 141; and

(*l*) any other matter which is required to be, or may be, prescribed by the State Government under the provisions of this Code.

Power of Corporation to make regulations.

157. (*1*) The Corporation may, by notification, and subject to the condition of previous publication, make regulations, not inconsistent with this Code and the rules and schemes made or framed thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of Chapter IV and the provisions of this Code relating to that Chapter.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the cases and matters to be submitted for the decision of the Corporation under clause (*b*) of sub-section (*4*) and the composition of committees under sub-section (*6*) of section 5;

(*b*) the areas in respect of which the Corporation may appoint Regional Boards and local committees and the manner in which such Boards and committees shall perform the functions and exercise the powers under sub-section (*2*) of section 12;

(*c*) such other functions of the Director General and the Financial Commissioner under sub-section (*4*), the method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees under clause (*a*) of sub-section (*8*) and minimum qualifying service for promotion to next higher grade under the second proviso to sub-section (*9*) of section 24;

(*d*) the unit in respect of which all contribution shall be payable under sub-section (*3*), and the days on which the contributions shall fall due under sub-section (*4*) of section 29;

(*e*) maintenance of register of employees by or through the contractor under sub-section (*7*), and any matter relating or incidental to the payment and collection of contribution under sub-section (*9*) of section 31;

(*f*) qualifications and experience of other person to certify sickness under clause (*a*), authority to certify eligibility of a woman under clause (*b*), authority to certify eligibility for payment under clause (*c*) of sub-section (*1*), the conditions for extension of medical benefits under sub-section (*2*) and any matter relating or incidental to the accrual and payment of benefits under sub-section (*4*) of section 32;

(*g*) continuous period in which the employee contracts occupational disease under sub-section (*1*) of section 36;

(*h*) constitution of medical board under sub-section (*1*) and constitution of medical appeal tribunal under sub-section (*5*) of section 37;

(*i*) the period and the nature of medical benefit which may be allowed to a person under the first proviso, conditions for voluntary retirement scheme under the second proviso, payment of contribution and other conditions for eligibility to receive medical benefits under the second proviso and the conditions for grant of medical benefits to the Insured Person during employment injury under the fourth proviso, to sub-section (*3*), the time for which students of medical education institutions shall serve the Corporation and the manner in which the bond shall be furnished under clause (*b*) of sub-section (*4*) and manner of carrying out occupational and epidemiological surveys and studies for assessment of health and working conditions of Insured Persons under sub-section (*6*) of section 39;

(*j*) other authority for providing permission to leave the area in which medical treatment provided under clause (*c*) of sub-section (*3*), form of nomination under sub-section (*6*) and the authority to determine benefits under sub-section (*9*) of section 41;

(*k*) user charges to be paid by other beneficiaries for medical facilities under clause (*c*) of the *Explanation* to section 44;

(*l*) time within which the claims, recovery or contribution, from employer by the Corporation and recovery of contribution by the employer from the Contractor, shall be made under the second proviso to sub-section (*1*) of section 51;

(*m*) the forms of records and registers and of returns to be filed under the second proviso to clause (*d*) of section 123;

(*n*) the appellate authority not below the rank of the Joint Director of the Corporation before whom appeal shall be preferred and the interest to be refunded to the employer by the Corporation under section 126;

(*o*) manner of levy and recovery of damages from the employer who makes default in the payment of any contribution which he is liable to pay under section 128;

(*p*) the circumstances in which and the condition subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted; and

(*q*) any matter in respect of which regulations are required or permitted to be made by this Code.

Prior publication of rules, regulations, etc.

158. The power to make rules, regulations and schemes under this Code (except the schemes to be framed under Chapter III), shall be subject to the condition of the previous publication of the same being made, in the following manner, namely:—

(*a*) the date to be specified after a draft of such rules, regulations and schemes under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rules, regulations and schemes is published for general information in the Official Gazette;

(*b*) such rules, regulations and schemes shall finally be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Code:

Provided that the Central Government may, in the circumstances of epidemic, pandemic or disaster, dispense with the condition of previous publication under this section.

Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.

159. (*1*) The Central Government may, by notification, make rules for the transfer to any foreign country of money deposited with a competent authority under Chapter VII which has been awarded to or may be due to, any person residing or about to reside in such foreign country and for the receipt, distribution and administration in any State of any money deposited under the law relating to employees' compensation in any foreign country, which has been awarded to, or may be due to any person residing or about to reside in any State:

Provided that no sum deposited under Chapter VII in respect of fatal accidents shall be so transferred without the consent of the employer concerned after the competent authority receiving the sum has passed orders determining its distribution and apportionment under section 81.

(*2*) Where money deposited with a competent authority has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Code regarding distribution by the competent authority of compensation deposited with him shall cease to apply in respect of any such money.

Laying of rules, regulations and schemes, etc.

160. (*1*) Every rule, regulation, notification and scheme made or framed by the Central Government or the Corporation, as the case may be, under this Code shall be laid, as soon as may be after it is made or framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation, notification or scheme, as the case may be, or both Houses agree that the rule, regulation, notification or scheme, as the case may be, should not be made, such rule, regulation, notification or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, notification or scheme, as the case may be.

(*2*) Every rule and scheme made or framed, and every notification issued by, the State Government under this Code, shall be laid as soon as may be after it is made or framed, before the State Legislatures, where it consists of two Houses, or where such legislature consists of one House, before that House.

Effect of laws and agreements inconsistent with this Code.

161. (*1*) The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Code:

Provided that where under any such award, agreement, contract of service or otherwise, a person is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Code.

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

Delegation of powers.

162. The appropriate Government may, by notification, direct that all or any of the powers and functions which may be exercised or performed by that Government may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers' Board, Building Workers' Welfare Board or any officer or authority subordinate to the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers' Board, Building Workers' Welfare Board.

Power to remove difficulties.

163. (*1*) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Code, as may be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Code.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

164. (*1*) The following enactments are hereby repealed, namely:—

1. The Employee's Compensation Act, 1923; 8 of 1923.

2. The Employees' State Insurance Act, 1948; 34 of 1948.

3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 19 of 1952.

4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; 31 of 1959.

5. The Maternity Benefit Act, 1961; 53 of 1961.

6. The Payment of Gratuity Act, 1972; 39 of 1972.

7. The Cine-Workers Welfare Fund Act, 1981; 33 of 1981.

8. The Building and Other Construction Workers' Welfare Cess Act, 1996; 28 of 1996.

9. The Unorganised Workers' Social Security Act, 2008. 33 of 2008.

(*2*) Notwithstanding such repeal,—

(*a*) anything done or any action taken under the enactments so repealed including any rule, regulation, notification (including the notifications issued by the States), scheme, appointment, order or direction made thereunder or any benefit provided or given under any provision of such enactments, rules, regulations, notifications or schemes made thereunder for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder and shall be in force to the extent they are not contrary to the provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder till they are repealed under the corresponding provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder by the appropriate Government;

(*b*) the Employees' Provident Funds Scheme, 1952, the Employees' Deposit Linked Insurance Scheme, 1976, the Employees' Pension Scheme, 1995 and the Tribunal (Procedure) Rules, 1997 framed or made under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the rules, regulations and schemes made or framed under the Employees' State Insurance Act, 1948, shall remain in force, to the extent they are not inconsistent with the provisions of this Code for a period of one year from the date of commencement of this Code; 19 of 1952. 34 of 1948.

(*c*) any exemption given under any enactments so repealed shall continue to be in force till its validity expires or it ceases to be in operation under the provisions of this Code or till any direction is made thereunder for such purpose.

(*3*) Without prejudice to the provisions of sub-section (*2*), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments. 10 of 1897.

THE FIRST SCHEDULE

[*See* sections 1(*4*), (*8*) and 152 (*1*)]

APPLICABILITY

Chapter No.	Chapter Heading	Applicability
(1)	(2)	(3)
III	Employees' Provident Fund	Every establishment in which twenty or more employees are employed.
IV	Employees' State Insurance Corporation	Every establishment in which ten or more persons are employed other than a seasonal factory: Provided that Chapter IV shall also be applicable to an establishment, which carries on such hazardous or life threatening occupation as notified by the Central Government, in which even a single employee is employed: Provided further that an employer of a plantation, may opt the application of Chapter IV in respect of the plantation by giving willingness to the corporation, where the benefits available to the employees under that Chapter are better than what the employer is providing to them: Provided also that the contribution from the employers and employees of an establishment shall be payable under section 29 on and from the date on which any benefits under Chapter IV relating to the Employees State Insurance Corporation are provided by the Corporation to the employees of the establishment and such date shall be notified by the Central Government.
V	Gratuity	(*a*) every factory, mine, oilfield, plantation, port and railway company; and (*b*) every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such shops or establishments as may be notified by the appropriate Government from time to time.
VI	Maternity Benefit	(*a*) to every establishment being a factory, mine or plantation including any such establishment belonging to Government; and (*b*) to every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such other shops or establishments notified by the appropriate Government.
VII	Employee's Compensation	Subject to the provisions of the Second Schedule, it applies to the employers and employees to whom Chapter IV does not apply.

(1)	(2)	(3)
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Every establishment which falls under the building and other construction work.
IX	Social Security for Unorganised Workers'	Unorganised sector, unorganised workers', gig worker, platform worker.
XIII	Employment Information and Monitoring	Career centres, vacancies, persons seeking services of career centres and employers.

THE SECOND SCHEDULE

[*See* sections 2(*26*), 74(*3*), (*5*), 132 and 152(*2*)]

LIST OF PERSONS WHO ARE EMPLOYEES WITHIN THE MEANING OF THE THIRD PROVISO TO CLAUSE (*26*) OF SECTION 2

The following persons are employees within the meaning of third proviso to clause (*26*) of section 2 and subject to the said proviso, any person who is—

(*i*) employed in railways, in connection with the operation, repair or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or

(*ii*) employed, in any premises wherein or within the precincts whereof a manufacturing process as defined in clause (*k*) of section 2 of the Factories Act, 1948 (63 of 1948), is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made whether or not employment in any such work is within such premises or precincts, and steam, water or other mechanical power or electrical power is used; or

(*iii*) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises; or

Explanation.—For the purposes of this clause, persons employed outside such premises or precincts but in any work incidental to, or connected with, the work relating to making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale of any article or part of an article shall be deemed to be employed within such premises or precincts; or

(*iv*) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or

(*v*) employed, in any mine as defined in clause (*j*) of section 2 of the Mines Act, 1952 (35 of 1952), in any mining operation or in any kind of work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or

(*vi*) employed as the master or as a seaman of—

(*a*) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

(*b*) any sea going ship not included in sub-clause (*a*) provided with sufficient area for navigation under sails alone; or

(*vii*) employed for the purpose of—

(*a*) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any port subject to the Ports Act, 1908 (15 of 1908), or the Major Port Trusts Act, 1963 (38 of 1963), of goods which have been discharged from or are to be loaded into any vessel; or

(*b*) warping a ship through the lock; or

(*c*) mooring and unmooring ships at harbour wall berths or in pier; or

(*d*) removing or replacing dry dock caissons when vessels are entering or leaving dry docks; or

(*e*) the docking or undocking of any vessel during an emergency; or

(*f*) preparing splicing coir springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of gangways, maintaining life-buoys up to standard or any other maintenance work of a like nature; or

(*g*) any work on jolly-boats for bringing a ship's line to the wharf; or

(*viii*) employed in the construction, maintenance, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof; or

(*b*) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or

(*c*) any road, bridge, tunnel or canal; or

(*d*) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

(*ix*) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard or fittings and fixtures for the same; or

(*x*) employed, in the construction, working, repair or demolition of any aerial ropeway, canal, pipeline or sewer; or

(*xi*) employed in the service of any fire brigade; or

(*xii*) employed upon a railway as defined in clause (*31*) of section 2 and sub-section (*1*) of section 197 of the Railways Act, 1989 (24 of 1989), either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

(*xiii*) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service or as a telegraphist or as a postal or railway signaller, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or

(*xiv*) employed, in connection with operation for winning natural petroleum or natural gas; or

(*xv*) employed in any occupation involving blasting operations; or

(*xvi*) employed in the making of any excavation for which explosives have been used, or whose depth from its highest to its lowest point exceeds twelve feet; or

(*xvii*) employed in the operation of any ferry boat capable of carrying more than ten persons; or

(*xviii*) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or

(*xix*) employed in the generating, transforming, transmitting or distribution of electrical energy or in generation or supply of gas; or

(*xx*) employed in a lighthouse as defined in clause (*d*) of section 2 of the Indian Lighthouse Act, 1927 (17 of 1927); or

(*xxi*) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

(*xxii*) employed in the training, keeping or working of elephants or wild animals; or

(*xxiii*) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forests fires; or

(*xxiv*) employed in operations for the catching or hunting of elephants or other wild animals; or

(*xxv*) employed as a diver; or

(*xxvi*) employed in the handling or transport of goods in, or within the precincts of,—

(*a*) any warehouse or other place in which goods are stored; or

(*b*) any market; or

(*xxvii*) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radioactive substances; or

(*xxviii*) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934 (22 of 1934); or

(*xxix*) employed in horticultural operations, forestry, bee-keeping or farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or

(*xxx*) employed in the construction, working, repair or maintenance of a tube-well; or

(*xxxi*) employed in the maintenance, repair or renewal of electric fittings in a building; or

(*xxxii*) employed in a circus; or

(*xxxiii*) employed as watchman in any factory or establishment; or

(*xxxiv*) employed in any operation in the sea for catching fish; or

(*xxxv*) employed in any employment which requires handling of snakes for the purpose of extraction of venom or for the purpose of looking after snakes or handling any other poisonous animal or insect; or

(*xxxvi*) employed in handling animals like horses, mules and bulls; or

(*xxxvii*) employed for the purpose of loading or unloading any mechanically propelled vehicle or in the handling or transport of goods which have been loaded in such vehicles; or

(*xxxviii*) employed in cleaning of sewer lines or septic tanks within the limits of a local authority; or

(*xxxix*) employed on surveys and investigation, exploration or gauge or discharge observation of rivers including drilling operations, hydrological observations and flood forecasting activities, ground water surveys and exploration; or

(*xl*) employed in cleaning of jungles or reclaiming land or ponds; or

(*xli*) employed in cultivation of land or rearing and maintenance of live-stock or forest operations or fishing; or

(*xlii*) employed in installation, maintenance or repair of pumping equipment used for lifting of water from wells, tube-wells, ponds, lakes, streams and the like; or

(*xliii*) employed in the construction, boring or deepening of an open well or dug well, bore well, bore-cum-dug well, filter point and the like; or

(*xliv*) employed in spraying and dusting of insecticides or pesticides in agricultural operations or plantations; or

(*xlv*) employed in mechanised harvesting and threshing operations; or

(*xlvi*) employed in working or repair or maintenance of bulldozers, tractors, power tillers and the like; or

(*xlvii*) employed as artist for drawing pictures on advertisement boards at a height of 3.66 metres or more from the ground level; or

(*xlviii*) employed in any newspaper establishment as defined in the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955) and engaged in outdoor work; or

(*xlix*) employed as sales promotion employee; or

(*l*) any other employee or class of employee employed in an establishment or class of establishments to which the Employees' Compensation Act, 1923 (8 of 1923) was applicable in any State immediately before the commencement of this Code.

THE THIRD SCHEDULE

[*See* sections 2 (*51*), 36(*1*), 74 (*1*), (*3*), (*5*), 131(*5*), 132 and 152(*2*)]

LIST OF OCCUPATIONAL DISEASES

Serial No.	Occupational disease	Employment
(1)	(2)	(3)
	PART A	
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(*a*) all work involving exposure to health or laboratory work; (*b*) all work involving exposure to veterinary work; (*c*) work relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; (*d*) other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air	All work involving exposure to the risk concerned.
3.	Diseases caused by lead or its toxic compounds	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes	All work involving exposure to the risk concerned.
5.	Poisoning by organo phosphorus compounds	All work involving exposure to the risk concerned.
	PART B	
1.	Diseases caused by phosphorus or its toxic compounds	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds	All work involving exposure to the risk concerned.
3.	Diseases caused by benzene or its toxic homologues	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations	All work involving exposure to the action of radioactive substances or ionising radiations
8.	Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances	All work involving exposure to the risk concerned.

(1)	(2)	(3)
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.
10.	Diseases caused by carbon disulphide	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitro-phenol or by the salts of such substances	All work involving exposure to the risk concerned.
16.	Diseases caused by beryllium or its toxic compounds	All work involving exposure to the risk concerned.
17.	Diseases caused by cadmium or its toxic compounds	All work involving exposure to the risk concerned.
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds	All work involving exposure to the risk concerned.
20.	Diseases caused by nitroglycerin or other nitroacid esters	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants, carbon monoxide and its toxic derivatives, hydrogen sulphide	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos	All work involving exposure to the risk concerned.
24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter	All work involving exposure to the risk concerned.
25.	Snow blindness in snow bound areas	All work involving exposure to the risk concerned.
26.	Diseases due to effect of heat in extreme hot climate	All work involving exposure to the risk concerned.
27.	Diseases due to effect of cold in extreme cold climate	All work involving exposure to the risk concerned.

(1)	(2)	(3)
	PART C	
1.	Pneumoconioses caused by sclerogenic mineral dust (silicoses, anthraoosilicosis, asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death	All work involving exposure to the risk concerned.
2.	Bagassosis	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust (Byssionsis).	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alveelitis caused by the inhalation of organic dusts	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals	All work involving exposure to the risk concerned.
6.	Acute Pulmonary oedema of high altitude.	All work involving exposure to the risk concerned.

THE FOURTH SCHEDULE

[*See* sections 2(*55*), (*56*), 76(*1*) and 152(*1*)]

PART I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT

Serial No.	Description of Injury	Percentage of loss of earning capacity
(1)	(2)	(3)
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100

PART II

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

Serial No.	Description of Injury	Percentage of loss of earning capacity
(1)	(2)	(3)
1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than [20.32 Cms.] from tip of acromion	80
3.	Amputation form [20.32 Cms.] from tip of acromion to less than [11.43 Cms.] below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from [11.43 Cms.] below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20
11.	Guillotine amputation of tip of thumb without loss of bone	10

(1)	(2)	(3)
	Amputation cases-lower limbs	
12.	Amputation of both feet resulting in end bearing stumps	90
13.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
14.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
15.	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
16.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
17.	Amputation at hip	90
18.	Amputation below hip with stump not exceeding [12.70 Cms.] in length measured from tip of great trenchanter	80
19.	Amputation below hip with stump exceeding [12.70 Cms.] in length measured from tip of great trenchanter but not beyond middle thigh	70
20.	Amputation below middle thigh to [8.89 Cms.] below knee	60
21.	Amputation below knee with stump exceeding [8.89 Cms.] but not exceeding [12.70 Cms.]	50
22.	Amputation below knee with stump exceeding [12.70 Cms.]	50
23.	Amputation of one foot resulting in end bearing	50
24.	Amputation through one foot proximal to the metatarso-phalangeal joint	50
25.	Loss of all toes of one foot through the metatarso-phalangeal joint	20
	Other injuries	
26.	Loss of one eye, without complications, the other being normal	40
27.	Loss of vision of one eye, without complications or disfigurement of eye-ball, the other being normal	30
28.	Loss of partial vision of one eye	10
	Loss of—	
	A-Fingers of right or left hand **Index finger**	
29.	Whole	14
30.	Two phalanges	11
31.	One phalanx	9
32.	Guillotine amputation of tip without loss of bone	5
	Middle finger	
33.	Whole	12
34.	Two phalanges	9
35.	One phalanx	7
36.	Guillotine amputation of tip without loss of bone	4

(1)	(2)	(3)
	Ring or little finger	
37.	Whole	7
38.	Two phalanges	6
39.	One phalanx	5
40.	Guillotine amputation of tip without loss of bone	2
	B-Toes of right or left foot **Great toe**	
41.	Through metatarso-phalangeal joint	14
42.	Part, with some loss of bone	3
	Any other toe	
43.	Through metatarso-phalangeal joint	3
44.	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe	
45.	Through metatarso-phalangeal joint	5
46.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe	
47.	Through metatarso-phalangeal joint	6
48.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe	
49.	Through metatarso-phalangeal joint	9
50.	Part, with some loss of bone	3

THE FIFTH SCHEDULE
[*See* sections 15(*2*) and 152(*1*)]

MATTERS THAT MAY BE PROVIDED FOR IN THE SCHEMES

Any scheme framed under section 15 may provide for any or all of the matters as specified below, namely:—

PART A

Serial No.	Matters on which the Provident Fund Scheme may make provisions
(1)	(2)
1.	The employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution.
2.	The time and manner in which contributions shall be made to the Fund by employers and by, or on behalf of, employees, (whether employed by him directly or by or through a contractor), the contributions which an employee may, if he so desires, make under section 16, and the manner in which such contributions may be recovered.
3.	The manner in which employees' contributions may be recovered by contractors from employees employed by or through such contractors.
4.	The payment by the employer of such sums of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which the payment shall be made.
5.	The constitution of any committee for assisting any board of trustees.
6.	The opening of regional and other offices of any board of trustees.
7.	The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the Central Government, the preparation of the budget, the audit of accounts and the submission of reports to the Central Government, or to any specified State Government.
8.	The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
9.	The fixation by the Central Government in consultation with the boards of trustees concerned of the rate of interest payable to members.
10.	The form in which an employee shall furnish particulars about himself and his family whenever required.
11.	The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.
12.	The registers and records to be maintained with respect to employees and the returns to be furnished by employers or contractors.
13.	The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.
14.	The fees to be levied for any of the purposes specified in this Schedule.

(1)	(2)
15.	The contraventions or defaults which shall be punishable under section 135.
16.	The further powers, if any, which may be exercised by Inspector-cum-Facilitators.
17.	The manner in which accumulations in any existing provident fund shall be transferred to the Fund and the mode of valuation of any assets which may be transferred by the employers in this behalf.
18.	The conditions under which a member may be permitted to pay premia on life insurance, from the Fund.
19.	Any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

PART B

MATTERS THAT MAY BE PROVIDED FOR IN THE PENSION SCHEME

1. The employees or class of employees to whom the Pension Scheme shall apply.
2. The portion of employers' contribution to the Provident Fund which shall be credited to the Pension Fund and the manner in which it is credited.
3. The regulation of the manner in which and the period of service for which, no contribution is received.
4. The manner in which employees' interest will be protected against default in payment of contribution by the employer.
5. The manner in which the accounts of the Pension Fund shall be kept and investment of moneys belonging to Pension Fund to be made subject to such pattern of investment as may be determined by the Central Government.
6. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.
7. The forms, registers and records to be maintained in respect of employees, required for the administration of the Pension Scheme.
8. The scale of pension and pensionary benefits and the conditions relating to grant of such benefits to the employees.
9. The manner in which the exempted establishments have to pay contribution towards the Pension Scheme and the submission of returns relating thereto.
10. The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose.
11. The manner in which the expenses for administering the Pension Scheme will be met from the income of the Pension Fund.
12. Any other matter which is to be provided for in the Pension Scheme or which may be necessary or proper for the purpose of implementation of the Pension Scheme.

PART C

MATTERS THAT MAY BE PROVIDED FOR IN THE EMPLOYEES' DEPOSIT-LINKED INSURANCE SCHEME

1. The employees or class of employees who shall be covered by the Insurance Scheme.
2. The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund subject to such pattern of investment as may be determined, by order, by the Central Government.

(1)	(2)
3.	The form in which an employee shall furnish particulars about himself and the members of his family whenever required.
4.	The nomination of a person to receive the insurance amount due to the employee after his death and the cancellation or variation of such nomination.
5.	The registers and records to be maintained in respect of employees; the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of his family entitled to receive the insurance amount.
6.	The scales of insurance benefits and conditions relating to the grant of such benefits to the employees.
7.	The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).
8.	Any other matter which is to be provided for in the Employees' Deposit-linked Insurance Scheme or which may be necessary or proper for the purpose of implementing that Scheme.

THE SIXTH SCHEDULE

[*See* sections 75, 76(*1*) and 152(*1*)]

FACTORS FOR WORKING OUT LUMP SUM EQUIVALENT OF COMPENSATION AMOUNT IN CASE OF PERMANENT DISABLEMENT AND DEATH

	Completed years of age on the last birthday of the employee immediately preceding the date on which the compensation fell due	Factors
(1)	(2)	(3)
Not more than	16	228.54
	17	227.49
	18	226.38
	19	225.22
	20	224.00
	21	222.71
	22	221.37
	23	219.95
	24	218.47
	25	216.91
	26	215.28
	27	213.57
	28	211.79
	29	209.92
	30	207.98
	31	205.95
	32	203.85
	33	201.66
	34	199.40
	35	197.06
	36	194.64
	37	192.14
	38	189.56
	39	186.90
	40	184.17
	41	181.37
	42	178.49

(1)	(2)	(3)
	43	175.54
	44	172.52
	45	169.44
	46	166.29
	47	163.07
	48	159.80
	49	156.47
	50	153.09
	51	149.67
	52	146.20
	53	142.68
	54	139.13
	55	135.56
	56	131.95
	57	128.33
	58	124.70
	59	121.05
	60	117.41
	61	113.77
	62	110.14
	63	106.52
	64	102.93
	65 or more	99.37

THE SEVENTH SCHEDULE
[*See* section 114(*4*)]

CLASSIFICATION OF AGGREGATORS

Sl.No.	Classification of Aggregator
1.	Ride sharing services
2.	Food and grocery delivery services
3.	Logistic services
4.	e-Market place (both market place and inventory model) for wholesale/ retail sale of goods and/or services (B2B/B2C)
5.	Professional services provider
6.	Healthcare
7.	Travel and hospitality
8.	Content and media services
9.	Any other goods and services provider platform

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DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29*th September,* 2020/*Asvina* 7, 1942 (*Saka*)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE INDUSTRIAL RELATIONS CODE, 2020

NO. 35 OF 2020

[28*th September,* 2020.]

An Act to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Industrial Relations Code, 2020. Short title, extent and commencement.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Code, unless the context otherwise requires,—

(*a*) "appellate authority" means an authority appointed by the appropriate Government to exercise such functions in such area as may be specified by that Government by notification in the Official Gazette;

(*b*) "appropriate Government" means,—

(*i*) in relation to any industrial establishment or undertaking carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government including establishments of the contractors for the purposes of such establishment, corporation, other authority, public sector undertakings or any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, as the case may be, the Central Government.

Explanation.—For the purposes of this clause, the Central Government shall continue to be the appropriate Government for central public sector undertakings even if the holding of the Central Government reduces to less than fifty per cent. equity in that public sector undertaking after the commencement of this Code;

(*ii*) in relation to any other industrial establishment, including State public sector undertakings, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment;

(*c*) "arbitrator" includes an umpire;

(*d*) "average pay" means the average of the wages payable to a worker,—

(*i*) in the case of monthly paid worker, in three complete calendar months;

(*ii*) in the case of weekly paid worker, in four complete weeks;

(*iii*) in the case of daily paid worker, in twelve full working days,

preceding the date on which the average pay becomes payable, if the worker had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a worker during the period he actually worked;

(*e*) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Industrial Tribunal referred to in section 44 or National Industrial Tribunal referred to in section 46 and includes an arbitration award made under section 42;

(*f*) "banking company" means a banking company as defined in section 5 of the Banking Regulation Act, 1949 and includes the Export-Import Bank of India, the Industrial Reconstruction Bank of India, the Small Industries Development Bank of 10 of 1949.

India established under section 3 of the Small Industries Development Bank of India
39 of 1989. Act, 1989, the Reserve Bank of India, the State Bank of India, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer
5 of 1970. of Undertakings) Act, 1970, a corresponding new bank constituted under section 3
40 of 1980. of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

(*g*) "certifying officer" means any officer appointed by the appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV;

(*h*) "closure" means the permanent closing down of a place of employment or part thereof;

(*i*) "conciliation officer" means a conciliation officer appointed under section 43;

(*j*) "conciliation proceeding" means any proceeding held by a conciliation officer under this Code;

(*k*) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(*l*) "employee" means any person (other than an apprentice engaged under the
52 of 1961. Apprentices Act, 1961) employed by an industrial establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union;

(*m*) "employer" means a person who employs, whether directly or through any person, or on his behalf or on behalf of any person, one or more employee or worker in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified by the head of the department in this behalf or where no authority is so specified, the head of the department, and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,—

(*i*) in relation to an establishment which is a factory, the occupier of the
63 of 1948. factory as defined in clause (*n*) of section 2 of the Factories Act, 1948 and, where a person has been named as a manager of the factory under clause (*f*) of sub-section (*1*) of section 7 of the said Act, the person so named;

(*ii*) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

(*iii*) contractor; and

(*iv*) legal representative of a deceased employer;

(*n*) "executive", in relation to a Trade Union, means the body by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(*o*) "fixed term employment" means the engagement of a worker on the basis of a written contract of employment for a fixed period:

Provided that—

(*a*) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;

(*b*) he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and

(*c*) he shall be eligible for gratuity if he renders service under the contract for a period of one year;

(*p*) "industry" means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

(*i*) any capital has been invested for the purpose of carrying on such activity; or

(*ii*) such activity is carried on with a motive to make any gain or profit,

but does not include—

(*i*) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(*ii*) any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or

(*iii*) any domestic service; or

(*iv*) any other activity as may be notified by the Central Government;

(*q*) "industrial dispute" means any dispute or difference between employers and employers or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person and includes any dispute or difference between an individual worker and an employer connected with, or arising out of discharge, dismissal, retrenchment or termination of such worker;

(*r*) "industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on:

Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,—

(*i*) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking which is not carrying on or aiding the carrying on of any such activity, such unit shall be deemed to be a separate industrial establishment or undertaking;

(*ii*) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking;

(*s*) "insurance company" means a company as defined in section 2 of the Insurance Act, 1938; 4 of 1938.

(*t*) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason, to give employment to a worker whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.

Explanation.—Every worker whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the worker, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;

(*u*) "lock-out" means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

(*v*) "major port" means a major port as defined in clause (*8*) of section 3 of the Indian Ports Act, 1908; 15 of 1908.

(*w*) "metro railway" means the metro railway as defined in sub-clause (*i*) of clause (*1*) of section 2 of the Metro Railways (Operation and Maintenance) Act, 2002; 60 of 2002.

(*x*) "mine" means a mine as defined in clause (*j*) of sub-section (*1*) of section 2 of the Mines Act, 1952; 35 of 1952.

(*y*) "National Industrial Tribunal" means a National Industrial Tribunal constituted under section 46;

(*z*) "negotiating union or negotiating council" means the negotiating union or negotiating council referred to in section 14;

(*za*) "notification" means a notification published in the Official Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;

(*zb*) "office-bearer", in relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor;

(*zc*) "prescribed" means prescribed by rules made under this Code;

(*zd*) "railway" means the railway as defined in clause (*31*) of section 2 of the Railways Act, 1989; 24 of 1989.

(*ze*) "registered office" means that office of a Trade Union which is registered under this Code as the head office thereof;

(*zf*) "registered Trade Union" means a Trade Union registered under this Code;

(*zg*) "Registrar" means a Registrar of Trade Unions appointed by the State Government under section 5;

(*zh*) "retrenchment" means the termination by the employer of the service of a worker for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(*i*) voluntary retirement of the worker; or

(*ii*) retirement of the worker on reaching the age of superannuation; or

(*iii*) termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(*iv*) termination of service of the worker as a result of completion of tenure of fixed term employment; or

(*v*) termination of the service of a worker on the ground of continued ill-health;

(*zi*) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and to the conciliation officer;

(*zj*) "standing orders" means orders relating to matters set-out in the First Schedule;

(*zk*) "strike" means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal, under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment and includes the concerted casual leave on a given day by fifty per cent. or more workers employed in an industry;

(*zl*) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that the provisions of Chapter III of this Code shall not affect—

(*i*) any agreement between partners as to their own business; or

(*ii*) any agreement between an employer and those employed by him as to such employment; or

(*iii*) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft;

(*zm*) "Trade Union dispute" means any dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union *inter se*;

(*zn*) "Tribunal" means an Industrial Tribunal constituted under section 44;

(*zo*) "unfair labour practice" means any of the practices specified in the Second Schedule;

(*zp*) "unorganised sector" shall have the same meaning as assigned to it in clause (*l*) of section 2 of the Unorganised Workers' Social Security Act, 2008; 33 of 2008.

(*zq*) "wages" means all remuneration, whether by way of salary, allowances or otherwise, expressed in terms of money or capable of being so expressed which

would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

(*i*) basic pay;

(*ii*) dearness allowance;

(*iii*) retaining allowance, if any,

but does not include—

(*a*) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(*b*) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(*c*) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(*d*) any conveyance allowance or the value of any travelling concession;

(*e*) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(*f*) house rent allowance;

(*g*) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(*h*) any overtime allowance;

(*i*) any commission payable to the employee;

(*j*) any gratuity payable on the termination of employment; or

(*k*) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment:

Provided that, for calculating the wage under this clause, if any payments made by the employer to the employee under sub-clauses (*a*) to (*i*) exceeds one-half, or such other per cent. as may be notified by the Central Government, of all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed to be remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages the emoluments specified in sub-clauses (*d*), (*f*), (*g*) and (*h*) shall be taken for computation of wage.

Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

(*zr*) "worker" means any person (except an apprentice as defined under clause (*aa*) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists as defined in clause (*f*) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous

52 of 1961.

Provisions Act, 1955 and sales promotion employees as defined in clause (*d*) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person— 45 of 1955. 11 of 1976.

(*i*) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or 45 of 1950. 46 of 1950. 62 of 1957.

(*ii*) who is employed in the police service or as an officer or other employee of a prison; or

(*iii*) who is employed mainly in a managerial or administrative capacity; or

(*iv*) who is employed in a supervisory capacity drawing wages exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time:

Provided that for the purposes of Chapter III, "worker"—

(*a*) means all persons employed in trade or industry; and

(*b*) includes the worker as defined in clause (*m*) of section 2 of the Unorganised Workers' Social Security Act, 2008. 33 of 2008.

CHAPTER II

BI-PARTITE FORUMS

Works Committee.

3. (*1*) In the case of any industrial establishment in which one hundred or more workers are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute a Works Committee, in such manner as may be prescribed, consisting of representatives of employer and workers engaged in the establishment:

Provided that the number of representatives of workers in such Committee shall not be less than the number of representatives of the employer.

(*2*) The representatives of the workers shall be chosen, in such manner as may be prescribed, from among the workers engaged in the establishment and in consultation with their Trade Union, if any, registered in accordance with the provisions of section 9.

(*3*) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workers and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

Grievance Redressal Committee.

4. (*1*) Every industrial establishment employing twenty or more workers shall have one or more Grievance Redressal Committees for resolution of disputes arising out of individual grievances.

(*2*) The Grievance Redressal Committee shall consist of equal number of members representing the employer and the workers to be chosen in such manner as may be prescribed.

(*3*) The chairperson of the Grievance Redressal Committee shall be selected from among persons representing the employer and the workers alternatively on rotational basis every year.

(*4*) The total number of members of the Grievance Redressal Committee shall not exceed ten:

Provided that there shall be adequate representation of women workers in the Grievance Redressal Committee and such representation shall not be less than the proportion of women workers to the total workers employed in the industrial establishment.

(*5*) An application in respect of any dispute referred to in sub-section (*1*) may be filed before the Grievance Redressal Committee by any aggrieved worker in such manner as may be prescribed within one year from the date on which the cause of action of such dispute arises.

(*6*) The Grievance Redressal Committee may complete its proceedings within thirty days of receipt of the application under sub-section (*5*).

(*7*) The decision of the Grievance Redressal Committee on any application filed under sub-section (*5*) shall be made on the basis of majority view of the Committee, provided more than half of the members representing the workers have agreed to such decision, otherwise it shall be deemed that no decision could be arrived at by the Committee.

(*8*) The worker who is aggrieved by the decision of the Grievance Redressal Committee or whose grievance is not resolved in the said Committee within the period specified in sub-section (*6*), may, within a period of sixty days from the date of the decision of the Grievance Redressal Committee or from the date on which the period specified in sub-section (*6*) expires, as the case may be, file an application for the conciliation of such grievance to the conciliation officer through the Trade Union, of which he is a member, in such manner as may be prescribed.

(*9*) Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual worker, any dispute or difference between that worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other worker nor any Trade Union is a party to the dispute.

(*10*) Notwithstanding anything contained in this section or section 53, any worker as is specified in sub-section (*5*) may, make an application directly to the Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the conciliation officer of the appropriate Government for conciliation of the dispute, and on receipt of such application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as the Tribunal has in respect of the application filed under sub-section (*6*) of section 53.

(*11*) The application referred to in sub-section (*10*) shall be made to the Tribunal before the expiry of two years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (*9*).

CHAPTER III

TRADE UNIONS

Registrar of Trade Unions.

5. (*1*) The State Government may, by notification, appoint a person to be the Registrar of Trade Unions, and other persons as Additional Registrar of Trade Unions, Joint Registrar of Trade Unions and Deputy Registrar of Trade Unions, who shall exercise such powers and perform such duties of the Registrar as the State Government may, by notification, specify from time to time.

(*2*) Subject to the provisions of any order made by the State Government, where an Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions exercises the powers and performs the duties of the Registrar in an area within which the registered office of a Trade Union is situated, such Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions, as the case may be, shall be deemed to be the Registrar in relation to that Trade Union for the purposes of this Code.

Criteria for registration.

6. (*1*) Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Code with respect to registration, apply for registration of the Trade Union under this Code.

(*2*) No Trade Union of workers shall be registered unless at least ten per cent. of the workers or one hundred workers, whichever is less, engaged or employed in the industrial establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.

(*3*) Where an application has been made under sub-section (*1*) for registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.

(*4*) A registered Trade Union of workers shall at all times continue to have not less than ten per cent. of the workers or one hundred workers, whichever is less, subject to a minimum of seven, engaged or employed in an industrial establishment or industry with which it is connected, as its members.

Provisions to be contained in constitution or rules of Trade Union.

7. A Trade Union shall not be entitled to registration under this Code, unless the executive thereof is constituted in accordance with the provisions of this Code, and the rules of the Trade Union provide for the following matters, namely:—

(*a*) the name of the Trade Union;

(*b*) the whole of the objects for which the Trade Union has been established;

(*c*) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Code;

(*d*) the maintenance of a list of members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;

(*e*) the admission of ordinary members (irrespective of their craft or category) who shall be persons actually engaged or employed in the industrial establishment, undertaking or industry, or units, branches or offices of an industrial establishment, as the case may be, with which the Trade Union is connected, and also the admission of such number of honorary or temporary members, who are not such workers, as are not permitted under section 21 to be office-bearers to form the executive of the Trade Union;

(*f*) the payment of a subscription by members of the Trade Union from such members and others, as may be prescribed;

(*g*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on any member;

(*h*) the annual general body meeting of the members of the Trade Union, the business to be transacted at such meeting, including the election of office-bearers of the Trade Union;

(*i*) the manner in which the members of the executive and the other office-bearers of the Trade Union shall be elected once in a period of every three years and removed, and filling of casual vacancies;

(*j*) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the

inspection of the account books by the office-bearers and members of the Trade Union;

(*k*) the manner in which the rules shall be amended, varied or rescinded; and

(*l*) the manner in which the Trade Union may be dissolved.

Application for registration, alteration of name and procedure thereof.

8. (*1*) Every application for registration of a Trade Union shall be made to the Registrar electronically or otherwise and be accompanied by—

(*a*) a declaration to be made by an affidavit in such form and manner as may be prescribed;

(*b*) copy of the rules of the Trade Union together with a copy of the resolution by the members of the Trade Union adopting such rules;

(*c*) a copy of the resolution adopted by the members of the Trade Union authorising the applicants to make an application for registration; and

(*d*) in the case of a Trade Union, being a federation or a central organisation of Trade Unions, a copy of the resolution adopted by the members of each of the member Trade Unions, meeting separately, agreeing to constitute a federation or a central organisation of Trade Unions.

Explanation.—For the purposes of this clause, resolution adopted by the members of the Trade Union means, in the case of a Trade Union, being a federation or a central organisation of Trade Unions, the resolution adopted by the members of each of the member Trade Unions, meeting separately.

(*2*) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars, as may be prescribed.

(*3*) The Registrar may call for further information for the purpose of satisfying himself that the application complies with the provisions of this Code and the Trade Union is entitled for registration under this Code, and may refuse to register the Trade Union until such information is furnished.

(*4*) If the name under which the Trade Union is proposed to be registered is identical with that of an existing registered Trade Union or in the opinion of the Registrar so nearly resembles the name of an existing Trade Union that such name is likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for altering the name of the Trade Union and shall refuse to register the Trade Union until such alteration has been made.

Registration of Trade Union and cancellation thereof.

9. (*1*) The Registrar shall, on being satisfied that the Trade Union has complied with all the requirements of the provisions of this Chapter in regard to registration, register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

(*2*) Where the Registrar makes an order for registration of a Trade Union, he shall issue a certificate of registration to the applicant Trade Union, in such form as may be prescribed, which shall be the conclusive evidence that the Trade Union has been registered under this Code.

(*3*) If the Registrar has issued a certificate of registration to a Trade Union, he shall enter the name and other particulars of the Trade Union in a register maintained in this behalf in such form as may be prescribed.

(*4*) Every Trade Union registered under the Trade Unions Act, 1926 having valid registration immediately before the commencement of this Code shall be deemed to have been registered under this Code: 16 of 1926.

Provided that such Trade Union shall file with the Registrar a statement that the constitution of the executive of the Trade Union is in accordance with this Code along with the rules of the Trade Union updated in accordance with section 7, and the Registrar shall amend his records accordingly.

(*5*) The certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar,—

(*i*) on the application of the Trade Union verified in such manner as may be prescribed; or

(*ii*) on the information received by him regarding the contravention by the Trade Union of the provisions of this Code or the rules made thereunder or its constitution or rules; or

(*iii*) if he is satisfied that the members in a Trade Union falls below ten per cent. of total workers or one hundred workers, whichever is less:

Provided that not less than sixty days previous notice in writing specifying the grounds on which it is proposed to cancel the certificate of registration of a Trade Union shall be given by the Registrar to the Trade Union before the certificate of registration is cancelled otherwise than on the application of the Trade Union.

(*6*) A certificate of registration of a Trade Union shall be cancelled by the Registrar where a Tribunal has made an order for cancellation of registration of such Trade Union.

(*7*) While cancelling the certificate of registration of a Trade Union, the Registrar shall record the reasons for doing so and communicate the same in writing to the Trade Union concerned.

Appeal against non-registration or cancellation of registration.

10. (*1*) Any person aggrieved by the refusal of the Registrar to grant registration to a Trade Union under section 9 or by cancellation of a certificate of registration under sub-section (*5*) of the said section, may within such period as may be prescribed, prefer an appeal to the Tribunal:

Provided that the Tribunal may entertain the appeal after the limitation prescribed for preferring the appeal under this sub-section, if the appellant satisfies the Tribunal that such delay has been caused due to sufficient reason or unavoidable circumstances.

(*2*) The Tribunal may, after giving the parties concerned an opportunity of being heard, dismiss the appeal or pass an order directing the Registrar to register the Trade Union and to issue a certificate of registration or set aside the order of cancellation of certificate of registration, as the case may be and forward a copy of such order to the Registrar.

Communication to Trade Union and change in its registration particulars.

11. (*1*) All communications and notices to a registered Trade Union shall be sent, in such manner as may be prescribed, to the address of the head office of the Trade Union as entered in the register maintained by the Registrar.

(*2*) The Trade Union shall inform the Registrar if the members of such Trade Union falls below ten per cent. of total workers or one hundred workers, whichever is less.

(*3*) The Trade Union shall inform the Registrar of any change in the particulars given by it in its application for registration and in its constitution or rules, in such manner as may be prescribed.

Incorporation of a registered Trade Union.

12. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Certain Acts not to apply to registered Trade Unions.

13. The provisions of the following Acts, namely:—

21 of 1860. (*a*) the Societies Registration Act, 1860;

2 of 1912. (*b*) the Co-operative Societies Act, 1912;

39 of 2002. (*c*) the Multi-State Co-operative Societies Act, 2002;

18 of 2013. (*d*) the Companies Act, 2013; and

(*e*) any other corresponding law relating to co-operative societies for the time being in force in any State,

shall not apply to any registered Trade Union and the registration of any such Trade Union under any of the aforementioned Acts shall be void.

Recognition of negotiating union or negotiating council.

14. (*1*) There shall be a negotiating union or a negotiating council, as the case may be, in an industrial establishment having registered Trade Union for negotiating with the employer of the industrial establishment, on such matters as may be prescribed.

(*2*) Where only one Trade Union of workers registered under the provisions of this Chapter is functioning in an industrial establishment, then, the employer of such industrial establishment shall, subject to such criteria as may be prescribed, recognise such Trade Union as sole negotiating union of the workers.

(*3*) If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, then, the Trade Union having fifty-one per cent. or more workers on the muster roll of that industrial establishment, verified in such manner as may be prescribed, supporting that Trade Union shall be recognised by the employer of the industrial establishment, as the sole negotiating union of the workers.

(*4*) If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, and no such Trade Union has fifty-one per cent. or more of workers on the muster roll of that industrial establishment, verified in such manner as may be prescribed, supporting that Trade union, then, there shall be constituted by the employer of the industrial establishment, a negotiating council for negotiation on the matters referred to in sub-section (*1*), consisting of the representatives of such registered Trade Unions which have the support of not less than twenty per cent. of the total workers on the muster roll of that industrial establishment so verified and such representation shall be of one representative for each twenty per cent. and for the remainder after calculating the membership on each twenty per cent.

(*5*) Where any negotiation on the matters referred to in sub-section (*1*) is held between an employer and a negotiating council constituted under sub-section (*4*), consequent upon such negotiation, any agreement is said to be reached, if it is agreed by the majority of the representatives of the Trade Unions in such negotiating council.

(*6*) Any recognition made under sub-section (*2*) or sub-section (*3*) or the negotiating council constituted under sub-section (*4*) shall be valid for three years from the date of recognition or constitution or such further period not exceeding five years, in total, as may be mutually decided by the employer and the Trade Union, as the case may be.

(*7*) The facilities to be provided by industrial establishment to a negotiating union or negotiating council shall be such as may be prescribed.

Objects of general fund, composition of separate fund and membership fee of Trade Union.

15. (*1*) The general funds of a registered Trade Union shall not be spent on any objects other than such objects as may be prescribed.

(*2*) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of such objects as may be prescribed.

(*3*) No member shall be compelled to contribute to the fund constituted under sub-section (*2*) and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

(*4*) The subscriptions payable by the members of the Trade Union shall be such as may be prescribed.

Immunity from civil suit in certain cases.

16. (*1*) No suit or other legal proceeding shall be maintainable in any civil court against any registered Trade Union or any office-bearer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment or that it is an interference with the trade, business, or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(*2*) A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

Criminal conspiracy in furtherance of objects of Trade Union.

17. No office-bearer or member of a registered Trade Union shall be liable to punishment under sub-section (*2*) of section 120B of the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless such agreement is an agreement to commit an offence. 45 of 1860.

Enforceability of agreements.

18. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

Right to inspect books of Trade Union.

19. The books of account of a registered Trade Union and the list of members thereof shall be open to inspection by an office-bearer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

Rights of minor to membership of Trade Union.

20. Any person who has attained the age of fourteen years and is employed in a non-hazardous industry may be a member of a registered Trade Union subject to any rules of the Trade Union, and may, subject to as aforesaid enjoy all the rights of a member and execute all instruments and given all acquaintances necessary to be executed or given under the rules.

Disqualification of office-bearers of Trade Unions.

21. (*1*) A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union, if—

(*i*) he has not attained the age of eighteen years;

(*ii*) he has been convicted by a court in India for any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has elapsed since his release;

(*iii*) the Tribunal has directed that he shall be disqualified for being chosen or for being office-bearer of a Trade Union for a period specified therein.

(*2*) No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected) in the Union or a State shall be a member of the executive or other office-bearer of a Trade Union.

Adjudication of disputes of Trade Unions.

22. (*1*) Where a dispute arises between—

(*a*) one Trade Union and another; or

(*b*) one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office-bearers of the Trade Union; or

(*c*) one or more workers who are refused admission as members and the Trade Union; or

(*d*) where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union,

an application may be made in such manner as may be prescribed to the Tribunal having jurisdiction over the area where the registered office of the Trade Union or Trade Unions is located for adjudication of such disputes.

(*2*) No civil court other than the Tribunal shall have power to entertain any suit or other proceedings in relation to any dispute referred to in sub-section (*1*).

Proportion of office-bearers to be connected with industry.

23. (*1*) Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unorganised sector shall be persons actually engaged or employed in an establishment or industry with which the Trade Union is connected:

Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

Explanation.—For the purposes of this sub-section, "unorganised sector" means any sector which the appropriate Government may, by notification, specify.

(*2*) Save as otherwise provided in sub-section (*1*), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation.—For the purposes of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

Change of name, amalgamation, notice of change and its effect.

24. (*1*) Any registered Trade Union may, with the consent of not less than two-third of the total number of its members and subject to the provisions of sub-section (*3*), change its name.

(*2*) Any two or more registered Trade Unions may be amalgamated in such manner as may be prescribed.

(*3*) Notice in writing of every change of name and of every amalgamation signed in the case of a change of name, by the secretary and by seven members of the Trade Union changing its name, and in the case of an amalgamation, by the secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State in such manner as may be prescribed.

(*4*) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(*5*) Save as provided in sub-section (*4*), the Registrar shall, if he is satisfied that the provisions of this Code in respect of change of name have been complied with, register the change of name in the register referred to in sub-section (*3*) of section 9, and the change of name shall have effect from the date of such registration.

(*6*) The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Code in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 9, register the Trade Union and the amalgamation shall have effect from the date of such registration.

(*7*) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(*8*) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them.

Dissolution.

25. (*1*) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(*2*) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

Annual returns.

26. (*1*) Every registered Trade Union shall—

(*a*) forward annually to the Registrar, on or before such date, in such form, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December;

(*b*) along with the general statement referred to in clause (*a*), forward to the Registrar a statement showing changes of office-bearers made by the Trade Union during the year to which such general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar.

(*2*) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

(*3*) For the purpose of examining the documents referred to in clauses (*a*) and (*b*) of sub-section (*1*), and sub-section (*2*), the Registrar or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than fifteen kilometres from the registered office of such Trade Union.

Recognition of Trade Unions at Central and State level.

27. (*1*) Where the Central Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as Central Trade Union at the Central level, it may recognise such Trade Union or federation of Trade Unions as Central Trade Union in such manner and for such purpose, as may be prescribed, and if any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the Central Government.

(*2*) Where the State Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as State Trade Union at the State level, it may recognise such Trade Union or federation of Trade Unions as State Trade Union in such manner and for such purpose, as may be prescribed, and if any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the State Government.

CHAPTER IV

STANDING ORDERS

Application of this Chapter.

28. (*1*) The provisions of this Chapter shall apply to every industrial establishment wherein three hundred or more than three hundred workers, are employed, or were employed on any day of the preceding twelve months.

(*2*) Notwithstanding anything contained in sub-section (*1*), the provisions of this Chapter shall not apply to an industrial establishment in so far as the workers employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government, apply.

Making of model standing orders by Central Government and temporary application.

29. (*1*) The Central Government shall make model standing orders relating to conditions of service and other matters incidental thereto or connected therewith.

(*2*) Notwithstanding anything contained in sections 30 to 36, for the period commencing on the date on which this section becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Code come into operation under section 33 in that establishment, the model standing order referred to in sub-section (*1*) shall be deemed to be adopted in that establishment and the provisions of sub-section (*2*) of section 33 and section 35 shall apply to such model standing orders as they apply to the standing orders so certified.

Preparation of draft standing orders by employer and procedure for certification.

30. (*1*) The employer shall prepare draft standing orders, within a period of six months from the date of commencement of this Code, based on the model standing orders referred to in section 29 in respect of the matters specified in the First Schedule and on any other matter considered necessary by him for incorporation of necessary provisions in such standing orders for his industrial establishment or undertaking, considering the nature of activity in his industrial establishment or undertaking, provided such provision is not inconsistent with any of the provision of this Code and covers every matters set out in the First Schedule.

(*2*) The employer shall consult the Trade Unions or recognised negotiating union or members of the negotiating council relating to the industrial establishment or undertaking, as the case may be, in respect of the draft of the standing order and thereafter forward the draft of the standing order electronically or otherwise to the certifying officer for certification.

(*3*) Where an employer adopts a model standing order of the Central Government referred to in section 29 with respect to matters relevant to his industrial establishment or undertaking, then, such model standing order shall be deemed to have been certified under the provisions of this section and employer shall forward the information in this regard to the concerned certifying officer in such manner as may be prescribed:

Provided that if the certifying officer has any observation, he may direct such employer to amend the standing order so adopted within such period as may be prescribed.

(*4*) The employer shall prepare the draft of the modifications required in the standing order, if any, in accordance with the provisions of this Code and forward electronically or otherwise to the certifying officer for certification of those modifications only within a period of six months from the date, the provisions of this Chapter becomes applicable to his industrial establishment.

(*5*) On receipt of the drafts referred to in sub-section (*1*) and sub-section (*4*), the certifying officer shall issue notice to—

(*i*) the Trade Union or negotiating union of the industrial establishment or undertaking, or members of the negotiating council; or

(*ii*) where there is no Trade Union operating, to such representatives of the workers of the industrial establishment or undertaking chosen in such manner as may be prescribed,

for seeking their comments in the matter and after receipt of their comments give an opportunity of being heard to the negotiating union or negotiating council, or as the case may be, to the Trade Unions or the representatives of the workers and decide as to whether or not any modification or addition to such draft standing order is necessary to render the draft standing order certifiable, and shall make an order in writing in this regard:

Provided that the certifying officer shall complete such procedure for certification referred to in sub-sections (*4*) and (*5*) in respect of—

(*a*) the draft standing order so received within a period of sixty days from the date of the receipt of it; and

(*b*) the draft modifications in the standing order so received within a period of sixty days from the date of the receipt of such modifications,

failing which such draft standing orders or, as the case may be, the modifications in the standing order shall be deemed to have been certified on the expiry of the said period.

(*6*) The standing orders shall be certifiable under this Code, if—

(*a*) provision is made therein for every matter set out in the First Schedule which is applicable to the industrial establishment; and

(*b*) such orders are otherwise in conformity with the provisions of this Code.

(*7*) It shall be the function of the certifying officer or the appellate authority referred to in section 32 to adjudicate upon the fairness or reasonableness of the provisions of any standing orders keeping in view the provisions of the model standing orders referred to in section 29.

(*8*) The certifying officer shall certify the draft standing orders or the modifications in the standing orders referred to in sub-section (*5*), and shall within seven days thereafter send copies of the certified standing orders or the modifications in the standing orders, authenticated in such manner as may be prescribed, to the employer and to the negotiating union or negotiating council or the Trade Union or other representatives of the workers referred to in clause (*ii*) of sub-section (*5*).

(*9*) The draft standing orders under sub-section (*1*) or draft of the modifications proposed in the standing orders under sub-section (*5*) shall be accompanied by a statement giving such particulars, as may be prescribed, of the workers employed in the industrial establishment, the Trade Union to which they belong, and the negotiating union or negotiating council, if any.

(*10*) Subject to such conditions as may be prescribed, a group of employers in similar establishments may submit a joint draft of standing orders under this section and for the purposes of proceedings specified in sub-sections (*1*), (*5*), (*6*), (*8*) and (*9*), the expressions "employer", "Trade Union" and "negotiating union or negotiating council" shall respectively include all the employers, Trade Unions and negotiating unions or negotiating council of such similar establishments, as the case may be.

(*11*) Without prejudice to the foregoing provisions of this section, the standing orders relating to an industrial establishment or undertaking existing on the date of

commencement of the relevant provisions of this Code, shall, in so far as is not inconsistent with the provisions of this Code or rules made thereunder, continue and be deemed to be the standing orders certified under sub-section (*8*) and accordingly the provisions of this Chapter shall apply thereon.

Certifying officer and appellate authority to have powers of civil court.

31. (*1*) Every certifying officer and the appellate authority referred to in section 32 shall have all the powers of a civil court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973. 2 of 1974.

(*2*) Clerical or arithmetical mistakes in any order passed by a certifying officer, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that officer or successor in office of such officer.

Appeals.

32. An employer or Trade Union or the negotiating union or negotiating council, or where there is no negotiating union or negotiating council in an industrial establishment or undertaking, any union or such representative body of the workers of the industrial establishment or undertaking, if not satisfied with the order of the certifying officer given under sub-section (*5*) of section 30, may file an appeal within sixty days of receipt of the order of the certifying officer to the appellate authority appointed by the appropriate Government, by notification, and such authority shall dispose of the appeal in such manner as may be prescribed.

Date of operation of standing orders and its availability.

33. (*1*) The standing orders or modified standing orders, as the case may be, shall, unless an appeal is preferred under section 32, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (*8*) of section 30, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent in such manner as may be prescribed.

(*2*) The text of a standing order as finally certified under this Code shall be maintained by the employer in such language and in such manner for the information of the concerned workers as may be prescribed.

Register of standing orders.

34. A copy of all standing orders as finally certified under this Code shall be filed by the certifying officer in a register maintained for the purpose or uploaded in electronic form or such other form as may be prescribed, and the certifying officer shall furnish a copy thereof to any person applying therefor on payment of such fee as may be prescribed.

Duration and modification of standing orders.

35. (*1*) The standing orders certified under sub-section (*8*) of section 30 shall not, except on an agreement between the employer and the workers, or a negotiating union or a Trade Union or other representative body of the workers, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

(*2*) Subject to the provisions of sub-section (*1*), an employer or worker or a Trade Union or other representative body of the workers may apply to the certifying officer to have the standing orders modified in such application as may be prescribed, which shall be accompanied by such copies of the modifications proposed to be made, and where the modifications are proposed to be made by agreement between the employer and the workers or a Trade Union or other representative body of the workers, a certified copy of that agreement shall be filed alongwith the application.

(*3*) The foregoing provisions of this Code shall apply in respect of an application under sub-section (*2*) as they apply to the certification of the first time standing orders.

Oral evidence in contradiction of standing orders not admissible.

36. No oral evidence having the effect of adding to or otherwise varying or contradicting standing order as finally certified under this Chapter shall be admitted in any Court.

Interpretation, etc., of standing orders.

37. If any question arises as to the application, or interpretation, of the standing orders certified under sub-section (*8*) of section 30 or the modification made therein by an agreement entered into under sub-section (*5*) of that section, the employer or any worker or workers concerned or the Trade Union in relation to the workers employed in the industrial establishment or undertaking, wherein the question has arisen, may apply to the Tribunal, within the local limits of whose territorial jurisdiction such establishment or the office, section or branch of the undertaking is situated, to decide the question and such Tribunal shall, after giving all the parties concerned a reasonable opportunity of being heard, decide the question and its decision shall be final and binding on the concerned employer and the workers.

Time-limit for completing disciplinary proceedings and liability to pay subsistence allowance.

38. (*1*) Where any worker is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, such investigation or inquiry, or where there is an investigation followed by an inquiry, both the investigation and inquiry shall be completed ordinarily within a period of ninety days from the date of suspension.

(*2*) The standing orders certified under sub-section (*8*) of section 30 or modified under section 35 shall provide that where a worker is suspended as referred to in sub-section (*1*), the employer in relation to an industrial establishment or undertaking shall pay to such worker employed in such industrial establishment or undertaking subsistence allowance at the rates specified in sub-section (*3*) for the period during which such worker is placed under suspension pending investigation or inquiry into complaints or charges of misconduct against such worker.

(*3*) The amount of subsistence allowance payable under sub-section (*2*) shall be—

(*a*) at the rate of fifty per cent. of the wages which the worker was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and

(*b*) at the rate of seventy-five per cent. of such wages for the remaining period of suspension, if the delay in the completion of disciplinary proceedings against such worker is not directly attributable to the conduct of such worker.

Power to exempt.

39. The appropriate Government may, by notification, exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Chapter.

CHAPTER V

NOTICE OF CHANGE

Notice of change.

40. No employer, who proposes to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule, shall effect such change,—

(*i*) without giving to the workers likely to be affected by such change a notice in such manner as may be prescribed of the nature of the change proposed to be effected; or

(*ii*) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change—

(*a*) where the change is effected in pursuance of any settlement or award;

(*b*) where the workers likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply;

(*c*) in case of emergent situation which requires change of shift or shift working, otherwise than in accordance with standing orders, in consultation with Grievance Redressal Committee;

(*d*) if such change is effected in accordance with the orders of the appropriate Government or in pursuance of any settlement or award.

Power of appropriate Government to exempt.

41. Where the appropriate Government is of the opinion that the application of the provisions of section 40 to any class of industrial establishments or to any class of worker employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workers employed in any industrial establishment.

CHAPTER VI

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

Voluntary reference of disputes to arbitration.

42. (*1*) Where any industrial dispute exists or is apprehended and the employer and the workers agree to refer the dispute to arbitration, they may, by a written agreement, refer the dispute to arbitration, and the reference shall be to such person or persons as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(*2*) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Code.

(*3*) An arbitration agreement referred to in sub-section (*1*) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(*4*) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer.

(*5*) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators:

Provided that—

(*i*) where such industrial dispute is the industrial dispute other than the termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the workers shall be represented before the arbitrator,—

(*a*) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or

(*b*) where there is no negotiating union or negotiating council, by the Trade Union; or

(*c*) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;

(*ii*) where such industrial dispute relates to termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the concerned workers shall be represented in person or through a representative authorised by him.

(*6*) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

(*7*) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (*5*), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

(*8*) Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section. 26 of 1996.

CHAPTER VII

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

Conciliation officers.

43. (*1*) The appropriate Government may, by notification, appoint such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(*2*) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Industrial Tribunal.

44. (*1*) The appropriate Government may, by notification, constitute one or more Industrial Tribunals for the adjudication of industrial disputes and for performing such other functions as may be assigned to them under this Code and the Tribunal so constituted by the Central Government shall also exercise the jurisdiction, powers and authority conferred on the Tribunal, as defined in clause (*m*) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 by or under that Act. 19 of 1952.

(*2*) Every Industrial Tribunal shall consist of two members to be appointed by the appropriate Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

(*3*) A bench of the Tribunal shall consist of a Judicial Member and an Administrative Member or single Judicial Member or single Administrative Member.

(*4*) The qualifications for appointment, method of recruitment, term of office, salaries and allowances, resignation, removal and the other terms of conditions of service of the Judicial Member and the Administrative Member of the Tribunal constituted by the Central Government shall be in accordance with the rules made under section 184 of the Finance Act, 2017: 7 of 2017.

Provided that a person who has held a post below the rank of Joint Secretary to the Government of India or an equivalent rank in the Central Government or a State Government, shall not be eligible to be appointed as an Administrative Member of the Tribunal.

(*5*) The term of office of the Judicial Member and the Administrative Member of a Tribunal constituted by the State Government under sub-section (*1*), their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be prescribed by the State Government.

(*6*) The salary and allowances and the terms and conditions of service of the Judicial Member or Administrative Member referred to in sub-section (*2*) and appointed by a State Government shall not be varied to his disadvantage after his appointment.

(*7*) The procedure of the Tribunal (including distribution of cases in the benches of the Tribunal) shall be such as may be prescribed, provided a bench consisting of a Judicial Member and an Administrative Member shall entertain and decide the cases only relating to—

(*a*) the application and interpretation of standing order;

(*b*) discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen dismissed;

(*c*) illegality or otherwise of a strike or lockout;

(*d*) retrenchment of workmen and closure of establishment; and

(*e*) Trade Union disputes,

and the remaining cases shall be entertained and decided by the bench of the Tribunal consisting either a Judicial Member or an Administrative Member of the Tribunal.

(*8*) The Judicial Member shall preside over the Tribunal where the bench of the Tribunal consists of one Judicial Member and one Administrative Member.

(*9*) If, for any reason, a vacancy (other than a temporary absence) occurs in a National Industrial Tribunal or a Tribunal, then, such vacancy shall be filled up in such manner as may be prescribed, without prejudice to the provisions of sub-section (*4*) or sub-section (*5*), as the case may be, and the proceeding shall be continued before such National Industrial Tribunal or Tribunal, as the case may be, from the stage at which the vacancy is filled.

(*10*) The appropriate Government may provide such number of officers and other staff as it thinks fit in consultation with the Judicial Member of the Tribunal which may be required for the due discharge of the functioning of the Tribunal.

Finality of constitution of Tribunal.

45. No notification of the appropriate Government appointing any person as a Judicial Member or an Administrative Member of a Tribunal shall be called in question in any manner; and no act or proceeding before the Tribunal shall be called in question in any manner on the ground mainly of the existence of any vacancy in, or defect in the constitution of such Tribunal.

National Industrial Tribunal.

46. (*1*) The Central Government may, by notification, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(*2*) A National Industrial Tribunal shall consist of two members to be appointed by the Central Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

(*3*) A person shall not be qualified for appointment as the Judicial Member of a National Industrial Tribunal unless he is, or has been, a Judge of a High Court.

(*4*) A person shall not be qualified for appointment as Administrative Member of a National Industrial Tribunal unless, he is or has been Secretary to the Government of India or holding an equivalent rank in the Central Government or State Government, having adequate experience of handling the labour related matters.

(*5*) The Judicial Member shall preside over a National Industrial Tribunal.

(*6*) The procedure of selection of Judicial Member and Administrative Member of the National Industrial Tribunal, their salaries, allowances and other terms and conditions of service shall be such as may be prescribed.

(*7*) The Central Government may provide such number of officers and other staff as it thinks fit in consultation with the Judicial Member of the National Industrial Tribunal which may be required for the due discharge of the functioning of the National Industrial Tribunal.

Decision of Tribunal or National Industrial Tribunal.

47. (*1*) The decision of a Tribunal or a National Industrial Tribunal, as the case may be, shall be by consensus of the members.

(*2*) If the members of a Tribunal or a National Industrial Tribunal differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the appropriate Government.

(*3*) The appropriate Government shall, on receipt of a reference made under sub-section (*2*), appoint a Judicial Member of other Tribunal or a National Industrial Tribunal, who shall hear the point or points himself and such point or points shall be decided according to the majority of the members of a Tribunal or a National Industrial Tribunal, as the case may be, who have first heard the case, including the Judicial Member of the other Tribunal who heard the case thereafter.

Disqualifications for members of Tribunal and National Industrial Tribunal.

48. No person shall be appointed to, or continue in, the office of the member of a Tribunal or National Industrial Tribunal, respectively, if—

(*a*) he is not an independent person; or

(*b*) he has attained the age of sixty-five years.

Explanation.—For the purposes of this section "independent person" means a person who is unconnected with the industrial dispute referred to a Tribunal or National Industrial Tribunal or with any industry directly affected by such dispute.

Procedure and powers of arbitrator, conciliation officer, Tribunal and National Industrial Tribunal.

49. (*1*) Subject to the provisions of this Code and the rules that may be made in this behalf, an arbitrator, conciliation officer, Tribunal or National Industrial Tribunal shall follow such procedure as the arbitrator, conciliation officer, Tribunal or National Industrial Tribunal may deem fit.

(*2*) A conciliation officer or an officer authorised in this behalf by the Tribunal or National Industrial Tribunal may, for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(*3*) The conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure,1908, when trying a suit, in respect of the following matters, namely: — 5 of 1908.

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects;

(*c*) issuing commissions for the examination of witnesses;

(*d*) in respect of such other matters as may be prescribed,

and every inquiry or investigation by Tribunal or National Industrial Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. 45 of 1860.

(*4*) A conciliation officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Code, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any person and examining him or of compelling the production of documents. 5 of 1908.

(*5*) The appropriate Government may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessors or experts to advise a Tribunal or National Industrial Tribunal, as the case may be, in respect of any proceeding before either of the said Tribunals.

(*6*) All conciliation officers and the members of a Tribunal or National Industrial Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

(*7*) Subject to any rules made under this Code, the costs of, and incidental to, any proceeding before a Tribunal or National Industrial Tribunal shall be in the discretion of

that Tribunal or National Industrial Tribunal and the Tribunal or National Industrial Tribunal, as the case may be, shall have full powers to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.

(*8*) Every Tribunal or National Industrial Tribunal shall be deemed to be civil court for the purposes of sections 345, 346, and 348 of the Code of Criminal Procedure, 1973. 2 of 1974.

(*9*) Every award made, order issued or settlement arrived at by or before a Tribunal or a National Industrial Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a civil court under Order XXI of the Code of Civil Procedure, 1908 and for that purpose such Tribunal or National Industrial Tribunal shall be deemed to be a civil court. 5 of 1908.

Powers of Tribunal and National Industrial Tribunal to give appropriate relief in case of discharge or dismissal of worker.

50. (*1*) Where the application under sub-section (*6*) of section 53 relating to an industrial dispute involving discharge or dismissal or otherwise termination of a worker has been made to a Tribunal or has been referred to a National Industrial Tribunal for adjudication, and, in the course of adjudication proceedings, the Tribunal or National Industrial Tribunal, as the case may be, is satisfied that the order of discharge or dismissal or otherwise termination was not justified, it may, by its award, set aside the order of discharge or dismissal or termination and direct reinstatement of the worker on such terms and conditions, if any, as it thinks fit, or give such other relief to the worker including the award of any lesser punishment in lieu of discharge or dismissal or otherwise termination, as the circumstances of the case may require.

(*2*) A Tribunal or National Industrial Tribunal, as the case may be, may, in the interest of justice, grant such interim relief to the worker referred to in sub-section (*1*) during the pendency of the industrial dispute as the circumstances of the case may require:

Provided that in any proceeding under this sub-section the Tribunal or National Industrial Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

Transfer of pending cases.

51. (*1*) On and from the date of commencement of this Code, the cases pending immediately before such commencement—

(*a*) in the Labour Court and the Tribunal constituted under the Industrial Disputes Act, 1947, shall be transferred to the Tribunal having corresponding jurisdiction under this Code; 14 of 1947.

(*b*) in the National Tribunal constituted under the Industrial Disputes Act, 1947 shall be transferred to the National Industrial Tribunal having corresponding jurisdiction under this Code. 14 of 1947.

(*2*) The cases transferred under sub-section (*1*) to the Tribunal or the National Industrial Tribunal shall be dealt with *de novo* or from the stage at which they were pending before such transfer, as it may deem fit.

Adjustment of services of presiding officers under repealed Act.

52. A presiding officer of a Labour Court or Tribunal or, as the case may be, National Tribunal, constituted under the Industrial Disputes Act, 1947, holding office as such immediately before the commencement of this Code and is qualified to be appointed under this Code, shall be the Judicial Member of the Tribunal or, as the case may be, the Judicial Member of the National Industrial Tribunal, and shall continue as such for the remaining period of his office. 14 of 1947.

Conciliation and adjudication of dispute.

53. (*1*) Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer shall, hold conciliation proceedings in such manner as may be prescribed:

Provided that the conciliation officer shall not hold any such proceedings relating to the industrial dispute after two years from the date on which such industrial dispute arose.

(*2*) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(*3*) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the appropriate Government or an officer authorised in this behalf by the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(*4*) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send to the concerned parties and to the appropriate Government a full report, in the electronic or other form as may be prescribed, setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(*5*) Notwithstanding anything contained in sub-section (*4*), the conciliation officer shall send the report to the concerned parties and the appropriate Government within forty-five days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

Provided that where a conciliation officer receives notice under section 62, he shall send the report to the concerned parties and to the appropriate Government within fourteen days of the commencement of the conciliation proceedings:

Provided further that subject to the approval of the conciliation officer, the time may be extended by such period as may be agreed upon in writing by the concerned parties to the dispute.

(*6*) Any concerned party may make application in the prescribed form to the Tribunal in the matters not settled by the conciliation officer under this section within ninety days from the date on which the report under sub-section (*4*) is received to the concerned party and the Tribunal shall decide such application in the prescribed manner.

Reference to and functions of National Industrial Tribunal.

54. (*1*) The Central Government may refer an industrial dispute to a National Industrial Tribunal which in the opinion of such Government involves question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by such industrial dispute.

(*2*) Where an industrial dispute has been referred under sub-section (*1*) or transferred under section 92 by the Central Government to a National Industrial Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring or transferring such industrial dispute or further period extended by the Central Government, submit its award to that Government.

Form of award, its communication and commencement.

55. (*1*) The award of—

(*i*) a Tribunal delivered by a bench consisting of a Judicial Member and an Administrative Member or a single Judicial Member or a single Administrative Member; or

(*ii*) a National Industrial Tribunal,

shall be in writing and shall be signed electronically or otherwise, as the case may be, by both the Judicial Member and the Administrative Member or either by the Judicial Member or the Administrative Member by whom the award is delivered.

(*2*) Every arbitration award and every award of Tribunal or National Industrial Tribunal shall be communicated to the parties concerned and the appropriate Government.

(*3*) An award made under this Code shall become enforceable on the expiry of thirty days from the date of its communication under sub-section (*2*):

Provided that—

(*a*) if the appropriate Government is of the opinion in any case, where the award has been given by a Tribunal in relation to an industrial dispute to which it is a party; or

(*b*) if the Central Government is of opinion in any case, where the award has been given by a National Industrial Tribunal,

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(*4*) Where any declaration has been made in relation to an award under the proviso to sub-section (*3*), the appropriate Government or the Central Government, as the case may be, may, within ninety days from the date of communication of the award under sub-section (*2*), make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(*5*) Where any award as rejected or modified by an order made under sub-section (*4*) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (*4*) is made in pursuance of a declaration under the proviso to sub-section (*3*), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (*4*).

(*6*) Subject to the provisions of sub-section (*3*) and sub-section (*5*) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (*3*) or sub-section (*5*), as the case may be.

Payment of full wages to worker pending proceedings in higher Courts.

56. Where in any case, a Tribunal or a National Industrial Tribunal by its award directs reinstatement of any worker and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such worker, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the worker had not been employed in any establishment during such period and an affidavit by such worker had been filed to that effect in such Court:

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such worker had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.

Persons on whom settlements and awards are binding.

57. (*1*) A settlement arrived at by agreement between the employer and worker otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(*2*) Subject to the provisions of sub-section (*3*), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(*3*) A settlement arrived at in the course of conciliation proceedings under this Code or an arbitration or an award of a Tribunal or National Industrial Tribunal which has become enforceable shall be binding on—

(*a*) all parties to the industrial dispute;

(*b*) all other parties summoned to appear in the proceedings as parties to the dispute, unless the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(*c*) where a party referred to in clause (*a*) or clause (*b*) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(*d*) where a party referred to in clause (*a*) or clause (*b*) is composed of workers, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

Period of operation of settlements and awards.

58. (*1*) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(*2*) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of sixty days from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(*3*) An award shall, subject to the provisions of this section, remain in operation for a period of one year from the date on which the award becomes enforceable under section 55:

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit:

Provided further that the appropriate Government may, before expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(*4*) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or part of it to the Tribunal, if the award is made by the Tribunal for decision whether the period of operation should not, by reason of such change, be shortened and the decision of the Tribunal on such reference shall be final.

(*5*) Nothing contained in sub-section (*3*) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(*6*) Notwithstanding the expiry of the period of operation under sub-section (*3*), the award shall continue to be binding on the parties until a period of sixty days has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(*7*) No notice given under sub-section (*2*) or sub-section (*6*) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be.

Recovery of money due from employer.

59. (*1*) Where any money is due to a worker from an employer under a settlement or an award or under the provisions of Chapter IX or Chapter X, the worker himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the worker, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate 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:

Provided that every such application shall be made within one year from the date on which the money became due to the worker from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(*2*) Where any worker is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Code, be decided by such Tribunal as may be specified in this behalf by the appropriate Government within a period not exceeding three months:

Provided that where the Tribunal considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit.

(*3*) For the purposes of computing the money value of a benefit referred to in sub-section (*2*), the Tribunal may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Tribunal and the Tribunal shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(*4*) The decision of the Tribunal shall be forwarded by it to the appropriate Government and any amount found due by the Tribunal may be recovered in the manner provided for in sub-section (*1*).

(*5*) Where workers employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workers.

Commencement and conclusion of proceedings.

60. (*1*) A conciliation proceeding shall be deemed to have commenced on the date on which the first meeting is held by the conciliation officer in an industrial dispute after the receipt of the notice of strike or lock-out by the conciliation officer.

(*2*) A conciliation proceeding shall be deemed to have concluded—

(*a*) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(*b*) where no settlement is arrived at, and failure of conciliation is recorded by the conciliation officer; or

(*c*) when a reference is made to a National Industrial Tribunal, under this Code, during the pendency of conciliation proceedings.

(*3*) Proceedings before an arbitrator or a Tribunal or a National Industrial Tribunal under this Code shall be deemed to have commenced on the date of filing application or appeal or on the date of reference of the dispute for arbitration or adjudication, as the case may be, and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable.

Certain matters to be kept confidential.

61. There shall not be included in any report or award under this Code, any information obtained by a conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, in the course of any investigation or inquiry as to a Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such conciliation officer, arbitrator, Tribunal, or National Industrial Tribunal, if the Trade Union, person, firm or company, in question has made a request in writing to the conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer, or the arbitrator, or the presiding officer of a Tribunal or a National Industrial Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the Trade Union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code. 45 of 1860.

CHAPTER VIII

STRIKES AND LOCK-OUTS

Prohibition of strikes and lock-outs.

62. (*1*) No person employed in an industrial establishment shall go on strike, in breach of contract—

(*a*) without giving to the employer notice of strike, as hereinafter provided, within sixty days before striking; or

(*b*) within fourteen days of giving such notice; or

(*c*) before the expiry of the date of strike specified in any such notice; or

(*d*) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or

(*e*) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or

(*f*) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (*5*) of section 42; or

(*g*) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

(*2*) No employer of an industrial establishment shall lock-out any of his workers—

(*a*) without giving them notice of lock-out as hereinafter provided, within sixty days before locking-out; or

(*b*) within fourteen days of giving such notice; or

(*c*) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(*d*) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or

(*e*) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or

(*f*) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (*5*) of section 42; or

(*g*) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

(*3*) The notice of strike or lock-out under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of services.

(*4*) The notice of strike referred to in sub-section (*1*) shall be given by such number of persons to such person or persons and in such manner, as may be prescribed.

(*5*) The notice of lock-out referred to in sub-section (*2*) shall be given in such manner as may be prescribed.

(*6*) If on any day an employer receives from any person employed by him any such notices as are referred to in sub-section (*1*) or gives to any person employed by him any such notices as are referred to in sub-section (*2*), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe and to the conciliation officer, the number of such notices received or given on that day.

Illegal strikes and lock-outs.

63. (*1*) A strike or lock-out shall be illegal, if it is—

(*i*) commenced or declared in contravention of section 62; or

(*ii*) continued in contravention of an order made under sub-section (*7*) of section 42.

(*2*) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the filing of the application relating to such industrial dispute in the Tribunal or of the reference of such industrial dispute to an arbitrator or a National Industrial Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Code or the continuance thereof was not prohibited under sub-section (*7*) of section 42.

(*3*) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

Prohibition of financial aid to illegal strikes or lock-outs.

64. No person shall knowingly spend or apply any money in direct furtherance or support of any illegal strike or lock-out.

CHAPTER IX
LAY-OFF, RETRENCHMENT AND CLOSURE

Application of sections 67 to 69.

65. (*1*) Sections 67 to 69 (both inclusive) shall not apply to industrial establishments to which Chapter X applies; or

(*a*) to industrial establishments in which less than fifty workers on an average per working day have been employed in the preceding calendar month; or

(*b*) to industrial establishments which are of a seasonal character or in which work is performed intermittently.

(*2*) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

Explanation.—In this section and in sections 67, 68 and 69, industrial establishment shall mean a—

63 of 1948.

(*i*) factory as defined in clause (*m*) of section 2 of the Factories Act, 1948; or

(*ii*) mine as defined in clause (*j*) of sub-section (*1*) of section 2 of the Mines Act, 1952; or 35 of 1952.

(*iii*) plantation as defined in clause (*f*) of section 2 of the Plantations Labour Act, 1951. 69 of 1951.

Definition of continuous service.

66. In this Chapter, continuous service in relation to a worker, means the uninterrupted service of such worker, including his service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the worker.

Explanation 1.—For the purposes of this section, where a worker is not in continuous service for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(*a*) for a period of one year, if the worker during a period of twelve months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(*i*) one hundred and ninety days in the case of a worker employed below ground in a mine; and

(*ii*) two hundred and forty days, in any other case;

(*b*) for a period of six months, if the worker during a period of six months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(*i*) ninety-five days in the case of worker employed below ground in a mine; and

(*ii*) one hundred and twenty days, in any other case.

Explanation 2.—For the purposes of *Explanation* 1, the number of days on which a worker has actually worked under an employer shall include the days on which—

(*i*) he has been laid-off under an agreement or as permitted by or under this Code or any other law applicable to the industrial establishment for the time being in force; or

(*ii*) he has been on leave on full wages earned in the previous years; or

(*iii*) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; or

(*iv*) in the case of a female, she has been on maternity leave, so however, that the total period of such maternity leave does not exceed the period as specified in the Maternity Benefit Act, 1961. 53 of 1961.

Rights of workers laid-off for compensation, etc.

67. Whenever a worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off:

Provided that if during any period of twelve months, a worker is so laid-off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days, if there is an agreement to that effect between the worker and the employer:

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the worker in accordance with the provisions contained in section 70 at any time after the expiry of the first forty-five days of the lay-off and when he

does so, any compensation paid to the worker for having been laid-off during the preceding twelve months may be set off against the compensation payable for retrenchment.

Explanation.— For the purposes of this section "*badli* worker" means a worker who is employed in an industrial establishment in the place of another worker whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such, if he has completed one year of continuous service in the establishment.

Duty of an employer to maintain muster rolls of workers.

68. Notwithstanding that workers in any industrial establishment have been laid-off. it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Workers not entitled for compensation in certain cases.

69. No compensation shall be paid to a worker who has been laid-off—

(*i*) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of eight kilometres from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the worker, provided that the wages which would normally have been paid to the worker are offered for the alternative employment also;

(*ii*) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

(*iii*) if such laying-off is due to a strike or slowing-down of production on the part of workers in another part of the establishment.

Conditions precedent to retrenchment of workers.

70. No worker employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(*a*) the worker has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice;

(*b*) the worker has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months; and

(*c*) notice in such manner as may be prescribed is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification.

Procedure for retrenchment.

71. Where any worker in an industrial establishment who is a citizen of India, is to be retrenched and he belongs to a particular category of workers in that establishment, then, in the absence of any agreement between the employer and the worker in this behalf, the employer shall ordinarily retrench the worker who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other worker.

Re-employment of retrenched worker.

72. Where any worker is retrenched and the employer proposes to take into his employment any person within one year of such retrenchment, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment and such retrenched workers who offer themselves for re-employment shall have preference over other persons.

Compensation to workers in case of transfer of establishment.

73. Where the ownership or management of an establishment is transferred, whether by agreement or by operation of law, from the employer in relation to that establishment to a new employer, every worker who has been in continuous service for not less than one year in that establishment immediately before such transfer shall be entitled to notice and

compensation in accordance with the provisions of section 70 as if the worker had been retrenched:

Provided that nothing in this section shall apply to a worker in any case where there has been a change of employers by reason of the transfer, if—

(*a*) the service of the worker has not been interrupted by such transfer;

(*b*) the terms and conditions of service applicable to the worker after such transfer are not in any way less favourable to the worker than those applicable to them immediately before the transfer; and

(*c*) the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

Sixty days' notice to be given of intention to close down any undertaking.

74. (*1*) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in such manner as may be prescribed, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking:

Provided that nothing in this section shall apply to—

(*i*) an industrial establishment in which less than fifty workers are employed or were employed on any day in the preceding twelve months;

(*ii*) an industrial establishment set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

(*2*) Notwithstanding anything contained in sub-section (*1*), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or an extraordinary situation such as natural calamities or the like, it is necessary so to do, by order, direct that the provisions of sub-section (*1*) shall not apply in relation to such undertaking for such period, as may be specified in the order.

Compensation to workers in case of closing down of undertakings.

75. (*1*) Where an establishment is closed down for any reason whatsoever, every worker who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (*2*), be entitled to notice and compensation in accordance with the provisions of section 70, as if the worker had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the worker under clause (*b*) of section 70, shall not exceed his average pay for three months.

Explanation.—An industrial establishment which is closed down by reason merely of—

(*i*) financial difficulties (including financial losses); or

(*ii*) accumulation of un-disposed stocks; or

(*iii*) the expiry of the period of the lease or license granted to it; or

(*iv*) in case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which operations are carried on,

shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals

in the area in which such operations are carried on, no worker referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 70, if—

(*a*) the employer provides the worker, at the place located within a radius of twenty kilometres from such undertaking engaged in mining operation is closed down, with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

(*b*) the service of the worker has not been interrupted by such alternative employment; and

(*c*) the employer is, under the terms of such alternative employment or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment.

(*3*) For the purposes of sub-sections (*1*) and (*2*), the expressions "minerals" and "mining operations" shall have the meanings respectively assigned to them in clauses (*a*) and (*d*) of section 3 of the Mines and Minerals (Regulation and Development) Act, 1957. 67 of 1957.

(*4*) Where any undertaking set up for the construction of buildings, bridges, roads, canals, dams or other construction work is closed down on account of the completion of the work within two years from the date on which the undertaking had been set up, no worker employed therein shall be entitled to any compensation under clause (*b*) of section 70, but if the construction work is not so completed within two years, he shall be entitled to notice and compensation under that section for every completed year of continuous service or any part thereof in excess of six months.

Effect of laws inconsistent with this Chapter.

76. (*1*) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under Chapter IV:

Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or any award, contract or service or otherwise, a worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Chapter.

(*2*) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workers in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.

CHAPTER X

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

Application of this Chapter.

77. (*1*) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than three hundred workers, or such higher number of workers as may be notified by the appropriate Government, were employed on an average per working day in the preceding twelve months.

(*2*) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

(*3*) For the purposes of this Chapter,"industrial establishment" means—

(*i*) a factory as defined in clause (*m*) of section 2 of the Factories Act, 1948; 63 of 1948.

(*ii*) a mine as defined in clause (*j*) of sub-section (*1*) of section 2 of the Mines Act, 1952; or 35 of 1952.

(*iii*) a plantation as defined in clause (*f*) of section 2 of the Plantations Labour Act, 1951. 69 of 1951.

Prohibition of lay-off.

78. (*1*) No worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except with the prior permission of the appropriate Government, obtained on an application made in this behalf, unless such lay-off is due to shortage of power, natural calamity, and in the case of a mine, such lay-off is due to fire, flood, excess of inflammable gas or explosion.

(*2*) An application for permission under sub-section (*1*) shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

(*3*) Where the workers (other than *badli* workers or casual workers) of industrial establishment, being a mine, have been laid-off under sub-section (*1*) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in such manner as may be prescribed, to the appropriate Government for permission to continue the lay-off.

(*4*) Where an application for permission under sub-section (*1*) or sub-section (*3*) has been made, the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(*5*) Where an application for permission under sub-section (*1*) or sub-section (*3*) has been made and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted as applied for on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government.

(*6*) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (*7*), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(*7*) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (*4*) within the prescribed time from the date on which such order is made or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(*8*) Where no application for permission under sub-section (*1*) is made, or where no application for permission under sub-section (*3*) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workers had been laid-off and the workers shall be entitled

to all the benefits under any law for the time being in force as if they had not been laid-off.

(*9*) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (*1*), or, as the case may be, sub-section (*3*) shall not apply in relation to such establishment for such period as may be specified in the order.

(*10*) The provisions of section 67 (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

Explanation.—For the purposes of this section, a worker shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the worker) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the worker having regard to the facts and circumstances of his case, subject to the condition that the wages which would normally have been paid to the worker are offered for the alternative appointment also.

Conditions precedent to retrenchment of workers to which Chapter X applies.

79. (*1*) No worker employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(*a*) the worker has been given three month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice; and

(*b*) the prior permission of the appropriate Government has been obtained on an application made in this behalf.

(*2*) An application for permission under sub-section (*1*) shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

(*3*) Where an application for permission under sub-section (*1*) has been made, the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(*4*) Where an application for permission has been made under sub-section (*1*) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government.

(*5*) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (*6*), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(*6*) The appropriate Government may, either on its own motion or on the application

made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (*3*) within the prescribed time from the date on which such order is made or refer the matter or, as the case may be, cause it to be referred to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(*7*) Where no application for permission under sub-section (*1*) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the worker and the worker shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(*8*) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (*1*) shall not apply in relation to such establishment for such period as may be specified in the order.

(*9*) Where permission for retrenchment has been granted under sub-section (*3*) or where permission for retrenchment is deemed to be granted under sub-section (*4*), every worker who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof, in excess of six months.

Procedure for closing down an industrial establishment.

80. (*1*) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, electronically or otherwise, apply in such manner as may be prescribed, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workers in such manner as may be prescribed:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(*2*) Where an application for permission has been made under sub-section (*1*), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(*3*) Where an application has been made under sub-section (*1*) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted as applied for on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government.

(*4*) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (*5*), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(*5*) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (*2*) within the prescribed time from the date on which such order is made

or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(*6*) Where no application for permission under sub-section (*1*) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workers shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(*7*) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (*1*) shall not apply in relation to such undertaking for such period as may be specified in the order.

(*8*) Where an undertaking is permitted to be closed down under sub-section (*2*) or where permission for closure is deemed to be granted under sub-section (*3*), every worker who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months.

Duty of an employer to maintain muster rolls of workers.

81. Notwithstanding that workers in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Certain provisions of Chapter IX to apply to industrial establishment to which this Chapter applies.

82. The provisions of sections 66, 71, 72, 73 and section 76 in Chapter IX shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of this Chapter apply.

CHAPTER XI

WORKER RE-SKILLING FUND

Worker re-skilling fund.

83. (*1*) The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund (hereafter in this section referred to as "fund").

(*2*) The fund shall consist of—

(*a*) the contribution of the employer of an industrial establishment an amount equal to fifteen days wages last drawn by the worker immediately before the retrenchment, or such other number of days as may be notified by the Central Government, for every retrenched worker in case of retrenchment only;

(*b*) the contribution from such other sources as may be prescribed by the appropriate Government.

(*3*) The fund shall be utilised by crediting fifteen days wages last drawn by the worker to his account who is retrenched, within forty-five days of such retrenchment, in such manner as may be prescribed.

CHAPTER XII

UNFAIR LABOUR PRACTICES

Prohibition of unfair labour practice.

84. No employer or worker or a Trade Union, whether registered under this Code, or not, shall commit any unfair labour practice specified in the Second Schedule.

CHAPTER XIII

OFFENCES AND PENALTIES

Power of officers of appropriate Government to impose penalty in certain cases.

85. (*1*) Notwithstanding anything contained in section 84, for the purpose of imposing penalty under sub-sections (*3*), (*5*), (*7*), (*8*), (*9*), (*10*), (*11*) and (*20*) of section 86 and sub-section (*7*) of section 89, the appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

(*2*) While holding the enquiry, the officer referred to in sub-section (*1*) shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of such officer, may be useful for or relevant to the subject matter of the enquiry and if, on such enquiry, he is satisfied that the person has committed any offence under the provisions referred to in sub-section (*1*), he may impose such penalty as he thinks fit in accordance with such provisions.

(*3*) Where a person fails to pay the penalty referred to in sub-section (*2*) within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with fine which shall not be less than fifty thousand rupees but may extend up to two lakh rupees.

Penalties.

86. (*1*) An employer who contravenes the provisions of section 78 or section 79 or section 80 shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to ten lakh rupees.

(*2*) An employer who after conviction for an offence under section 78 or section 79 or section 80 again commits the same offence under section 78 or section 79 or section 80, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than five lakh rupees, but which may extend up to twenty lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(*3*) An employer who contravenes the provisions of section 67 or section 70 or section 73 or section 75 shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(*4*) An employer who after conviction for an offence under section 67 or section 70 or section 73 or section 75 again commits the same offence under section 67 or section 70 or section 73 or section 75, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than one lakh rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(*5*) Any person who commits any unfair labour practice as specified in the Second Schedule shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to two lakh rupees.

(*6*) Any person who after conviction for any unfair labour practice again commits the same offence, then, he shall, for committing the second or subsequent offence, be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(*7*) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any of the provisions of

this Code, every office-bearer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such office-bearer or person, every member of the executive of the Trade Union, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend to ten thousand rupees and any continuing default shall be punishable with an additional penalty of fifty rupees per day so long as the default continues.

(*8*) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 26 or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which shall not be less than two thousand rupees, but which may extend to twenty thousand rupees.

(*9*) Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which shall not be less than five thousand rupees, but which may extend to twenty thousand rupees.

(*10*) An employer who fails to submit draft standing orders as required by section 30, or who modifies his standing orders otherwise than in accordance with section 35, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees and in the case of a continuing offence with an additional fine of two thousand rupees per day till the offence continues.

(*11*) An employer who does any act in contravention of the standing orders finally certified under this Code shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees.

(*12*) Any person who after conviction under sub-section (*11*) again commits the same offence, then, he shall, for committing the second or subsequent offence be punishable with fine which shall not be less than two lakh rupees, but which may extend to four lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(*13*) Any worker who commences, continues or otherwise acts in furtherance of a strike which is illegal under this Code, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend up to ten thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(*14*) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Code, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to one lakh rupees or with imprisonment for a term which may extend to one month, or with both.

(*15*) Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Code, shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(*16*) Any person who knowingly spends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(*17*) Any person who commits a breach of any term of any settlement or award, which is binding on him under this Code, shall be punishable with fine which shall not be less than

twenty thousand rupees, but which may extend to two lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(*18*) Where the breach under sub-section (*17*) is a continuing one, the offender shall be punishable with an additional fine which may extend to one thousand rupees for every day during which the breach continues after the first conviction and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been affected by such breach.

(*19*) Any person who wilfully discloses any such information as is referred to in section 61 in contravention of the provisions of that section shall, on a complaint made by or on behalf of the Trade Union or individual business affected, be punishable with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one month, or with both.

(*20*) Any person who contravenes any other provision of this Code not covered under sub-sections (*1*) to (*19*) or the rules or regulations framed under this Code shall be punishable with fine which may extend to one lakh rupees.

Cognizance of offences.

87. (*1*) No court shall take cognizance of any offence punishable under this Code, save on a complaint made by or under the authority of the appropriate Government.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of the Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this Code. 2 of 1974.

Offences by companies.

88. (*1*) If the person committing an offence under this Code is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Code has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes—

(*i*) a firm; or

(*ii*) a limited liability partnership registered under the Limited Liability Partnership Act, 2008; or 6 of 2009.

(*iii*) other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

Composition of offences.

89. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted Officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent. of the maximum fine provided for such offence punishable with fine only and for a sum of seventy-five per cent. provided for such offence punishable with imprisonment for a term which is not more than one year or with fine, in the manner as may be prescribed: 2 of 1974.

Provided that such amount of composition shall be credited to the Social Security Fund established under section 141 of the Social Security Code, 2020.

(*2*) Nothing contained in sub-section (*1*) shall apply to an offence committed by a person for the second time or thereafter within a period of three years from the date—

(*a*) of commission of a similar offence which was earlier compounded;

(*b*) of commission of similar offence for which such person was earlier convicted.

(*3*) Every officer referred to in sub-section (*1*) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.

(*4*) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(*5*) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(*6*) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (*1*) in writing, to the notice of the adjudicating officer appointed under sub-section (*1*) of section 85 before whom the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(*7*) Any person who fails to comply with an order made by the officer referred to in sub-section (*1*), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

(*8*) No offence punishable under the provisions of this Code shall be compounded except under and in accordance with the provisions of this section.

CHAPTER XIV

MISCELLANEOUS

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.

90. (*1*) Where an industrial dispute pertaining to an establishment or undertaking is already pending before a conciliation officer or an Arbitrator or a Tribunal or a National Industrial Tribunal, as the case may be, with regard to matters not covered by the notice of change issued by an employer under section 40, no employer shall—

(*a*) in regard to any matter connected with such dispute, alter to the prejudice of the workers concerned in such dispute the conditions of service applicable to them immediately before the commencement of such proceedings; or

(*b*) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise any worker concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(*2*) During the pendency of any such proceeding in respect of an industrial dispute referred in sub-section (*1*), the employer may, in accordance with standing orders applicable to a worker concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the worker—

(*a*) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that worker immediately before the commencement of such proceeding; or

(*b*) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that worker:

Provided that no such worker shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(*3*) Notwithstanding anything contained in sub-section (*2*), no employer shall, during the pendency of any proceeding in respect of an industrial dispute, take any action against any protected worker concerned in such dispute—

(*a*) by altering, to the prejudice of such protected worker, the conditions of service applicable to him immediately before the commencement of such proceeding; or

(*b*) by discharging or punishing, whether by dismissal or otherwise, such protected worker,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—For the purposes of this sub-section, a "protected worker" in relation to an establishment, means a worker who, being a member of the executive or other office-bearer of a registered Trade Union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(*4*) In every establishment, the number of workers to be recognised as protected workers for the purposes of sub-section (*3*) shall be one per cent. of the total number of workers employed therein subject to a minimum number of five protected workers and a maximum number of one hundred protected workers and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workers among various Trade Unions, if any, connected with the establishment and the manner in which the workers may be chosen and recognised as protected workers.

(*5*) Where an employer makes an application to conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, under the proviso to sub-section (*2*) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit:

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further periods as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.

91. Where an employer contravenes the provisions of section 90 during the pendency of proceedings before conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, any employee aggrieved by such contravention, may make a complaint in writing in such manner as may be prescribed—

(*a*) to such conciliation officer, and the conciliation officer shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(*b*) to such arbitrator, Tribunal or National Industrial Tribunal and on receipt of such complaint, the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Code and shall submit his or its award to the appropriate Government and the provisions of this Code shall apply accordingly.

Power to transfer certain proceedings.

92. (*1*) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Code pending before a Tribunal and transfer the same to another Tribunal, as the case may be, for the disposal of the proceeding and the Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred.

(*2*) The Central Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding pending under this Code before a Tribunal constituted by the Central Government or the State Government and transfer to a National Industrial Tribunal for disposal of the proceeding and the National Industrial Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred.

(*3*) The Central Government may, by notification, and for reasons to be stated therein, empower a Tribunal constituted by the State Government to entertain and dispose of the cases arising within their respective jurisdiction under the provisions of this Code where the appropriate Government is the Central Government.

Protection of persons.

93. (*1*) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Code shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any Trade Union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the Union or society, anything to the contrary in rules of a Trade Union or society notwithstanding.

(*2*) Nothing in the rules of a Trade Union or society requiring the settlement of dispute in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the civil court may, in lieu of ordering a person who has been expelled from membership of a Trade Union or society to be restored to membership, order that he be paid out of the funds of the Trade Union or society such sum by way of compensation or damages as that court thinks just.

Representation of parties.

94. (*1*) A worker who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

(*a*) any member of the executive or other office-bearer of a registered Trade Union of which he is a member;

(*b*) any member of the executive or other office-bearer of a federation of Trade Unions to which the Trade Union referred to in clause (*a*) is affiliated;

(*c*) where the worker is not a member of any Trade Union, any member of the executive or other office-bearer of any Trade Union connected with, or by any other worker employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

(*2*) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

(*a*) an officer of an association of employer of which he is a member;

(*b*) an officer of a federation of associations of employers to which the association referred to in clause (*a*) is affiliated;

(*c*) where the employer is not a member of any association of employers, an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(*3*) No party to a dispute shall be entitled to be represented by a legal practitioner in

any conciliation proceedings under this Code or any proceedings before Tribunal or National Industrial Tribunal.

(*4*) Notwithstanding anything contained in sub-section (*3*), in any proceeding before a Tribunal or a National Industrial Tribunal, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Tribunal or National Industrial Tribunal, as the case may be.

Removal of doubts in interpretation of award or settlement.

95. (*1*) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Tribunal or National Industrial Tribunal as it may think fit.

(*2*) A Tribunal or National Industrial Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties.

Power to exempt.

96. (*1*) Where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings that adequate provisions exist to fulfil the objects of any provision of this Code, it may, by notification, exempt, conditionally or unconditionally such establishment or undertaking or, class of establishments or undertakings from that provision of this Code.

(*2*) Notwithstanding anything contained in sub-section (*1*), where the appropriate Government is satisfied in relation to any new industrial establishment or new undertaking or class of new industrial establishments or new undertakings that it is necessary in the public interest so to do, it may, by notification, exempt, conditionally or unconditionally, any such new establishment or new undertaking or class of new establishments or new undertakings from all or any of the provisions of this Code for such period from the date of establishment of such new industrial establishment or new undertaking or class of new establishments or new undertakings, as the case may be, as may be specified in the notification:

Provided that any notification issued by a State Government under the Industrial Disputes Act, 1947, prior to the commencement of this Code, to achieve the purpose as is specified in this sub-section in the State, shall remain in force after such commencement for its remaining period as if the provisions of this Code have not been brought into force to the extent they defeat any purpose to be achieved by such notification issued by that State Government. 14 of 1947.

Explanation.—For the purposes of this sub-section, the expression "new industrial establishment or new undertaking or class of new industrial establishments or new undertakings" means such industrial establishment or undertaking or class of industrial establishments or undertakings which are established within a period as may be specified in the notification.

Jurisdiction of civil courts barred.

97. No civil court shall have jurisdiction in respect of any matter to which any provision of this Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Code.

Protection of action taken in good faith.

98. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Code or any rules made thereunder.

Power of appropriate Government to make rules.

99. (*1*) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Code:

Provided that the appropriate Government may, if it is satisfied that circumstances exist which render it necessary or expedient in the public interest so to do, dispense with the condition of previous publication or reduce the required time period for inviting objections or suggestions on such previous publication to the extent as it may deem fit.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding to arrive at a settlement under clause (*zi*) of section 2;

(*b*) constitution of Works Committee and choosing of representatives of employer and workers engaged in the establishment under section 3;

(*c*) manner of choosing members from the employer and the workers for Grievance Redressal Committee under sub-section (*2*) of section 4;

(*d*) application in respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker under sub-section (*5*) of section 4;

(*e*) manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the conciliation officer under sub-section (*8*) of section 4;

(*f*) the payment of a subscription by members of the Trade Union and donation from such members and others under clause (*f*) of section 7;

(*g*) manner of annual audit under clause (*j*) of section 7;

(*h*) form of declaration to be made by an affidavit and the manner of making the same under clause (*a*) of sub-section (*1*) of section 8;

(*i*) general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars under sub-section (*2*) of section 8;

(*j*) the form of application for registration under sub-section (*1*), and the form of issuing certificate of registration to be issued by the Registrar to the applicant Trade Union under sub-section (*2*) of section 9;

(*k*) the form of entering the name and other particulars of Trade Union in a register maintained by the Registrar in this behalf under sub-section (*3*) of section 9;

(*l*) verification of application of the Trade Union under sub-section (*5*) of section 9;

(*m*) period within which appeal is to be preferred by Trade Union to Tribunal under sub-section (*1*) of section 10;

(*n*) sending of communication and notices under sub-section (*1*) and the manner to inform the Registrar under sub-section (*3*) of section 11;

(*o*) matters on which negotiating union or negotiating council, as the case may be, in an industrial establishment may negotiate with the employer of the industrial establishment under sub-section (*1*) and the criteria to be followed by the employer of industrial establishment under sub-section (*2*) of section 14;

(*p*) manner of verification of workers on the muster roll of the industrial establishment, under sub-sections (*3*) and (*4*) and the facilities to be provided by industrial establishment to a negotiating union or negotiating council under sub-section (*7*) of section 14;

(*q*) the objects under sub-section (*1*) and sub-section (*2*) and the subscription payable under sub-section (*4*) of section 15;

(*r*) manner of making application for adjudication before the Tribunal under sub-section (*1*) of section 22;

(*s*) manner of amalgamation under sub-section (*2*), and the manner of sending signed amalgamation to the Registrar of a different State under sub-section (*3*) of section 24;

(*t*) distribution of funds of the Trade Union on dissolution by Registrar under sub-section (*2*) of section 25;

(*u*) the date before which a general statement shall be forwarded annually to the Registrar, the particulars to be contained in general statement and its form, the person by whom and the manner in which such general statement shall be audited under clause (*a*) of sub-section (*1*) of section 26;

(*v*) manner and purpose of recognition of a Trade Union or a federation of Trade Unions by the State Government as a State Trade Union at the State level and the authority and the manner of deciding dispute by it under sub-section (*2*) of section 27;

(*w*) the manner of forwarding information to the certifying officer under sub-section (*3*) of section 30 and the period within which the amendment of standing order is to be done as observed by the certifying officer under the proviso thereof;

(*x*) manner of choosing representatives of the workers of the industrial establishment or undertaking for issuing notice by certifying officer, where there is no Trade Union operating, under sub-section (*5*) and the manner of authentication of certified standing orders under sub-section (*8*) of section 30;

(*y*) statement to be accompanied with draft standing orders under sub-section (*9*) of section 30;

(*z*) conditions for submission of draft standing orders by group of employers in similar establishment under sub-section (*10*) of section 30;

(*za*) manner of disposal of appeal by the appellate authority under section 32;

(*zb*) the manner of sending copies of the order of the appellate authority under sub-section (*1*) and the language and the manner of maintaining standing order under sub-section (*2*) of section 33;

(*zc*) form of register for filing finally certified standing orders by the certifying officer and fee for furnishing certified copy of such orders under section 34;

(*zd*) application for modification of standing orders to be made before certifying officer under sub-section (*2*) of section 35;

(*ze*) the manner of giving of notice of the nature of the change proposed to be effected under clause (*i*) of section 40;

(*zf*) form of arbitration agreement and the manner to be signed by the parties thereto under sub-section (*3*) of section 42;

(*zg*) manner of issuance of notification where an industrial dispute has been referred to arbitration under sub-section (*5*) of section 42;

(*zh*) manner of choosing representatives of the workers where there is no Trade Union under the proviso to sub-section (*5*) of section 42;

(*zi*) manner of filling up the vacancy under sub-section (*9*) of section 44;

(*zj*) the procedure for selection, salaries and allowances and other terms and conditions of Judicial and Administrative Members of the National Industrial Tribunal under sub-section (*6*) of section 46;

(*zk*) such other matters in respect of which a conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure,1908 under sub-section (*3*) of section 49; 5 of 1908.

(*zl*) manner of holding conciliation proceedings under sub-section (*1*), form of

full report under sub-section (*4*), and the form of application and the manner of deciding such application under sub-section (*6*), of section 53;

(*zm*) the number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given, and the manner of giving such notice, under sub-section (*4*) of section 62;

(*zn*) manner of giving notice of lock-out under sub-section (*5*) and the authority under sub-section (*6*) of section 62;

(*zo*) manner of serving notice before retrenchment of a worker employed in the industry who has been in continuous service for not less than one year by an employer on the appropriate Government or such authority as may be specified by the appropriate Government by notification under clause (*c*) of section 70;

(*zp*) manner in which the employer shall give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment under section 72;

(*zq*) manner in which the employer shall serve notice on the appropriate Government stating clearly the reasons for the intended closure of the undertaking under sub-section (*1*) of section 74;

(*zr*) manner of making application by the employer stating clearly the reasons for the intended lay-off and the manner of serving copy of such application to workers under sub-section (*2*) of section 78;

(*zs*) manner of applying to the appropriate Government for permission to continue the lay-off by the employer under sub-section (*3*) of section 78;

(*zt*) time-limit for review under sub-section (*7*) of section 78;

(*zu*) manner of making application by the employer stating clearly the reasons for the intended retrenchment and the manner of serving copy of such application to workers under sub-section (*2*) of section 79;

(*zv*) time-limit for review under sub-section (*6*) of section 79;

(*zw*) manner of making application by the employer stating clearly the reasons for the intended closing down of an undertaking of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (*1*) of section 80;

(*zx*) time-limit for review under sub-section (*5*) of section 80;

(*zy*) contribution from such other sources to be made to the worker re-skilling fund under clause (*b*) of sub-section (*2*) of section 83;

(*zz*) manner of utilisation of fund under sub-section (*3*) of section 83;

(*zza*) manner of composition of offence by a Gazetted Officer specified under sub-section (*1*) of section 89;

(*zzb*) manner of making application for the compounding of an offence specified under sub-section (*4*) of section 89;

(*zzc*) manner of making complaint by an aggrieved employee under section 91;

(*zzd*) manner of authorisation of worker for representing in any proceeding under sub-section (*1*) of section 94;

(*zze*) manner of authorisation of employer for representing in any proceeding under sub-section (*2*) of section 94;

(*zzf*) any other matter which is required to be, or may be, prescribed under the provisions of this Code.

(*3*) The Central Government shall make rules for the—

(*a*) manner of recognition of a Trade Union or federation of Trade Unions by the Central Government as a Central Trade Union at the Central level and the authority and the manner of deciding dispute by it under sub-section (*1*) of section 27; and

(*b*) manner of holding an enquiry under sub-section (*1*) of section 85.

(*4*) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature.

(*5*) Every rule made under this section and notification issued under clause (*p*) of section 2, by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Delegation of powers.

100. The appropriate Government may, by notification, direct that any power exercisable by it under this Code or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also,—

(*a*) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government, or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(*b*) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

Power to amend Schedules.

101. (*1*) The Central Government may, by notification, add to or alter or amend the First Schedule or the Second Schedule or the Third Schedule and on any such notification being issued, the First Schedule or the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly.

(*2*) Every notification issued by the Central Government under sub-section (*1*) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the modification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that notification.

Amendment of Act 7 of 2017.

102. In the Finance Act, 2017, in the Eighth Schedule, against serial number 1,—

(*a*) in column (*2*), for the words "Industrial Tribunal constituted by the Central Government", the words, brackets and figures "Industrial Tribunal constituted by the Central Government under sub-section (*1*) of section 44 of the Industrial Relations Code, 2020" shall be substituted;

(*b*) in column (*3*), for the words and figures "The Industrial Disputes Act, 1947", the words and figures "The Industrial Relations Code, 2020" shall be substituted. 14 of 1947.

Power to remove difficulties.

103. (*1*) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Code as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the date of commencement of this Code.

(*2*) Every order made under this section shall be laid before each House of Parliament.

Repeal and savings.

104. (*1*) In the notification issued under sub-section (*3*) of section 1 for the commencement of any provision of this Code, the Central Government may specify that the provisions of—

16 of 1926. (*a*) the Trade Unions Act, 1926;

20 of 1946. (*b*) the Industrial Employment (Standing Orders) Act, 1946; and

14 of 1947. (*c*) the Industrial Disputes Act, 1947,

shall stand repealed with effect from the date appointed in the notification in this behalf and the remaining provisions of the enactments referred to in clauses (*a*) to (*c*) shall remain in force till they are repealed by like notifications in the like manner.

(*2*) Notwithstanding such repeal under sub-section (*1*), anything done or any action taken under the provisions of the enactments so repealed including any rule, regulation, notification, nomination, appointment, order or direction made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code.

(*3*) Without prejudice to the provisions of sub-section (*2*), the provisions of 10 of 1897. section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

THE FIRST SCHEDULE

[*See* sections 2 (*zj*), 30 (*1*), (*6*) and 101 (*1*)]

MATTERS TO BE PROVIDED IN STANDING ORDERS UNDER THIS CODE

1. Classification of workers, whether permanent, temporary, apprentices, probationers, *badlis* or fixed term employment.
2. Manner of intimating to workers periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workers arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workers.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workers against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be specified by the appropriate Government by notification.

THE SECOND SCHEDULE

[*See* sections 2 (*zo*), 84, 86 (*5*) and 101(*1*)]

UNFAIR LABOUR PRACTICES

I. ON THE PART OF EMPLOYERS AND TRADE UNIONS OF EMPLOYERS

(1) To interfere with, restrain from, or coerce, workers in the exercise of their right to organise, form, join or assist a Trade Union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say,—

(a) threatening workers with discharge or dismissal, if they join a Trade Union;

(b) threatening a lock-out or closure, if a Trade Union is organised;

(c) granting wage increase to workers at crucial periods of Trade Union organisation, with a view to undermining the efforts of the Trade Union organisation.

(2) To dominate, interfere with or contribute support, financial or otherwise, to any Trade Union, that is to say,—

(a) an employer taking an active interest in organising a Trade Union of his workers; and

(b) an employer showing partiality or granting favour to one of several Trade Unions attempting to organise his workers or to its members, where such a Trade Union is not a recognised Trade Union.

(3) To establish employer sponsored Trade Unions of workers.

(4) To encourage or discourage membership in any Trade Union by discriminating against any worker, that is to say,—

(a) discharging or punishing a worker, because he urged other workers to join or organise a Trade Union;

(b) discharging or dismissing a worker for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Code);

(c) changing seniority rating of workers because of Trade Union activities;

(d) refusing to promote workers to higher posts on account of their Trade Union activities;

(e) giving unmerited promotions to certain workers with a view to creating discord amongst other workers, or to undermine the strength of their Trade Union;

(f) discharging office-bearers or active members of the Trade Union on account of their Trade Union activities.

(5) To discharge or dismiss workers,—

(a) by way of victimisation;

(b) not in good faith, but in the colourable exercise of the employer's rights;

(c) by falsely implicating a worker in a criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegations of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the worker, thereby leading to a disproportionate punishment.

(6) To abolish the work of a regular nature being done by workers, and to give such work to contractors as a measure of breaking a strike.

(7) To transfer a worker *mala fid*e from one place to another, under the guise of following management policy.

(8) To insist upon individual workers, who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.

(9) To show favouritism or partiality to one set of workers regardless of merit.

(10) To employ workers as *badli* workers, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workers.

(11) To discharge or discriminate against any worker for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.

(12) To recruit worker during a strike which is not an illegal strike.

(13) Failure to implement award, settlement or agreement.

(14) To indulge in acts of force or violence.

(15) To refuse to bargain collectively, in good faith with the recognised Trade Unions.

(16) Proposing or continuing a lock-out deemed to be illegal under this Code.

II. ON THE PART OF WORKERS AND TRADE UNIONS OF WORKERS

(1) To advise or actively support or instigate any strike deemed to be illegal under this Code.

(2) To coerce workers in the exercise of their right to self-organisation or to join a Trade Union or refrain from, joining any Trade Union, that is to say—

(a) for a Trade Union or its members to picketing in such a manner that non-striking workers are physically debarred from entering the work places;

(b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workers or against managerial staff.

(3) For a recognised union to refuse to bargain collectively in good faith with the employer.

(4) To indulge in coercive activities against certification of a bargaining representative.

(5) To stage, encourage or instigate such forms of coercive actions as wilful, "go-slow", squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.

Explanation 1.—For the removal of doubts, it is clarified that "go-slow" shall mean an occasion when more than one worker in an establishment conjointly work more slowly and with less effort than usual to try to persuade the employer of the establishment to agree to higher pay or better service condition or such other demand.

Explanation 2.—For the purposes of *Explanation* 1, the expression "usual" shall mean,—

(i) where the standard has been specified for a worker for his work either daily, weekly or monthly basis, such work; and

(ii) where no such standard has been specified such rate of work which is the average of work in the previous three months calculated on daily or weekly or monthly basis, as the case may be.

(*6*) To stage demonstrations at the residence of the employers or the managerial staff members.

(*7*) To incite or indulge in wilful damage to employer's property connected with the industry.

(*8*) To indulge in acts of force or violence or to hold out threats of intimidation against any worker with a view to prevent him from attending work.

THE THIRD SCHEDULE

[*See* sections 40 and 101 (*1*)]

CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

1. Wages, including the period and mode of payment.
2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workers under any law for the time being in force.
3. Compensatory and other allowances.
4. Hours of work and rest intervals.
5. Leave with wages and holidays.
6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders.
7. Classification by grades.
8. Withdrawal of any customary concession or privilege or change in usage.
9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders.
10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workers.
11. Any increase or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not occasioned by circumstances over which the employer has no control.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सरकारी गजट, उत्तराखण्ड

उत्तराखण्ड सरकार द्वारा प्रकाशित

असाधारण

देहरादून, मंगलवार, 25 अगस्त, 2026 ई०

भाद्रपद 03, 1948 शक सम्वत्

उत्तराखण्ड शासन

श्रम अनुभाग

संख्या– 1115/VIII-1/2026–60(श्रम)2019

देहरादून, 25 अगस्त, 2026

अधिसूचना

चूंकि मजदूरी संहिता, 2019 की धारा 67 के अधीन समुचित सरकार (राज्य सरकार) को उक्त संहिता के उपबंधों को कार्यान्वित करने के लिए, राजपत्र में अधिसूचना द्वारा तथा उक्त अधिनियम की धारा 67 की उपधारा (1) के अधीन पूर्व प्रकाशन की शर्तों के अधीन रहते हुए नियम बनाने की शक्ति प्राप्त है;

और चूंकि उक्त संहिता की धारा 67 की उपधारा (1) की अपेक्षानुसार "उत्तराखण्ड मजदूरी संहिता नियमावली, 2026" का प्रस्तावित प्रारूप श्रम अनुभाग, उत्तराखण्ड शासन की अधिसूचना संख्या 329(1)/VIII-1/26–60(श्रम)/2019, दिनांक 17 मार्च, 2026 द्वारा पूर्व प्रकाशित किया गया था;

और चूंकि उक्त प्रारूप नियमावली के संबंध में जनसामान्य और हितधिकारियों के अभ्यावेदन एवं आपत्तियों पर राज्य सरकार द्वारा विचार कर लिया गया है;

अतएव, अब राज्यपाल मजदूरी संहिता, 2019 की धारा 67 द्वारा प्रदत्त शक्ति का प्रयोग करते हुए निम्नलिखित नियमावली बनाये जाने की सहर्ष स्वीकृति प्रदान करते हैं, अर्थात्–

उत्तराखण्ड मजदूरी संहिता नियमावली, 2026

अध्याय–1
प्रारम्भिक

संक्षिप्त नाम, विस्तार और प्रारम्भ

1. (1) इस नियमावली का संक्षिप्त नाम उत्तराखण्ड मजदूरी संहिता नियमावली, 2026 है।

(2) इसका विस्तार सम्पूर्ण उत्तराखण्ड में होगा।

(3) यह राजपत्र में प्रकाशन की दिनांक से प्रवृत्त होगी।

परिभाषायें

2. (1) इस नियमावली में जब तक कि संदर्भ में अन्यथा अपेक्षित न हो,–

(क) "प्राधिकारी" से धारा 45 की उपधारा (1) के अधीन राज्य सरकार द्वारा नियुक्त प्राधिकारी अभिप्रेत है;

(ख) "अपीलीय प्राधिकारी" से धारा 49 की उपधारा (1) के अधीन सरकार द्वारा नियुक्त अपीलीय प्राधिकारी अभिप्रेत है;

(ग) "अपील" से धारा 49 की उपधारा (1) के अधीन की गई अपील अभिप्रेत है;

(घ) "बोर्ड" से धारा 42 की उपधारा (1) के अधीन राज्य सरकार द्वारा गठित राज्य सलाहकार बोर्ड अभिप्रेत है;

(ङ) "अध्यक्ष" से बोर्ड का अध्यक्ष अभिप्रेत है;

(च) "संहिता" से मजदूरी संहिता, 2019 (2019 का 29) अभिप्रेत है;

(छ) "समिति" से धारा 8 की उपधारा (1) के खंड (क) के अधीन राज्य सरकार द्वारा नियुक्त समिति अभिप्रेत है;

(ज) "दिन" से मध्य रात्रि से प्रारम्भ होने वाली 24 घंटे की अवधि अभिप्रेत है;

(झ) "परिवार" से, यथास्थिति, किसी कर्मचारी या किसी असंगठित कर्मकार के निम्नलिखित सभी या कोई नातेदार अभिप्रेत है, अर्थात्–

(क) पति/पत्नी;

(ख) अवयस्क धर्मज या दत्तक बालक, जो, यथास्थिति किसी कर्मचारी या किसी असंगठित कर्मकार पर आश्रित हो;

(ग) कोई बालक, जो यथास्थिति, किसी कर्मचारी या किसी असंगठित कर्मकार के उपार्जनों पर पूर्णतः आश्रित हो और जो–

(i) 21 वर्ष की आयु पूरी करने तक शिक्षा प्राप्त कर रहा हो; और

(ii) कोई अविवाहित पुत्री;

(घ) कोई बालक, जो शारीरिक या मानसिक अप्रसामान्यता या क्षति के कारण शिथिलांग है और, यथास्थिति, किसी कर्मचारी या किसी असंगठित कर्मकार के उपार्जनों पर पूर्णतः आश्रित है, जब तक अंग शैथिल्य बना रहता है;

(ङ) आश्रित माता–पिता (जिसके अंतर्गत किसी महिला कर्मचारी के सास–ससुर भी हैं) जिनकी आय सभी स्रोतों से ऐसी आय से अधिक नहीं है जो राज्य सरकार द्वारा विहित की जाए;

(च) यदि, यथास्थिति, कोई कर्मचारी या कोई असंगठित कर्मकार अविवाहित है और उसके माता–पिता जीवित नहीं हैं, तो दीक्षाकृत व्यक्ति के उपार्जनों पर पूर्ण रूप से आश्रित अवयस्क भाई या बहिन;

(ज) "प्रपत्र" से इस नियमावली में संलग्न प्रपत्र अभिप्रेत है;

(झ) "धारा" से मजदूरी संहिता 2019 की धारा अभिप्रेत है;

(ञ) "निरीक्षक–सह–सुकरकर्ता" से धारा 51 की उपधारा (1) के अधीन अधिसूचना के द्वारा राज्य सरकार द्वारा नियुक्त व्यक्ति अभिप्रेत है;

(ट) "सदस्य" से बोर्ड/समिति/उपसमिति का सदस्य अभिप्रेत है;

(ठ) "भौगोलिक क्षेत्र" से वह क्षेत्र अभिप्रेत है, जिसे राज्य सरकार द्वारा समय–समय पर अधिसूचित किया गया हो;

(ण) "जनसंख्या" से वह जनसंख्या जो पूर्व जनगणना में निर्धारित की गई है और जिसके संगत आंकड़े प्रकाशित किए गए हैं, अभिप्रेत है;

(त) "रजिस्ट्रीकृत व्यवसाय संघ" से वह ट्रेड यूनियन जो व्यवसाय संघ अधिनियम, 1926 (1926 का अधिनियम संख्या 16) अथवा औद्योगिक संबंध संहिता, 2020 (2020 का 35) जैसी स्थिति हो के अधीन रजिस्ट्रीकृत है, अभिप्रेत है;

(थ) "राज्य सरकार" से उत्तराखण्ड राज्य की सरकार अभिप्रेत है;

(द) "अनुसूची" से इस नियमावली की अनुसूची अभिप्रेत है;

(ध) "अकुशल व्यवसाय" से वह व्यवसाय जिसमें केवल प्रवासन अनुभव के उपयोग की आवश्यकता होती है और इसमें कोई अतिरिक्त कौशल सम्मिलित नहीं है, अभिप्रेत है;

(न) "अर्ध कुशल व्यवसाय" से वह व्यवसाय जिसमें इसके निष्पादन में कार्य अनुभव द्वारा प्राप्त कौशल का उपयोग अपेक्षित होता है और जिसका उपयोग कुशल कर्मचारी के पर्यवेक्षण और मार्गदर्शन में किया जा सकता है और इसमें अकुशल व्यवसाय का पर्यवेक्षण भी सम्मिलित है, अभिप्रेत है;

(प) "कुशल व्यवसाय" से वह व्यवसाय जिसमें तकनीकी या व्यावसायिक संस्थान में प्रशिक्षु के रूप में प्रशिक्षण के माध्यम से अथवा ऐसे कार्य अनुभव जिसमें कौशल और योग्यता की आवश्यकता होती है और जिसके निष्पादन में पहल करने और निर्णय लेने की आवश्यकता होती है, अभिप्रेत है;

(फ) "अत्यधिक कुशल व्यवसाय" से वह व्यवसाय जिसमें इसके निष्पादन में विशिष्ट स्तर की उत्कृष्टता की आवश्यकता होती है और जिसके लिए व्यावसायिक व्यापारिक अनुभव या पर्याप्त अवधि के लिए तकनीकी अथवा व्यावसायिक प्रशिक्षण के माध्यम से अर्जित क्षमता अपेक्षित

होती है और सत्य ही कर्मचारी से यह अपेक्षा होती है कि ऐसे व्यवसाय के निष्पादन में शामिल अपने मत या निर्णय के लिए सम्पूर्ण जिम्मेदारी स्वीकार करे, अभिप्रेत है;

(2) उन शब्दों और अभिव्यक्तियों के जो इसमें प्रयुक्त हैं और जिनको परिभाषित नहीं किया गया है उनके क्रमशः वही अर्थ होंगे जो संहिता में हैं।

अध्याय–2

न्यूनतम मजदूरी

मजदूरी की न्यूनतम दर की गणना करने की रीति

3. (1) धारा 6 की उपधारा (b) के प्रयोजनार्थ, निम्नलिखित मापदंड को ध्यान में रखते हुए दैनिक आधार पर न्यूनतम मजदूरी नियत की जाएगी, अर्थात्:–

(क) मानक अनिक वर्ग परिवार जिसमें कमाने वाले व्यक्ति के अलावा उसकी पत्नी या उसका पति और दो बच्चे शामिल हैं, जो तीन वयस्क उपभोग इकाइयों के समान है;

(ख) प्रतिदिन प्रति उपभोग इकाई हेतु कुल (शुद्ध सेवन) 2700 कैलोरी की खपत;

(ग) प्रति मानक अनिक वर्ग परिवार के लिए प्रति वर्ष 66 मीटर कपड़ा;

(घ) आवासीय किराया व्यय जो भोजन और वस्त्र व्यय का 10 प्रतिशत होगा;

(ङ) ईंधन, बिजली, और व्यय की अन्य विविध मदें जो न्यूनतम मजदूरी की 20 प्रतिशत होंगी;

(च) बच्चों की शिक्षा का व्यय, चिकित्सा आवश्यकताएं मनोरंजन और अन्य आकस्मिक व्यय, जो भोजन और वस्त्र व्यय का 25 प्रतिशत होगा,

(छ) अन्य मदें या कारक जो राज्य सलाहकार बोर्ड आवश्यक समझे।

(2) जब एक दिन के लिए मजदूरी की दर नियत की

जाती है, तब एक घंटे की दर नियत करने के लिए ऐसी राशि को आठ से विभाजित और एक महीने के लिए मजदूरी की दर नियत करने के लिए छब्बीस से गुणा किया जाएगा, और ऐसे विभाजन और गुणा में आधे या आधे से अधिक गुणनखंड को अगले अंक में पूर्णांकित किया जाएगा और आधे से कम गुणनखंड को छोड़ दिया जाएगा। पांच दिन के कार्य सप्ताह के मामले में इस प्रकार परिकलित न्यूनतम मजदूरी को घंटा-वार का उपयोग उस दिन के लिए न्यूनतम मजदूरी के निर्धारण के लिए किया जाएगा।

(3) धारा 6 की उपधारा (6) के खण्ड (ख) के प्रयोजनार्थ कर्मकारों के ऐसे प्रवर्गों के लिए जैसे-तापमान या सामान्यतः नमी को सहन करने, परिसंकटमय उपजीविकाएं या प्रक्रियाएं अथवा भूमिगत कार्य में संलग्न कर्मकारों को विहित सामान्य मजदूरी दर के अलावा अधिक्य मजदूरी भी देय होगी जो समय-समय पर राज्य सरकार द्वारा निर्धारित की जाएगी। परिसंकटमय उपजीविकाएं व प्रक्रियाएं वही होंगी, जो उपजीविकाजन्य, सुरक्षा स्वास्थ्य और कार्यदशा संहिता, 2020 में यथापरिभाषित हैं। अन्य संबंधित प्रक्रियाओं तथा हिम रेखा के संबंध में कार्य करने की दशाओं को निर्धारित करने हेतु एक समिति का गठन किया जाएगा, जिसमें श्रम आयुक्त, उत्तराखण्ड, अपर्दा प्रबन्धन विभाग के नामित अधिकारी, अपर श्रम आयुक्त, उत्तराखण्ड तथा उप निदेशक, कारखाना, उत्तराखण्ड सम्मिलित रहेंगे जिसमें श्रम आयुक्त उत्तराखण्ड अध्यक्ष होंगे।

मजदूरी की न्यूनतम दर नियत करने के मानदंड

4. (1) धारा 6 के अधीन मजदूरी की न्यूनतम दरें निर्धारित करते समय, राज्य सरकार निम्नलिखित बातों को ध्यान में रखेगी;

(i) भौगोलिक क्षेत्र,

(ii) रोजगार के क्षेत्र में अनुभव, और

(iii) अकुशल, अर्ध-कुशल और अत्यधिक कुशल की श्रेणियों के अंतर्गत कार्य करने के लिए अपेक्षित कौशल का स्तर.

परन्तु राज्य सरकार इस संहिता के अधीन राज्य सरकार के कर्मचारियों के न्यूनतम वेतन और भत्ते निर्धारित नहीं करेगी।

(2) धारा 6 के अधीन राज्य सरकार कौशल वर्गीकरण, कार्य की कठिनता, जोखिमकारी व्यवसाय अथवा प्रक्रियाएं एवं भूमिगत कार्य और ऐसी अन्य कार्य–वर्गीकरण के संबंध में राज्य सरकार को सलाह देने के प्रयोजनार्थ एक तकनीकी समिति गठित करेगी जिसमें निम्नलिखित सदस्य होंगे –

(i)	श्रम आयुक्त, उत्तराखण्ड	–	अध्यक्ष
(ii)	उप/संयुक्त सचिव, श्रम उत्तराखण्ड शासन	–	सदस्य
(iii)	संयुक्त/अपर श्रम आयुक्त, उत्तराखण्ड	–	सदस्य
(iv)	कौशल विकास एवं उद्यमिता विभाग का एक प्रतिनिधि (जो उप निदेशक के पद से निम्न न हो)	–	सदस्य
(v)	राज्य सरकार द्वारा श्रम श्रम–निर्देशित मजदूरी निर्धारण में दो तकनीकी विशेषज्ञ	–	सदस्य
(vi)	नियोक्ताओं एवं ट्रेड यूनियन प्रत्येक के दो से अनधिक प्रतिनिधि	–	सदस्य

(3) राज्य सरकार, उपनियम (2) में संदर्भित तकनीकी समिति की सलाह पर, कर्मचारियों के व्यवसाय को अनुसूची 'क' में विनिर्दिष्ट व्यवसायों को संशोधित करके, हटाकर अथवा कोई भी प्रविष्टि जोड़कर चार वर्गों में अर्थात अकुशल, अर्धकुशल, कुशल और अत्यधिक कुशल वर्गों में वर्गीकृत करेगी।

(4) उपनियम (2) में संदर्भित तकनीकी समिति उपनियम (3) के अधीन राज्य सरकार को सलाह देते समय यथासम्भव व्यवसायों के राष्ट्रीय वर्गीकरण अथवा राष्ट्रीय कौशल अर्हता ढांचे अथवा व्यवसायों की पहचान करने के लिए तत्समय बनाये जा रहे अन्य समान ढांचे को ध्यान में रखेगी।

महंगाई भत्ते के पुनरीक्षण के लिए समय अंतराल

5. यह प्रयास किया जाएगा जिससे निर्वाह भत्ते की लागत और रियायती दर पर आवश्यक वस्तुओं के सम्बन्ध में रिटेल के नकद मूल्य की गणना हर वर्ष एक बार 1 अप्रैल से पूर्व और पुनः 1 अक्टूबर से पूर्व न्यूनतम मजदूरी पर कर्मचारियों को देय महंगाई भत्ते को संशोधित करने के लिए की जा सके।

धारा 10 के खण्ड (ii) के प्रयोजनार्थ मामले एवं परिस्थितियां

6. औद्योगिक नियोजन (स्थायी आदेश) अधिनियम, 1946 या औद्योगिक संबंध संहिता, 2020 के अन्तर्गत किसी स्थापन में लागू स्थायी आदेशों में अथवा समय-समय पर लागू किसी अन्य विधि में अन्यथा उपबंधित होने के सिवाय, कोई भी कर्मचारी पूर्ण सामान्य कार्य दिवस के लिए मजदूरी पाने का हकदार नहीं होगा, यदि काम में विफलता नियोक्ता द्वारा अपनाई गई उचित छंटनी के कारण होती है।

स्पष्टीकरण– उचित छंटनी के कारण से नियोक्ता द्वारा आग, प्राकृतिक आपदा, मशीनरी का खराब होना, बिजली आपूर्ति बंद होना, महामारी, नागरिक अशांति, अवैध हड़ताल, आर्डर की कमी या कोई अन्य व्यावहारिक कारण या नियोक्ता के नियंत्रण के बाहर कोई अन्य समान या असमान कारणों से की गई छंटनी अभिप्रेत है ।

एक सामान्य कार्य दिवस के निर्धारण के लिए कार्य घंटों की संख्या

7. (1) धारा 13 की उपधारा (1) के खण्ड (क) के अधीन –

(i) किसी स्थापन/कारखाना/सरकारी स्थापन में किसी सप्ताह में किसी कर्मकार को अड़तालीस घण्टे और एक दिन में दस घण्टे से अधिक कार्य करने के लिए बाध्य नहीं किया जायेगा और न ही उसे ऐसा करने की अनुमति दी जायेगी तथा किसी कर्मकार से निरंतर पांच घण्टे से अधिक कार्य करने के लिए तब तक नहीं कहा जाएगा, जब तक कि उसे आधे घण्टे से अधिक का विश्राम न दे दिया गया हो:

परन्तु अत्यावश्यक प्रकृति के कार्य की दशा में कार्य के घण्टे या साप्ताहिक विश्राम में निरीक्षक- सह-सुकरकर्ता की पूर्व अनुज्ञा से छूट दी जा सकेगी।

(ii) एक दिन में दस घण्टों या अधिक या किसी

सप्ताह में अड़तालीस घण्टों से अधिक किसी कार्य के घण्टों को अतिकालिक समझा जाएगा और अतिकालिक घण्टों की कुल संख्या तीन मास की अवधि में एक सौ घवालीस घंटे से अधिक नहीं होगी।

(2) किसी भी स्थापन में किसी पाली में कार्य के कुल घण्टों की संख्या, जिसके अन्तर्गत विश्राम अन्तराल भी है, बारह घण्टों से अधिक नहीं होगी।

(3) कृषि रोजगार में नियोजित कर्मचारी के मामले में उपनियम (1) और (2) के उपबन्ध राज्य सरकार द्वारा समय-समय पर निर्धारित किए जाने वाले संशोधनों के अध्यधीन होंगे।

विश्राम का साप्ताहिक दिन

8. (1) इस नियम के उपबन्धों के अध्यधीन कर्मचारी को प्रत्येक सप्ताह एक दिन को विश्राम दिया जाएगा (इसके पश्चात् "विश्राम दिवस" के रूप में संदर्भित किया गया है) जो सामान्य रूप से रविवार होगा, लेकिन नियोक्ता सप्ताह के किसी भी अन्य दिन को किसी भी कर्मचारी अथवा कर्मचारियों की श्रेणी के लिए विश्राम दिवस नियत कर सकता है:

परन्तु यह कि छह दिन के कार्य सप्ताह में या छह दिनों से कम के कार्य सप्ताह जैसा भी मामला हो, ऐसे कर्मचारियों के लिए सप्ताह के शेष दिनों का भुगतान किया जाएगा:

परन्तु यह कि एक कर्मचारी इस उपनियम के तहत विश्राम दिनों के लिए हकदार होगा यदि उसने छह दिन के सप्ताह के मामले में एक ही नियोक्ता के अधीन कम से कम छह दिनों की निरंतर अवधि के लिए या छह दिन से कम कार्य सप्ताह के मामले में कार्य दिवसों की निर्धारित संख्या की निरंतर अवधि के लिए काम किया है, जैसा भी मामला हो:

परन्तु यह और कि कर्मचारी को विश्राम दिवस के रूप में नियत दिन और बाद में विश्राम दिवस में परिवर्तन की सूचना परिवर्तन करने से पहले

निरीक्षक–सह–सुकरकर्ता द्वारा इस सम्बन्ध में संवगार के स्थान पर विनिर्दिष्ट स्थान पर सूचना प्रदर्शित करके दी जाएगी।

स्पष्टीकरण–इस उपनियम के दूसरे परन्तुक में निर्दिष्ट सप्ताह में कम से कम छह दिनों की निरंतर अवधि या कार्य दिवसों की निर्धारित संख्या की गणना के प्रयोजन के लिए,–

(क) किसी दिन जब कर्मचारी का कार्य करना अपेक्षित है किन्तु यदि उसे केवल उपस्थिति भत्ता दिया जाता है और उसे काम नहीं दिया जाता है,

(ख) किसी दिन जब कर्मचारी को औद्योगिक संबंध संहिता, 2020 (2020 का 35), के अधीन प्रतिकर के भुगतान पर काम से हटा दिया जाता है, और

(ग) नियोक्ता द्वारा कर्मचारी को छह दिनों की अवधि में या सप्ताह के निर्धारित कार्य दिवसों की संख्या के दौरान विश्राम दिवसों से ठीक पहले दी गई कोई भी छुट्टी या अवकाश चाहे वह वेतन सहित हो या बिना वेतन के उन दिनों के रूप में मानी जाएगी जिन दिनों कर्मचारी ने काम किया है।

(ii) किसी भी ऐसे कर्मचारी को विश्राम दिवस पर काम करने के लिए बाध्य नहीं किया जायेगा या अनुमति नहीं दी जायेगी जब तक कि वह विश्राम दिवस के पूरना पहले या बाद में सप्ताह के कार्यदिवसों में से किसी पूरे एक दिन का प्रतिस्थापित विश्राम दिवस न ले ले अथवा न ले:

परन्तु यह कि कोई भी प्रतिस्थापन नहीं किया जाएगा, जिसके परिणामस्वरूप कर्मचारी को पूरे विश्राम दिवस के बिना 10 दिन काम करना पड़े।

(iii) इस नियम के पूर्ववर्ती उपबन्धों के अनुसार जहां कोई भी कर्मचारी विश्राम दिवस पर काम करता है और उसे

विश्राम दिवस के पहले या बाद में किसी भी दिन प्रतिस्थापित विश्राम दिवस दिया जाता है तब काम के साप्ताहिक घंटों की गणना के प्रयोजनार्थ विश्राम दिवस को, उस सप्ताह में गिना जाएगा जिसमें प्रतिस्थापित विश्राम दिवस आता है।

(4) कर्मचारी को:

(क) विश्राम दिवस के लिए अगले पूर्ववर्ती दिन के लिए लागू दर पर परिकलित मजदूरी दी जाएगी; और

(ख) जहां पर वह विश्राम दिवस पर काम करता है और उसे प्रतिस्थापित विश्राम दिवस दिया गया है तब उसे अतिकाल (over time) दर से और विश्राम दिन के लिए अगले पूर्ववर्ती दिन के लिए लागू दर से मजदूरी दी जाएगी:

परन्तु यह है कि जहां–

(i) संहिता के अधीन न्यूनतम कर्मचारी मजदूरी दर की गणना न्यूनतम दर मजदूरी की न्यूनतम मासिक दर को छब्बीस से विभाजित करके की जाती है; अथवा

(ii) कर्मचारी की मजदूरी की वास्तविक दैनिक दर की गणना मजदूरी की मासिक दर को छब्बीस से विभाजित करके की जाती है और ऐसी मजदूरी की वास्तविक दैनिक दर कर्मचारी की अधिसूचित न्यूनतम दैनिक दर से कम नहीं है, तब विश्राम दिवस के लिए कोई मजदूरी देय नहीं होगी; और

(iii) कर्मचारी ने विश्राम दिवस को काम किया है और उसे प्रतिस्थापित विश्राम दिवस दिया गया है तब उसे केवल उसी विश्राम दिवस के लिए अतिकाल (over time)दर पर देय मजदूरी के बराबर राशि दी जाएगी जिस दिन उसने काम किया है और, यदि कोई विवाद उत्पन्न होता है कि क्या इस उपबंध के उपबन्धों के अनुसार मजदूरी की दैनिक दर निकाली गई है, तब क्षेत्राधिकार रखने वाले सहायक श्रम आयुक्त या

उपयुक्त अधिकारी इस सम्बन्ध में उनसे किए गए आवेदन पर, सम्बन्धित पक्षों को अपने लिखित अभ्यावेदनों के लिए अवसर देने के पश्चात् उसके दिए गये आवेदन पर उसका निर्णय लेगा:

परन्तु यह कि यदि कोई कर्मचारी मात्रानुपाती कार्य की दर के आधार पर नियोजित है, तब विश्राम दिवस अथवा प्रतिस्थापित विश्राम दिवस के लिए, यथास्थिति मजदूरी वह होगी जिसे राज्य सरकार उस रोजगार के संबंध में इस संहिता के अधीन नियत मजदूरी की न्यूनतम दर को ध्यान में रखते हुए समय-समय पर निर्धारित करे।

स्पष्टीकरण–इस उपनियम में पूर्ववर्ती दिन से वह अंतिम दिन अभिप्रेत है, जिस दिन कर्मचारी ने काम किया है, जो विश्राम दिवस या प्रतिस्थापित विश्राम दिवस के पहले, यथास्थिति, आता है, और जहां प्रतिस्थापित विश्राम दिवस, विश्राम दिवस से तुरन्त अगले दिन आता है तब उससे ठीक पहले वाला पूर्ववर्ती दिन से वह अंतिम दिन अभिप्रेत होगा जिस दिन कर्मचारी ने काम किया है और जो विश्राम दिवस के ठीक पहले आता हो।

(5) इस नियम के उपबन्ध अधिक अनुकूल शर्तों पर प्रतिकूल प्रभाव, यदि कोई है, नहीं डालेंगे, जिसमें कर्मचारी किसी अन्य विधि के अधीन अथवा किसी पंचाट, अनुबंध अथवा सेवा की संविदा की शर्तों के अधीन हकदार है, और ऐसी दशा में, कर्मचारी केवल पूर्वकथित अनुकूल शर्तों का हकदार होगा।

स्पष्टीकरण–इस नियम के प्रयोजनार्थ "सप्ताह" से शनिवार रात्रि की अर्ध-रात्रि से शुरू होकर सात दिन की अवधि, अभिप्रेत है।

रात्रि पाली

9. जहां पर कर्मचारी ऐसी रोजगार में पाली में काम करता है जो अर्ध-रात्रि के पश्चात् भी चलती है, तब–

(क) नियम 8 के प्रयोजनार्थ,इस मानले में पूर्ण विश्राम दिवस से,उसकी पाली समाप्त होने के समय से शुरू होकर लगातार चौबीस घंटे की अवधि, अभिप्रेत है; और

(iv) ऐसे मामले में अगला दिन ऐसी पाली के समाप्त होने के समय से शुरू होकर चौबीस घंटे की अवधि का होगा, और अर्ध रात्रि के बाद के घंटों को, जिसके दौरान ऐसे कर्मचारी ने काम किया है, पूर्व दिवस में गिना जाएगा।

धारा 13 की उपधारा (2) के अधीन आकस्मिकता

10. नियम 7 के उपबंध ऐसे विस्तार और शर्तों के अधीन रहते हुए कर्मचारियों के निम्नलिखित प्रवर्गों के संबंध में लागू होंगे – यदि कर्मचारी –

(क) ऐसी आपातस्थिति में कार्यरत है जिसका पूर्वानुमान नहीं किया जा सकता था या उसे रोका नहीं सकता था;

(ख) प्रारम्भिक या संपूरक प्रकृति के कार्यों में लगा हुआ है जिसे अनिवार्य रूप से सम्बन्धित रोजगार में सामान्य कार्य के लिए निर्धारित सीमाओं से बाहर करना आवश्यक है;

(ग) जिसका रोजगार अनिवार्य रूप से आंतरायिक है;

(घ) ऐसे कार्य में लगा हुआ है जिसे तकनीकी कारणों से ड्यूटी समाप्त होने से पूर्व पूरा किया जाना है; और

(ङ) ऐसे कार्य में लगा हुआ है, जिसे प्राकृतिक शक्तियों की अनियंत्रित क्रिया पर निर्भर समय के सिवाय अन्य समय पर नहीं किया जा सकता है;

तब नियम 7, 8, और 9 के उपबन्ध इस शर्त के अध्यधीन लागू होंगे कि –

(i) कर्मचारी के कार्य के घंटों का विस्तार किसी भी कार्य दिवस को 12 घंटे से अधिक का नहीं होगा।

(ii) कर्मचारी के कार्य के वास्तविक घंटे, विश्राम के समय अथवा कार्य के दौरान ऐसी अवधि/जिसमें कर्मचारी को कार्य/उपस्थिति दर्शाना अनिवार्य न हो को सम्मिलित करते हुए, 10 घंटे से अधिक नहीं होंगे।

लम्बी मजदूरी अवधि

11. धारा 14 के अधीन मजदूरी की न्यूनतम दर के प्रयोजनार्थ लम्बी मजदूरी अवधि एक महीना होगी।

अध्याय–3
मजदूरी का भुगतान

धारा 18 की उपधारा (2) के खण्ड (घ) के उपखण्ड (ii) के अधीन कटौती

12. राज्य सरकार द्वारा श्रमिकों के कल्याण के लिए गठित किसी निधि से लिया गया ऋण और उसके संबंध में ब्याज की वसूली हेतु कटौतियां राज्य सरकार द्वारा समय समय पर जारी निर्देश अथवा परिपत्र के अध्यधीन होगी, जो ऐसे ऋण को स्वीकृत करने की सीमा तथा इन पर देय ब्याज दर को विनियमित करते हैं।

धारा 18 की उपधारा (4) के अधीन वसूली

13. जहां धारा 18 की उपधारा (2) के अधीन प्राधिकृत कुल कटौतियां कर्मचारी की मजदूरी के पचास प्रतिशत से अधिक है, तब अतिरिक्त राशि को अड़तीस किया जाएगा और उत्तरवर्ती मजदूरी अवधि या अवधियों, यथास्थिति, से ऐसी किस्तों में वसूल की जाएगी कि किसी भी माह में वसूली उस माह में कर्मचारी की मजदूरी की पचास प्रतिशत से अधिक न हो।

धारा 19 की उपधारा (1) के अधीन प्राधिकारी

14. धारा 19 की उपधारा (1) के प्रयोजन हेतु सहायक श्रम आयुक्त एवं उच्च अधिकारी प्राधिकारी होंगे।

धारा 19 की उपधारा (2) के अधीन सूचना प्रदर्शित करने की रीति

15. धारा 19 की उपधारा (2) में संदर्भित सूचना को कार्य स्थल के परिसर में, जहां पर रोजगार किया जाता है, प्रमुख स्थलों पर प्रदर्शित किया जाएगा, ताकि प्रत्येक सम्बन्धित कर्मचारी सूचना की विषय–वस्तु को आसानी से पढ़ सके, जो प्रपत्र 'क' में होगी और सूचना की एक प्रति संहिता की धारा 10 की उपधारा (1) के अधीन प्राधिकार एवं क्षेत्राधिकार रखने वाले निरीक्षक–सह–सुकरकर्ता के पास भेजी जाएगी।

धारा 19 की उपधारा (3) के अधीन कार्यविधि

16. (1) धारा 19 की उपधारा (3) के अनुसार नियोक्ता द्वारा संबंधित कर्मचारी को इलेक्ट्रॉनिक रूप में या लिखित रूप में कर्मचारी द्वारा समझे जाने वाली भाषा में कारण बताओ नोटिस दिया जाएगा, जिसमें शास्ति लगाने का कारणों व कर्मचारी द्वारा किए गए कृत्यों और उपेक्षाओं

का विवरण निर्दिष्ट होगा, जो शास्ति अधिरोपित किए जाने के औचित्य सिद्ध करते हैं। कर्मचारी को अपना पक्ष प्रस्तुत किये जाने के लिए कम से कम 15 दिन का अवसर दिया जायेगा।

(2) कर्मचारी का पक्ष प्राप्त होने या पक्ष रखने हेतु निर्धारित अवधि व्यतीत होने के पश्चात नियोक्ता शास्ति लगाने की स्वीकृति प्राप्त करने के लिए उसमें विनिर्दिष्ट विस्तृत विवरणों की लिखित रूप में सूचना नियम 14 में उल्लिखित अधिकारी को एक सप्ताह के भीतर दिया जायेगा। जो स्वीकृति को प्रदान या इंकार करने से पहले सम्बन्धित कर्मचारी और नियोक्ता को सुने जाने का अवसर प्रदान करेगा। स्वीकृति अथवा अस्वीकृति सम्बन्धी निर्णय उल्लिखित अधिकारी द्वारा नियोक्ता से सूचना प्राप्त होने के तीन सप्ताह की अवधि के भीतर किया जाएगा।

(3) नियम 14 में उल्लिखित अधिकारी की स्वीकृति प्राप्त होने पर दोषी कर्मचारी पर शास्ति अधिरोपित किया जाएगा। ऐसी शास्ति अधिरोपण की दिनांक से पंद्रह दिनों के भीतर इसकी सूचना कर्मचारी को दी जायेगी।

कटौती की सूचना

17. (1) जब कोई नियोक्ता धारा 20 की उपधारा (2) के उपबंध के अनुसरण में, कोई कटौती करने का आशय रखता है, तो संबंधित कर्मचारी को इलेक्ट्रॉनिक रूप में या लिखित रूप में कर्मचारी द्वारा समझी जाने वाली भाषा में कारण बताओ नोटिस दिया जायेगा, जिसमें कटौती का कारण, वह पूर्ण विवरण निर्दिष्ट होगा, जो कटौती अधिरोपित किए जाने के औचित्य सिद्ध करते हैं। कर्मचारी को अपना पक्ष प्रस्तुत किये जाने के लिए कम से कम 15 दिन का अवसर दिया जायेगा। आदेश स्थापित होने पर, धारा 18 की उपधारा (3) के अनुसार कर्मचारी की मजदूरी से कटौती की जाएगी।

(2) यदि संबंधित कर्मचारी से 15 दिनों के भीतर कोई उत्तर प्राप्त नहीं होता है, तो नियोक्ता ऐसी कटौती करेगा और ऐसी कटौती की दिनांक से पंद्रह दिनों के भीतर इसकी सूचना कर्मचारी को दी जाएगी।

(3) नियोक्ता द्वारा ऐसी कटौती की तारीख से 10 दिनों के भीतर क्षेत्राधिकारिता वाले सहायक श्रम आयुक्त अथवा उच्च अधिकारी को देगा। अवैधानिक कटौती की स्थिति में सहायक श्रम आयुक्त अथवा उच्च अधिकारी संबंधित मामले की सुनवाई करते हुए विधिसम्मत कार्यवाही करेगा।

धारा 21 की उपधारा (2) के अधीन कटौती की प्रक्रिया

18. (1) कोई नियोक्ता, जो धारा 21 की उपधारा (1) के अधीन किसी कर्मचारी की मजदूरी से क्षति या हानि के लिए कटौती करने का आशय रखता है, नियोक्ता द्वारा संबंधित कर्मचारी को इलेक्ट्रॉनिक रूप में या लिखित रूप में कर्मचारी द्वारा समझे जाने वाली भाषा में कारण बताओ नोटिस दिया जायेगा, जिसमें कर्मचारी को सौंपे गये माल की क्षति या हानि के मूल्य के संबंध में कारण दर्शाना होगा। कर्मचारी को अपना पक्ष प्रस्तुत किये जाने के लिए कम से कम 15 दिन का अवसर दिया जायेगा:

परन्तु यदि कटौती एक से अधिक कर्मचारी या कर्मकार की जाती है, तो कारण बताओ नोटिस को लिखित आदेश प्रत्येक कर्मचारी या कर्मकार को अलग-अलग सूचित किया जाएगा।

(2) आरोप स्थापित होने पर, धारा 18 की उपधारा (3) के अनुसार कर्मचारी की मजदूरी से कटौती की जाएगी।

(3) यदि संबंधित कर्मचारी से 15 दिनों के भीतर कोई उत्तर प्राप्त नहीं होता है, तो नियोक्ता कर्मचारी की मजदूरी से ऐसी कटौती करेगा और ऐसी कटौती की दिनांक से सात दिनों के भीतर इसकी सूचना कर्मचारी को दी जाएगी।

(4) कटौती के संबंध में नियोक्ता द्वारा कर्मचारी के समझे जाने वाली भाषा में आदेश किया जाएगा।

(5) नियोक्ता द्वारा ऐसी कटौती की तारीख से 10 दिनों के भीतर क्षेत्राधिकारिता वाले सहायक श्रम आयुक्त अथवा उच्च अधिकारी को देगा। अवैधानिक कटौती की स्थिति या नियोक्ता द्वारा कर्मचारी को सुनवाई का समुचित अवसर नहीं दिया गया है तो कारण दर्ज करते हुए सहायक श्रम आयुक्त अथवा उच्च अधिकारी संबंधित

मामले की सुनवाई करते हुए विधिसम्मत कार्यवाही करेगा।

धारा 23 के अधीन अंतिम वसूली के सम्बन्ध में शर्तें

10. किसी कर्मचारी को दिये गये धन की अंतिम की वसूली के लिए कटौती, जैसा मामला हो–

(i) धारा 23 के खण्ड (ख) के अधीन नियोजन प्रारम्भ होने के पश्चात् कर्मचारी को दी गयी अंतिम धनराशि; अथवा

(ii) किसी कर्मचारी का वेतन का अंतिम जो उसने धारा 23 के खण्ड (ग) के अधीन अर्पित नहीं किया है, का भुगतान नियोक्ता द्वारा निर्धारित किस्तों में सम्बन्धित कर्मचारी के वेतन में नियोक्ता द्वारा किया जाएगा, ताकि कोई एक किस्त अथवा सभी किस्तों उस वेतन अवधि में कर्मचारी की वेतन अवधि में वेतन के पचास प्रतिशत से अधिक न हो तथा ऐसी वसूली का विवरण प्रपत्र–1 में रखे गए पंजिका में दर्ज किया जाएगा।

धारा 24 के अधीन कटौती

20. राज्य सरकार द्वारा अनुमोदित भवन निर्माण अथवा अन्य प्रयोजनों के लिए स्वीकृत ऋणों और उन पर देय ब्याज की वसूली हेतु कटौतियां ऐसे ऋणों को स्वीकृत करने की सीमा तथा इन पर देय ब्याज दर को विनियमित करने वाले समय-समय पर राज्य सरकार द्वारा दिए गए निर्देश अथवा जारी परिपत्र के अध्यधीन होगी।

अध्याय–4

राज्य सलाहकार बोर्ड

राज्य सलाहकार बोर्ड का स्वरूप एवं प्रक्रिया

21. (1) मजदूरी की न्यूनतम दरों के निर्धारण एवं पुनरीक्षण के मामलों में राज्य सरकार को सलाह देने के उद्देश्य से एवं सलाहकार बोर्डों के कार्यों के समन्वय के लिये राज्य सरकार, राज्य सलाहकार बोर्ड की गठन करेगी।

(2) राज्य सरकार द्वारा बोर्ड में अनुवृद्धित नियोजनों के नियोजकों एवं कर्मचारियों के प्रतिनिधि नामनिर्देशित किए जाएंगे जैसा कि संहिता की धारा 42 की उपधारा

(क) के खण्ड (ख) एवं खण्ड (ख) में उल्लेख है। साथ ही राज्य सरकार द्वारा संहिता की धारा 42 की उपधारा (6) के खण्ड (ग) के अनुरूप स्वतंत्र व्यक्तियों को नामित किया जाएगा।

(3) धारा 42 की उपधारा (6) के खण्ड (क) में निर्दिष्ट नियोक्ताओं के प्रतिनिधियों की संख्या 6 से कम नहीं होगी। इसी प्रकार उक्त उपधारा की खण्ड (ख) में निर्दिष्ट कर्मचारियों के प्रतिनिधियों की संख्या 6 से कम नहीं होगी।

(4) राज्य सरकार द्वारा संहिता की धारा 42 की उपधारा (5) के खण्ड (ग) के अधीन नामनिर्देशित स्वतंत्र व्यक्ति निम्नवत् होंगे–

(i) प्रमुख सचिव/सचिव, श्रम पदेन – अध्यक्ष

(ii) श्रम आयुक्त, उत्तराखण्ड पदेन – सदस्य सचिव

(iii) 04 अन्य सदस्य राज्य सरकार द्वारा नामित किये जायेंगे।

(5) राज्य सरकार, बोर्ड के सदस्यों को नामित करते समय, इस बात को ध्यान में रखेगी कि उपनियम (2) के अधीन स्वतन्त्र सदस्य, बोर्ड के कुल सदस्यों के एक तिहाई से अधिक नही होंगे और बोर्ड के सदस्यों में से एक तिहाई महिलाएं होंगी।

(6) सलाहकार बोर्ड और समितियाँ–

सलाहकार समितियों एवं उप समितियों का गठन इत्यादि में ऐसे व्यक्ति नामनिर्देशित किये जाएंगे जोकि अभिसूचित नियोजनों के नियोक्ताओं एवं कर्मचारियों का प्रतिनिधित्व करेंगे, जिनकी संख्या बराबर होगी एवं 6 से अधिक नहीं होगी। समितियों एवं उप समितियों में स्वतन्त्र व्यक्ति भी नामनिर्देशित किये जाएंगे जिनकी संख्या कुल सदस्यों की संख्या के एक तिहाई से अधिक नही होगी। समितियों अथवा उप समितियों का अध्यक्ष श्रम आयुक्त के पद से निम्न का न होगा।

अध्यक्ष के कार्य

22. अध्यक्ष–

(i) बोर्ड की बैठकों की अध्यक्षता करेंगे, किन्तु किसी बैठक में अध्यक्ष की अनुपस्थिति में, सदस्य अपने बीच में से बहुमत से एक अध्यक्ष का चुनाव करेंगे, जो उस बैठक की अध्यक्षता करेगा;

(ii) बोर्ड की प्रत्येक बैठक की कार्यसूची का निर्धारण करेंगे;

(iii) जब बोर्ड की बैठक में, यदि कोई मुद्दा मतदान द्वारा निर्णित किया जाना है, तो बैठक में कुल मतदान कराएगें तथा मत गणना करेंगे अथवा कराएंगे।

बोर्ड की बैठक

23. अध्यक्ष, नियम 22 के उपबंधों के अधीन, किसी भी समय जब वह उचित समझे, बोर्ड की बैठक बुला सकता है:

परन्तु यह कि न्यूनतम आधे सदस्यों से लिखित में अनुरोध प्राप्त होने पर, अध्यक्ष ऐसा अनुरोध प्राप्त होने की तारीख से 15 (पन्द्रह) दिन के भीतर प्रत्येक सदस्य को सूचना देगा।

बैठक का नोटिस

24. अध्यक्ष प्रत्येक बैठक की तारीख, समय एवं स्थान का निर्धारण करेंगे तथा उसका विवरण को शामिल करते हुए बैठक की कार्यसूची के साथ लिखित नोटिस ऐसी बैठक की निर्धारित तारीख से कम से कम पन्द्रह दिन पूर्व पंजीकृत डाक एवं इलैक्ट्रोनिक ढंग से प्रत्येक सदस्य को भेजा जाएगा:

परन्तु यह कि आकस्मिक बैठक के मामले में प्रत्येक सदस्य को केवल 7 (सात) दिन का नोटिस भी दिया जा सकता है।

गणपूर्ति

25. किसी बैठक में कोई कार्य नहीं किया जाएगा जब तक कि न्यूनतम एक तिहाई सदस्य तथा नियोक्ताओं एवं कर्मचारियों में से प्रत्येक का न्यूनतम एक–एक प्रतिनिधि उपस्थित न हो:

परन्तु यह कि, यदि किसी बैठक में एक तिहाई सदस्यों से कम सदस्य उपस्थित हैं तो अध्यक्ष मूल बैठक की

तारीख से अधिकतम 7 दिन के लिए बैठक स्थगित कर सकते हैं तथा ऐसी स्थगित बैठक में किए गये कार्य कैसे होने वाले ही उपस्थित सदस्यों की संख्या कुछ भी हो:

परन्तु यह और कि ऐसी स्थगित बैठक की तारीख एवं समय सभी सदस्यों को इलैक्ट्रानिक ढंग से अथवा पंजीकृत डाक से सूचित किया जाएगा।

बोर्ड के कार्य का निपटान

26. बोर्ड के सभी कार्यों पर बोर्ड की बैठक में विचार किया जाएगा तथा उपस्थित सदस्यों तथा मतदान करने वालों के बहुमत से निर्णय लिया जाएगा तथा बराबर मत होने की स्थिति में अध्यक्ष का मत निर्णायक होगा:

परन्तु यह कि अध्यक्ष, यदि उचित समझे, तो निर्देश दे सकते हैं कि किसी मामले के सम्बन्ध में निर्णय आवश्यक दस्तावेजों के परिचालन तथा सदस्यों का लिखित मत प्राप्त करने के बाद किया जाएगा:

परन्तु यह और कि पूर्वगामी परंतुक के अन्तर्गत किसी मामले में कोई निर्णय नहीं लिया जाएगा जब तक कि न्यूनतम दो तिहाई सदस्य इसका समर्थन न करें।

बोर्ड के अतिरिक्त कार्य

27. धारा 42 की उपधारा (4) में बोर्ड के निर्धारित कार्यों के अतिरिक्त ऐसे अन्य मामलों पर भी, जो राज्य सरकार द्वारा राज्य सलाहकार बोर्ड को निर्दिष्ट किया जाए, बोर्ड राज्य सरकार को सलाह देगा।

मतदान की रीति

28. बोर्ड में मतदान सामान्यतः हाथ उठाकर किया जाएगा:

परन्तु यदि कोई सदस्य बैलेट द्वारा मतदान की मांग करता है अथवा यदि अध्यक्ष ऐसा निर्णय लेते हैं, तो मतदान गुप्त बैलेट द्वारा अथवा अध्यक्ष द्वारा यथा निर्धारित ढंग से कराया जाएगा।

बैठकों की कार्यवाहियां

29. (1) बोर्ड की प्रत्येक बैठक की कार्यवाहियां, जिनमें अन्य बातों के साथ साथ बैठक में उपस्थित सदस्यों के नाम दर्शाते हुए, बैठक के तुरन्त बाद हर स्थिति में अगली बैठक से सात दिन पहले प्रत्येक सदस्य तथा राज्य सरकार को अग्रसारित की जाएगी।

(2) बोर्ड की प्रत्येक बैठकों की कार्यवाहियों की अगली

बैठक में आवश्यक समझे जाने वाले संशोधनों, यदि कोई हो, के साथ पुष्टि की जाएगी।

साक्षियों को बुलाना एवं दस्तावेजों का प्रस्तुतीकरण

30. (1) अध्यक्ष, अपने कर्तव्य के निवहन के दौरान यदि अपेक्षित हो तो किसी व्यक्ति को साक्षी के रूप में प्रस्तुत होने तथा कोई दस्तावेज प्रस्तुत करने के लिए बुला सकता है।

(2) प्रत्येक व्यक्ति जिसे बुलाया जाता है तथा जो बोर्ड के समक्ष साक्षी के रूप में प्रस्तुत होता है, वह अपने द्वारा किए गए खर्च के लिए सिविल न्यायालय के समक्ष प्रस्तुत होने वाले साक्षियों को देय भत्ते के भुगतान के लिए उस समय प्रवृत्त मानक के अनुसार उनके द्वारा किये गये खर्च के लिए भत्ते पाने का हकदार होगा।

समितियों की नियुक्ति

31. राज्य सरकार धारा 8 की उपधारा (1) के खंड (ङ) के अन्तर्गत उस खंड में विनिर्दिष्ट प्रयोजनों के लिए जितनी वह आवश्यक समझे, उतनी समितियां गठित कर सकती है, जो सब आयुक्त की श्रेणी से अन्यून की अध्यक्षता में कार्य सम्पादन करेगी।

बोर्ड, समितियों व उप समितियों के सदस्यों का कार्यकाल

32. (1) प्रत्येक गैर सरकारी अथवा पदेन सदस्य में हर एक सदस्य का कार्यकाल, यथास्थिति धारा 42 की उपधारा (1) के अधीन उसकी नियुक्ति अथवा नामांकन, जो भी मामला हो, की तारीख से दो वर्ष का होगा:

परन्तु यह कि ऐसे सदस्य, दो वर्ष की अवधि की समाप्ति होने के बावजूद राज्य सरकार की अनुमति से अपने पद पर बने रहेंगे।

(2) बोर्ड के सदस्यों में आकस्मिक रिक्ति उत्पन्न होने पर किसी अन्य व्यक्ति को नामनिर्देशित किया जाना है, तो वह उस सदस्य के शेष कार्यकाल के लिए पद पर बना रहेगा, जिसके स्थान पर उसे नामनिर्देशित किया गया है।

(3) बोर्ड के आधिकारिक सदस्य तब तक अपने पद पर बने रहेंगे जब तक कि उनका स्थान उनके जैसे अन्य आधिकारिक सदस्यों द्वारा न ले लिया जाए।

(4) उपनियम (1), (2) एवं (3) में किसी बात के होते हुए भी बोर्ड के सदस्य राज्य सरकार की इच्छापर्यन्त अपने पद पर बने रहेंगे।

यात्रा भत्ता

33. बोर्ड के सरकारी एवं गैर सरकारी सदस्यों को अपने कर्तव्यों के संबंध में की गई किसी यात्रा के लिए निम्नवत यात्रा भत्ता (Travel Allowance) देय होगा:–

(1) बोर्ड के किसी सरकारी सदस्य का यात्रा भत्ता (Travel Allowance) सरकारी कर्तव्य पर उसके द्वारा निष्पादित की गयी यात्रा के लिए उस पर लागू नियमों द्वारा शासित किया जायेगा और उसके वेतन का संदाय करने वाले प्राधिकारी द्वारा संदत्त किया जायेगा।

(2) बोर्ड के गैर सरकारी सदस्यों को बोर्ड की बैठकों में उपस्थित होने के लिए यात्रा भत्ता (Travel Allowance) ऐसी दरों पर संदत्त किया जायेगा, जो राज्य सरकार में लेवल–10 के अधिकारी को संदेय है, और दैनिक भत्ते की गणना उनके संबंधित स्थानों में राज्य सरकार में लेवल–10 के अधिकारी को लागू दर पर की जायेगी।

अधिकारी एवं कर्मचारीगण

34. श्रम आयुक्त, उत्तराखण्ड द्वारा बोर्ड के पदेन सचिव के रूप में कार्य किया जाएगा एवं श्रम आयुक्त कार्यालय के अधिकारियों द्वारा बोर्ड को आवश्यक कार्यकारी सहायता प्रदान की जाएगी।

बोर्ड के सदस्यों के पुनर्नामांकन हेतु पात्रता

35. एक निवर्तमान सदस्य बोर्ड की सदस्यता के लिए पुनर्नामांकन हेतु पात्र होगा।

बोर्ड के अध्यक्ष एवं अन्य सदस्यों का त्यागपत्र

36. (1) अध्यक्ष के अतिरिक्त, बोर्ड का सदस्य, अध्यक्ष को लिखित में नोटिस देकर अपनी सदस्यता से त्यागपत्र दे सकता है तथा अध्यक्ष राज्य सरकार को लिखित सूचना देकर त्यागपत्र दे सकते हैं।

(2) त्यागपत्र, इसकी स्वीकृति की सूचना की तारीख अथवा त्यागपत्र की तारीख से 30 दिन की समाप्ति जो भी पहले हो, से प्रभावी होगा।

(3) जब बोर्ड की सदस्यता में कोई रिक्ति उत्पन्न होती है अथवा होने की संभावना होती है, तो अध्यक्ष तुरंत इसकी रिपोर्ट राज्य सरकार को देगा तथा राज्य सरकार संहिता के उपबंधों के अनुसार रिक्तियों को भरने हेतु उपाय करेगी।

सदस्यता का समाप्त होना

37. यदि बोर्ड का कोई सदस्य, अध्यक्ष को पूर्व सूचना दिए बिना लगातार तीन बैठकों में अनुपस्थित होता है, तो बोर्ड का सदस्य नहीं रहेगा।

अयोग्यता

38. (1) कोई व्यक्ति बोर्ड का सदस्य होने तथा सदस्य के रूप में नाम निर्देशित होने के लिए अयोग्य होगा–

(i) यदि वह विकृतचित्त है और सक्षम न्यायालय की ऐसी घोषणा विद्यमान है; अथवा

(ii) यदि वह अनुन्मोचित दिवालिया है; अथवा

(iii) यदि संहिता के प्रारम्भ होने के पहले अथवा बाद में किसी नैतिक अधमता के अपराध का दोषी पाया गया है।

(2) यदि उपनियम (1) के अधीन अयोग्यता के संबंध में कोई प्रश्न उत्पन्न होता है, तो इस पर राज्य सरकार का निर्णय अंतिम होगा।

गलतियों का शुद्ध किया जाना

39. (1) राज्य सरकार द्वारा इस नियमावली के अधीन मजदूरी की न्यूनतम दरों को नियत या पुनरीक्षित करने वाले आदेश में की लेखन या गणित सम्बन्धी भूलों को या किसी आकस्मिक भूल या लोप में उत्पन्न हुई गलतियों को शासकीय राजपत्र में अधिसूचना द्वारा, किसी भी समय शुद्ध कर सकेगी;

(2) ऐसी हर अधिसूचना निकाले जाने के पश्चात् यथाशीघ्र सलाहकार बोर्ड के समक्ष जानकारी के लिए रख दी जाएगी।

अध्याय–5

बकायों, दावों इत्यादि का भुगतान

धारा 44 की उपधारा (1) के खण्ड (क) के अधीन भुगतान	40.	(1)	(क) प्रत्येक कर्मचारी भुगतान से पहले प्रपत्र II में घोषणा करेगा, जिसमें किसी व्यक्ति को नामित किया जाएगा जिसे यह अधिकार दिया जाएगा कि उस कर्मचारी की मृत्यु होने की स्थिति में उसकी जमा पूंजी उसे देय होगी।
			(ख) यदि नामित करते समय कर्मचारी का अपना परिवार है तो यह नामांकन उसके पति/पत्नी अथवा उसके परिवार के एक या उसके अधिक सदस्यों के सम्बन्ध उसकी पति/पत्नी के पक्ष में किया जाएगा:
			परन्तु यह कि अपने परिवार के सदस्य के अलावा किसी अन्य व्यक्ति के पक्ष में परिवार रखने वाले कर्मचारी द्वारा किया गया नामांकन अमान्य होगा:
			परन्तु यह और कि कर्मचारी द्वारा विवाह के बाद अपने पति/पत्नी के लिए नया नामांकन किया जाएगा और ऐसे विवाह से पहले किए गए किसी नामांकन को अमान्य समझा जाएगा।
			(ग) जिन मामलों में नामांकन किसी अवयस्क के पक्ष में पूर्णतः या अंशतः किया जाता है उसमें कर्मचारी अपने परिवार के किसी व्यस्क व्यक्ति को नियुक्त कर सकता है जो उस अवयस्क नामिति का अभिभावक होगा अथवा जहां परिवार में कोई व्यस्क व्यक्ति नहीं है, तो वह अपने विवेकानुसार किसी अन्य व्यक्ति को अवयस्क नामिति का अभिभावक नियुक्त कर सकता है।

(घ) यदि कर्मचारी एक से अधिक सदस्य को नामित करता है तो वह नामांकन में अपने विवेकानुसार प्रत्येक नामित व्यक्तियों को देय राशि अथवा हिस्से का उल्लेख करेगा ताकि उसकी संपूर्ण जमापूंजी की राशि का भुगतान किया जा सके।

(2) जब संहिता के अधीन कर्मचारी को देय कोई धनराशि उसकी मृत्यु अथवा उसका निवास पता न होने के कारण उसको देनी बकाया है, तथा इस धनराशि के कर्मचारी को देय होने की तारीख से तीन माह की समाप्ति तक कर्मचारी के नामांकिती को यह धनराशि भुगतान नहीं की जा सकी, तो नियोक्ता द्वारा यह धनराशि क्षेत्राधिकार वाले सहायक श्रम आयुक्त या उच्च अधिकारी के पास जमा की जाएगी, जो कर्मचारी द्वारा नाम निर्देशित व्यक्ति की पहचान सुनिश्चित करने के बाद, राशि जमा होने के दो माह के भीतर उसका भुगतान करेगा।

धारा 44 की उपधारा (1) के खण्ड (ख) के अधीन अवितरित बकाया जमा करना

41. (1) जहां इस संहिता के अधीन किसी कर्मचारी को देय कोई धनराशि कर्मचारी द्वारा नामांकन नहीं करने के कारण अथवा अन्य किसी कारण से अवितरित रह जाती है, तथा इस धनराशि के देय होने की तारीख से छह माह की समाप्ति तक कर्मचारी के नामांकिती को इस धनराशि का भुगतान नहीं किया जा सका, तो नियोक्ता द्वारा ऐसी सम्पूर्ण धनराशि छह माह की उक्त अवधि के अंतिम दिन से पन्द्रह दिन की समाप्ति से पूर्व उस क्षेत्राधिकार वाले सहायक श्रम आयुक्त या उच्च अधिकारी के पास जमा की जाएगी। इस प्रयोजनार्थ पृथक से एक बैंक खाता खोला जाएगा और उसमें संबंधित धनराशि जमा की जाएगी तथा क्षेत्राधिकार रखने वाले प्राधिकारी द्वारा इसका रिकार्ड भी रखा जाएगा।

(2) उपनियम (1) में निर्दिष्ट धनराशि नियोक्ता द्वारा उस क्षेत्राधिकार वाले सहायक श्रमायुक्त या उच्च अधिकारी के पास बैंक अंतरण के माध्यम से अथवा मामले में किसी अनुसूचित बैंक से ऐसे सहायक श्रमायुक्त अथवा उच्च श्रम आयुक्त के पक्ष में जारी रेखांकित डिमांड ड्राफ्ट के माध्यम से जमा की जाएगी।

धारा 44 की उपधारा (1) के खण्ड (ख) के अधीन असंवितरित देयों के निपटान का तरीका

42. (1) नियम 41 के उपनियम (1) में निर्दिष्ट धनराशि (इसके पश्चात इस नियम में धनराशि के रूप में संदर्भित) सम्बन्धित क्षेत्राधिकार वाले सहायक श्रमायुक्त या उच्च अधिकारी के पास जमा की जायेगी तथा वह उसे राज्य सरकार की प्रतिभूतियों में निवेश करेगा अथवा किसी अनुसूचित बैंक में सावधि जमा के रूप में रखेगा।

(2) सम्बन्धित क्षेत्राधिकार के सहायक श्रम आयुक्त या उच्च अधिकारी यथास्थिति धनराशि से संबंधित विवरणों के साथ, जिसे सूचनार्थ सहायक श्रम आयुक्त या उच्च अधिकारी उचित समझे, नोटिस बोर्ड पर न्यूनतम पन्द्रह दिन के लिए नोटिस प्रदर्शित करेगा। तत्पश्चात संबंधित कर्मकार के परिवार या आश्रितों द्वारा जिला प्रशासन द्वारा जारी उत्तराधिकार प्रमाण पत्र या परिवार सदस्यता प्रमाण पत्र प्रस्तुत किया जाएगा। मृतक कार्मिक के वारिसों एवं अनापत्ति के आधार पर किसी एक या अधिक को संबंधित देय का भुगतान किया जायेगा। अन्यथा की स्थिति में विधि अनुसार अन्तिम जिसे देय हो उसे/घोषित उत्तराधिकारी को सम्बंधित भुगतान देय होगा।

(3) यदि यह संवितरित धनराशि सात वर्ष में लिए अदावाकृत रहती है, तो इसका निपटान इस सम्बन्ध में समय समय पर राज्य सरकार द्वारा यथा-निर्देशित ढंग से किया जाएगा।

अध्याय–6

प्रपत्र, रजिस्टर एवं देयता पर्ची

एकल आवेदन का प्रपत्र

43. (1) धारा 45 की उपधारा (5) के अंतर्गत प्रपत्र–III में विनिर्दिष्ट दस्तावेजों के साथ इस प्रपत्र में एकल आवेदन मैनुअल अथवा इलेक्ट्रॉनिक रूप से दायर किया जा सकता है।

(2) यदि धारा 45 की उपधारा (5) के अन्तर्गत किए गए आवेदन पर विचार किया जाता है तो प्राधिकारी नियोक्ता को प्रपत्र IV में इलैक्ट्रॉनिक रूप से अथवा पंजीकृत डाक द्वारा नोटिस भेजेगा कि वह इस नोटिस में निर्धारित तारीख को सभी संबंधित दस्तावेजों और साक्षी यदि कोई हों, के साथ उसके समक्ष उपस्थित हो और निर्धारित की गई तारीख की सूचना आवेदक को देगा।

(3) यदि नियोक्ता अथवा उसका प्रतिनिधि निर्धारित तारीख को उपस्थित नहीं होता है तो प्राधिकारी आवेदन पर सुनवाई करेगा और उस पर एक पक्षीय निर्णय देगा।

(4) यदि आवेदक अथवा उसका प्रतिनिधि अग्रिम रूप से कोई उचित कारण दिए बिना निर्धारित तारीख को उपस्थित नहीं होता है तो प्राधिकारी आवेदन पर सुनवाई करेगा और उस पर एक पक्ष पक्षीय निर्णय देगा।

अपील

44. (1) धारा 45 की उपधारा (2) के अन्तर्गत प्राधिकारी द्वारा पारित आदेश से पीड़ित कोई भी व्यक्ति धारा 49 की उपधारा (1) के अंतर्गत प्रपत्र–V में अपीलकर्ता द्वारा वर्णित दस्तावेजों के साथ इस प्रपत्र में संबंधित क्षेत्राधिकार वाले अपीलीय प्राधिकारी को इलेक्ट्रॉनिक रूप से या पंजीकृत डाक द्वारा अपील कर सकता है:

परन्तु यह कि किसी नियोक्ता द्वारा की गई कोई अपील को तब तक स्वीकार नहीं किया जाएगा जब तक अपील करते समय अपीलकर्ता अपीलीय अधिकारी के पास दावा की गई राशि जमा नहीं कराता है।

(2) यदि धारा 49 की उपधारा (1) के अंतर्गत किसी अपील पर विचार किया जाता है तो अपीलीय अधिकारी प्रतिवादी को इलेक्ट्रॉनिक रूप से अथवा पंजीकृत डाक द्वारा प्रपत्र–IV में नोटिस देगा कि वह उसके समक्ष नोटिस में निर्धारित तारीख को उपस्थित हो और इस प्रकार निर्धारित तारीख के संबंध में अपीलकर्ता को सूचित करेगा।

(3) अपीलीय प्राधिकारी अपीलकर्ता और प्रतिवादी के साथ सुनवाई करने के बाद आदेश द्वारा अपील पर निर्णय लेगा।

रजिस्टर इत्यादि का प्रपत्र

45. (1) धारा 19 की उपधारा (8) में निर्दिष्ट सभी जुर्माने एवं उनकी वसूलियों का विवरण इस नियमावली के साथ संलग्न प्रपत्र–I के रूप में नियोक्ता द्वारा रखे जाने वाले पंजिका में इलैक्ट्रॉनिक ढंग में अथवा अन्यथा रखा जाएगा तथा उक्त उपधारा (8) में संदर्भित प्राधिकारी उस क्षेत्र के सहायक श्रम आयुक्त एवं मुख्य अधिकारी होंगे।

(2) धारा 21 की उपधारा (2) में निर्दिष्ट सभी कटौतियों एवं वसूलियों का विवरण इस नियमावली के साथ संलग्न प्रपत्र–I (नियोक्ता द्वारा) रखे जाने वाले पंजिका में इलैक्ट्रॉनिक ढंग से अथवा अन्यथा रखा जाएगा।

(3) किसी भी स्थापन का प्रत्येक नियोक्ता जिस पर यह संहिता लागू होती है, वह धारा 50 की उपधारा (1) के अधीन प्रपत्र–I तथा प्रपत्र–VI में इलैक्ट्रॉनिक अथवा अन्य किसी रूप में पंजिका रखेगा।

वेतन पर्ची

46. प्रत्येक नियोक्ता वेतन के भुगतान के समय अथवा उससे पहले धारा 50 की उपधारा (3) के अन्तर्गत प्रपत्र–VII में अपने कर्मचारियों को इलैक्ट्रॉनिक अथवा अन्यथा ढंग से वेतन पर्ची जारी करेगा।

धारा 53 की उपधारा (1) के अधीन जांच अधिकारी की नियुक्ति

47. राज्य सरकार द्वारा जांच अधिकारी की नियुक्ति पृथक से आदेश द्वारा की जायेगी।

धारा 58 की उपधारा (1) एवं उपधारा (4) के अधीन शास्ति के अधिरोपण एवं अपराध के शमन की रीति

48. (1) कोई दोषी व्यक्ति यदि धारा 58 की उपधारा (1) के अधीन अपराध का शमन चाहता है, तो वह उक्त उपधारा (1) के अधीन अधिसूचित अधिकारी को प्रपत्र–VIII में इलेक्ट्रॉनिक ढंग से अथवा अन्यथा आवेदन कर सकता है।

(2) उपनियम (1) में अधिसूचित अधिकारी ऐसे आवेदन की प्राप्ति पर यह सुनिश्चित करेगा कि यह अपराध संहिता के अधीन शमन योग्य है या नहीं और यदि अपराध शमन योग्य है तो संहिता के अधीन ऐसे अपराध के लिए उपबंधित अधिकतम जुर्माने की पचास प्रतिशत धनराशि तक शमन किया जा सकेगा। अधिसूचित अधिकारी अपराध के शमन हेतु किये गये आवेदन को जांच भी कर/करा सकता है।

अध्याय–7

विविध

निरीक्षक–सह–सुपरवाइजर द्वारा निर्वहन की जाने वाली अन्य शक्तियां

49. धारा 51 में यथानिर्दिष्ट प्रदत्त शक्तियों के साथ–साथ निरीक्षक–सह–सुपरवाइजर राज्य सरकार द्वारा समय–समय पर जारी अनुदेशों या दिशा–निर्देशों के अधीन रहते हुए नियोक्ताओं और कर्मकारों को संहिता के उपबंधों का अनुपालन करने संबंधी सलाह देगा और राज्य सरकार द्वारा अथवा समनुदेशित स्थापनों का निरीक्षण करेगा।

वेतन का भुगतान

50. जहां कर्मचारी किसी प्रतिष्ठान में ठेकेदार के माध्यम से नियोजित है, वहां, वह कम्पनी अथवा फर्म अथवा संघ अथवा कोई अन्य व्यक्ति जो उस प्रतिष्ठान का मालिक है, ठेकेदार को संहिता के प्रावधानों के अनुसार कर्मचारियों के वेतन के संबंध में उसे देय राशि का भुगतान करेगा।

स्पष्टीकरण– इस नियम के प्रयोजनार्थ शब्द "फर्म" का वही अर्थ होगा जो इसका अर्थ भारतीय साझेदारी अधिनियम, 1932 (1932 का 9) में है।

अनजीवी पत्रकारों के लिए तकनीकी समिति

51. राज्य सरकार, उपजीविकाजन्य सुरक्षा, स्वास्थ्य और कार्यदशा संहिता 2020 (2020 का 37) की धारा 2 के खण्ड (पपप) में यथा परिभाषित स्वास्थ्य और कार्य अनजीवी पत्रकारों के लिए संहिता के अंतर्गत न्यूनतम वेतन का निर्धारण करने के प्रयोजनार्थ ऐसे निर्धारण के लिए राज्य सरकार को सिफारिश करने हेतु धारा 8 की उपधारा (1) के खण्ड (क) के अंतर्गत एक तकनीकी सलाहकार समिति गठित कर सकती है।

न्यूनतम बोनस के भुगतान हेतु उत्तरदायित्व

52. जहां किसी प्रतिष्ठान में, कर्मचारी ठेकेदार के माध्यम से नियोजित किए जाते हैं तथा ठेकेदार धारा 26 के अंतर्गत उनको न्यूनतम बोनस का भुगतान करने में असफल हो जाता है, वहां, कंपनी अथवा फर्म अथवा संघ अथवा धारा 43 के परन्तुक में यथा संदर्भित अन्य कोई व्यक्ति, कर्मचारियों अथवा किसी पंजीकृत श्रमिक संघ अथवा संघों जिनके कर्मचारी सदस्य है, द्वारा ऐसी असफलता की लिखित सूचना दिए जाने पर तथा इसकी पुष्टि करने पर कर्मचारियों को इस न्यूनतम बोनस का भुगतान करेगा।

वार्षिक विवरणी

53. उपजीविकाजन्य सुरक्षा, स्वास्थ्य और कार्यदशा संहिता 2020 (2020 का 37) के अंतर्गत बनाए गए नियमों में किसी प्रतिष्ठान, जिस पर यह संहिता लागू होती है, के प्रत्येक नियोक्ता द्वारा ऐसे प्रयोजनों के लिए निर्धारित प्रपत्र के संबंधित कॉलमों में इलेक्ट्रॉनिक रूप से विवरणी दाखिल की जाएगी। ऐसी विवरणी की एक प्रति श्रम ब्यूरो, श्रम एवं रोजगार मंत्रालय, भारत सरकार को भी इलेक्ट्रॉनिक रूप से अग्रेषित की जाएगी:

परन्तु यह कि उपजीविकाजन्य सुरक्षा, स्वास्थ्य और कार्यदशा संहिता 2020 के अन्तर्गत वार्षिक विवरणी दाखिल किये जाने की स्थिति में पृथक से किसी अन्य श्रम संहिताओं के अन्तर्गत वार्षिक विवरणी दाखिल किये जाने की आवश्यकता नहीं है।

विभाग की आधिकारिक वेबसाइट पर अपलोड करना

54. इस नियमावली को उनके अंतिम अधिसूचना की तारीख से एक महीने के भीतर श्रम विभाग की आधिकारिक वेबसाइट पर अपलोड किया जाएगा।

निरसन एवं व्यावृत्ति

55. (1) उत्तराखण्ड (उत्तर प्रदेश) वेतन संदाय नियमावली, 1936 एवं उत्तराखण्ड (उत्तर प्रदेश) न्यूनतम वेतन नियमावली, 1952 इस नियमावली के अंतिम अधिसूचना की दिनांक से निरस्त मानी जाएगी।

(2) उपनियम (1) के अधीन इस तरह के निरसन के होते हुए भी इस प्रकार निरसित नियमावलियों के अधीन की गयी कोई बात या की गयी कोई कार्रवाई, जिसके अन्तर्गत उनके अधीन कोई अधिसूचना, नामनिर्देशन, नियुक्ति, आदेश या निदेश या किसी प्रयोजन के लिए ऐसी नियमावलियों के किसी उपबंध के अधीन उपबन्धित मजदूरी की राशि सम्मिलित है, को ऐसे प्रयोजन के लिए इस नियम के तत्स्थानी उपबंधों के अधीन किया गया या की गई या उपबंधित समझा जाएगा और और वह उस सीमा तक जिस तक वह इस नियम के उपबंधों के प्रतिकूल नहीं है, इस नियम के तत्स्थानी उपबंधों के अधीन या राज्य सरकार की उस प्रभाव की अधिसूचना द्वारा निरसित किये जाने तक प्रवृत्त रहेगी।

(3) उपनियम (2) के उपबंधों पर प्रतिकूल प्रभाव डाले बिना साधारण खण्ड अधिनियम, 1897 (1897 का 10) की धारा 6 के प्रावधान ऐसी नियमावलियों के निरसन पर लागू होंगी।

आज्ञा से,

डॉ० श्रीधर बाबू अद्दांकी,
सचिव।

प्रपत्र 'क'
मजदूरी संहिता की धारा 19 (2) के अधीन नोटिस
नियम 15 देखें

_____स्थापन का पूर्ण पता एवं नाम

_____कर्मचारी का पदनाम एवं कर्मचारी कोड सहित नाम

मजदूरी संहिता 2019 की धारा 19 (1) के अधीन
कार्य और मूक सम्बन्धी विवरण

1. ___
2.
3.
4.
5.

दिनांक:

नियोक्ता/नियोक्ता के अधिकृत प्रतिनिधि के हस्ताक्षर

प्रतिलिपि :
(1) सम्बन्धित क्षेत्र के निरीक्षक-सह-सुकरकर्ता।
(2) मजदूरी संहिता की धारा 19 (1) के अधीन प्राधिकारी।

अपक–I

(नियम 19 तथा नियम 45 देखें)

वेतन, अग्रिम वसूली, अतिभुगतान, चूकपत्र, पुनर्भरण और क्षति के लिए कटौती सम्बन्धी पंजिका

स्थापन का नाम :
स्थायी खाता नाम:
कर पहचान संख्या (एलआईएन)

निर्देशिका का नाम
निर्देशिका पिन/टैन

कर्मचारी पंजिका में क्रम संख्या	कर्मचारी का नाम	पदनाम /विभाग	वेतन से भुगतान की अवधि (साप्ताहिक/पाक्षिक/मासिक/दशक में दर्ज)	वेतन की अवधि के दौरान कार्य किए गए दिनों की कुल संख्या	अवधि में कटौती किए गए दिनों की कुल संख्या	कुल अवैतन देयता (जिस लिए पत्र यहां अलग खंड कालमकों में भरकर)	वेतन की पर्ची		
							कुल वेतन	दैनिक	घण्टे
1	2	3	4	5	6	7	8	9	10

अवैतन देयता की वसूली किसके लिए चूकपत्र जारीकर्ता पत्र का कार्यालय के कालम लिखना	वसूली एवं चूक की वृद्धिवार किसके लिए चूकपत्र जारीकर्ता पत्र का कार्यालय के कालम लिखना	वसूल पत्र चूकपत्र की तारीख	कर्मचारी को भावसाधारी अवधि चूक से निर्धारित की होने वाली क्षति अथवा दुरुपयोग	वेतन से कटौती की तारीख	भुगतान लिए पत्र वेतन की चूक राशि	भुगतान की तारीख	कटौती	
							दायित्व	अवधारण
11	12	13	14	15	16	17	18	19

प्रपत्र–II
(नियम 40 देखें)
नामांकन प्रपत्र

1. नामांकन करने वाले व्यक्ति का नाम :
(बड़े अक्षरों में)
2. पिता/पति/पत्नी का नाम :
3. जन्म तारीख :
4. लिंग :
5. वैवाहिक स्थिति :
6. पता :
स्थाई :
अस्थाई :

मैं मेरी मृत्यु होने पर निर्वाचन से मुझे देय किसी रकम को प्राप्त करने के लिए निम्नलिखित व्यक्ति/व्यक्तियों को एतद्द्वारा नामित करता करती हूँ/चुनी मैं मेरे द्वारा किए गए नामांकन को रद्द करती हूँ तथा निम्नलिखित व्यक्ति/व्यक्तियों को एतद्द्वारा नामित करता/करती हूँ।

नामिती/ नामितियों के नाम	पता	नामिती का कर्मचारी के साथ संबंध	जन्म तारीख	जब नामिती अवयस्क है तो संरक्षक का नाम, संबंध तथा पता जो नामिती के नाबालिग रहने के दौरान रकम प्राप्त करे
(i)	(ii)	(iii)	(iv)	(v)

1. प्रमाणित करता हूँ कि मेरा कोई परिवार नहीं है तथा यदि इसके बाद मेरे मेरा परिवार होता है तो अपूर्ण नामांकन को रद्द माना जाए।
2. प्रमाणित किया जाता है कि मेरे पिता/पति मुझ पर आश्रित हैं।
3. जो लागू न हो उसे काट दिया जाए।

कर्मचारी के हस्ताक्षर या अंगूठे का निशान

निर्वाचन द्वारा भरवाया जाए

प्रमाणित किया जाता है कि मेरे समक्षन में निर्वाचित श्री/श्रीमती/सुश्री————एवाना व्यक्ति/व्यक्तियों को पहचान या मेरे द्वारा उसकी समाप्त पहचान के पश्चात तथा दोनों पक्षकारों ने उसके द्वारा पूर्वि किए जाने पर उसने उपर्युक्त घोषणा और नामांकन पर मेरे समक्ष हस्ताक्षर किए गए हैं/अंगूठा निशान लगाया गया है।

निर्वाचन या स्थापन के अन्य प्राधिकृत अधिकारी के हस्ताक्षर और पदनाम

स्थान
तारीख

आवेदक/स्थापन का नाम, पक्का पता एवं मुहर

प्रपत्र–III

नियम 43 देखें

(धारा 45 की उपधारा (5) के अधीन एवज आवेदन
भारतीय संहिता 2019 (2019 का 28) की धारा 45 की उपधारा (1) के अधीन निलम्बन प्रतिभूति के स्थान
_____ के लिए दीवानी_____

आवेदन संख्या _____ 20_____का
श्री, श्रीमती, मै (संस्था का उल्लेख करें) और_____अन्य_____आवेदक
(सम्बन्धित कर्मचारियों अथवा संस्थिट्यूशन प्रमाणन अथवा निर्देशक सह-मुख्यकर्ता के माध्यम से)
पक्ष _____
और
_____श्री, मै, सं
पक्ष_____
के बीच
इस आवेदन में निम्नलिखित का उल्लेख किया गया है:

(i) आवेदक जिनका (जिनकी) नाम संलग्न अनुसूची में दिए गए है, _____में अंकित (कार्य की प्रकृति, जो भारतीय संहिता 2019 द्वारा आच्छादित होती है/हैं) की/पेशगी_____के_____(प्रावधान) में_____से_____तक _____(अवधि) की कार्य में नियुक्त किया गया था/है।

(ii) प्रतिभूति भारतीय संहिता, 2019 की धारा 2 (ज) के अधीन निर्धारक है/हैं।

(iii) (क) आवेदक (आवेदकों) को_____से _____तक की अवधि के लिए _____रुपये प्रतिदिन के हिसाब से इस संहिता के अधीन कर्मचारी (कर्मचारियों) को उपलब्ध सेवाओं (सं) के लिए निर्धारित न्यूनतम वेतन की दरों के कम वेतन का भुगतान किया गया है।

(ख) आवेदक (आवेदकों) को_____से _____तक विश्राम के कालावधि दिनों के लिए _____रुपये प्रतिदिन के वेतन का भुगतान नहीं किया गया है।

(ग) आवेदक (आवेदकों) को _____से _____तक की अवधि के लिए अतिरिक्त दर (दरों) पर वेतन का भुगतान नहीं किया गया है।

(घ) आवेदक (आवेदकों) को _____से_____तक की अवधि के लिए वेतन का भुगतान नहीं किया गया है।

(ङ.) आवेदक (आवेदकों) के वेतन (में) से जो कटौती की गई है वह इस संहिता का उल्लंघन है। कटौती का ब्यौरा विवरण संलग्न इस आवेदन के साथ संलग्न अनुसूची में दर्शाया गया है।

(च) आवेदक (आवेदकों) को सेवा दर _____ के लिए न्यूनतम वेतन का भुगतान नहीं किया गया है।

(iv) आवेदक अपनी याचिका पर समर्थन हेतु यहां पेश किए जाने वाले गवाह निम्नानुसार अंकित कराता/कराते है:–
(क) _____रुपये।
(ख) _____रुपये।
(ग) _____रुपये।
कुल _____रुपये।

(v) अतः आवेदक अनुरोध करता है/करते है कि भारतीय संहिता, 2019 की धारा 45 (2) अधीन निम्नलिखित के लिए निर्देश जारी किया जाए:
(क) संहिता के अधीन देय वेतन और भत्तों में भुगतान किए गए वेतन के बीच के अन्तर का भुगतान।
(ख) विश्राम के दिनों के लिए प्रतिपूर्ति का भुगतान।
(ग) अतिरिक्त दरों पर वेतन का भुगतान।
(घ) _____रुपये का भुगतान।

आवेदक एतद्द्वारा यह घोषणा करता है/करते है कि इस आवेदन में अन्तर्विष्ट तथ्य उसकी अधिकतम जानकारी विश्वास और सूचना के अनुसार सत्य है।
दिनांक_____।

नियुक्त किए गए व्यक्ति (यों) अथवा किसी पंजीकृत ट्रेड यूनियन द्वारा विधिवत प्राधिकृत किसी अधिकारी अथवा निदेशक सह मुख्यकर्ता के हस्ताक्षर अथवा अंगूठे का निशान

टिप्पणी–आवेदक यदि आवश्यक हो तो इस आवेदन के साथ सूची में यथाविहित अनुरूप संलग्न कर सकता है/सकते है।

प्रपत्र IV

(देखें नियम 43 और नियम 44)

(क) धारा 45 की उपधारा (1) के अधीन अधिकारी द्वारा उपस्थिति की जारी किए जाने वाले नोटिस का प्रारूप

(आदेशन का शीर्षक)

सेवा में

नाम

पता

यतोकि———— (आदेशक का नाम) ने भारतीय संहिता, 2023 के अधीन मुझे उपर्युक्त आदेशन किया है, अतः आपको एतद्वारा यह सचेत किया जाता है कि यदि आप व्यक्तिगत रूप से या पूर्णतः प्राधिकृत प्रतिनिधि के माध्यम से उपस्थ होने में विफल रहते हैं, तथा आदेशन में वर्णित दावे अथवा आपके द्वारा या आपकी ओर से प्राधिकृत व्यक्ति द्वारा दिए जाने अपेक्षित हैं तो————20———— को दिन पूर्वाह्न/अपराह्न को ऐसे प्रश्न पर सुनवाई होने में सक्षम हो या आदेशन में दावे का उत्तर देने में सक्षम होने संबंधित प्रयोजन होने हेतु निर्दिष्ट दिन आदेशन के अंतिम निपटान के लिए नियत है, अतः आपको उस दिन अपने समक्ष में सभी साक्ष्य जिसको साक्ष्य तथा सभी दस्तावेज जिन पर आप अपेक्षित हैं, को प्रस्तुत करने के लिए तैयार रहना चाहिए।

इस बात का ध्यान रखा जाए कि उक्त अधिसूचित दिनांक को आपके उपस्थित रहने में असफल रहने पर, आदेशन पर विचार किया जाएगा तथा आपकी अनुपस्थिति में ही निपटा दिया जाएगा।

दिनांक———

अधिकारी के मुद्रा के साथ हस्ताक्षर

(ख) धारा 40 की उपधारा (1) के अधीन अधीनस्थ अधिकारी द्वारा पक्षकारान को जारी किए जाने वाले नोटिस का प्रारूप

(अधीक्षण का शीर्षक)

सेवा में

पक्ष

पक्ष

इस बात का संज्ञान लें कि भारतीय संहिता 2023 की धारा 40 के अधीन एक अपील (जिसकी प्रति संलग्न है) इस अधीनस्थ अधिकारी के समक्ष———— (अपील करने वाले का नाम) द्वारा प्रस्तुत की गई है, तथा अधीनस्थ अधिकारी द्वारा इस अपील की सुनवाई हेतु————20 के ———— का ———— दिन—— निर्धारित किया गया है।

यदि आप व्यक्तिगत रूप से उपस्थित नहीं होते हैं या इस अपील में अपनी ओर से बचाव करने के लिए पूर्ण रूप से अधिकृत प्रतिनिधि उपस्थित नहीं होता है, तो आपकी अनुपस्थिति में इस अपील पर सुनवाई की जाएगी तथा निर्णय दिया जाएगा।

दिनांक————

अधिकारी के मुहर के साथ हस्ताक्षर

प्रपत्र–V
(नियम 44 देखें)

भारतीय संहिता, 2019 के अधीन अपील प्राधिकारी के समक्ष भारतीय संहिता 2019 की धारा 49 (1) के अधीन अपील

क ख ग
पक्ष ..... अपीलकर्ता

बनाम

घ ङ च
पक्ष ..... प्रतिवादी

अपील का ब्यौरा :

1. उस आदेश का विवरण जिसके विरुद्ध अपील की गई है–
   संख्या और तारीख :–
   प्राधिकारी जिसने प्रकरणगत आदेश जारी किया है :
   प्रदान की गई राशि :
   प्रदान किया गया मुआवजा, यदि कोई हो :

2. मामले के तथ्य :–
   (क्रमागत तथ्यों का कालक्रमानुसार एक संक्षिप्त विवरण दें, जहां तक संभव हो प्रत्येक प्रस्तर में एक भाग मामले अथवा तथ्य का उल्लेख किया जाए)

3. अपील के आधार :

4. ऐसे मामले जिन्हें पहले दर्ज नहीं किया गया अथवा जो किसी अन्य न्यायालय अथवा किसी अपील प्राधिकारी के पास लंबित न हो।

   अपीलकर्ता आगे यह घोषणा करता है कि उसने इस मामले के सम्बन्ध में जिसमें यह अपील की गई है, पहले कोई अपील, रिट याचिका अथवा सूट किसी न्यायालय अथवा किसी अन्य प्राधिकारी के समक्ष दायर नहीं किया है और न ही ऐसी कोई अपील, रिट याचिका या वाद उसमें से किसी के पास लंबित है।

5. मांगी गई राहत ऊपर उल्लिखित तथ्यों को ध्यान में रखते हुए अपीलकर्ता निम्नलिखित राहत प्रदान करने का अनुरोध करता है।

(नीचे मांगी गई राहत (तों) का उल्लेख करें)

6. अनुलग्नकों की सूची
   1.
   2.
   3.

.....

तारीख :
स्थान

अपीलकर्ता के हस्ताक्षर

कार्यालय उपयोग के लिए .....
दायर करने की तारीख
अथवा
डाक द्वारा प्राप्त करने की तारीख
पंजीकरण संख्याप्राधिकृत हस्ताक्षरकर्ता

प्रपत्र–VI

(नियम 45 देखें)

कर्मचारी रजिस्टर

स्थापन का नाम.....। नियोक्ता का नाम.....।

स्थायी का भाग.....। नियोक्ता पैन / टैन.....।

श्रम पहचान संख्या (एलआईएन).....।

क्रम संख्या	कर्मचारी संख्या	पद	उपपद	ग्रेड	पिता / पति का नाम	जन्म तिथि	राष्ट्रीयता	शैक्षणिक अर्हता	कार्य ग्रहण की तारीख	पदनाम	श्रेणी (स्थायी / एकमुश्त)*	प्रेषण का प्रकार
1	2	3	4	5	6	7	8	9	10	11	12	13

नियोजन संख्या	मुहर	पैन	ईपीएफओ सदस्य संख्या	अवधि	ईएसआई सदस्य संख्या	ईएन	ईएन अवधि (अवधि/एकमुश्त)	पारिश्रमिक	अवधि पूर्ण
14	15	16	17	18	19	20	21	22	23

पेशा पुस्तिका संख्या	कंपनी की तारीख	कंपनी का नाम	पहचान चिह्न	नोटरी	स्थापन हस्ताक्षर / अधूरे का विवरण	टिप्पणियां
24	25	26	27	28	29	30

*(अति कुशल / कुशल / अर्धकुशल / अकुशल)

प्रपत्र–VII
(नियम 46 देखें)

वेतन पर्ची

जारी करने की तारीख

स्थापन का नाम_____पता_____अवधि_____

1. कर्मचारी का नाम :
2. पिता/पति/पत्नी का नाम :
3. पदनाम :
4. मुख्यालय :
5. बैंक खाता सं. :
6. वेतन अवधि :
7. देय वेतन के दर : (क) मूल (ख) महंगाई भत्ता (ग) अन्य भत्ते
8. कुल उपस्थिति/किए गए कार्य की मात्रा :
9. अतिरिक्त वेतन :
10. देय सकल वेतन :
11. कुल कटौती : (क) भविष्य निधि (ख) बीएसआई (ग) अन्य
12. भुगतान किया गया शुद्ध वेतन :

नियोक्ता/वेतन प्रभारी का हस्ताक्षर

प्रपत्र–VIII
(नियम 48 देखें)

अपराध के शमन के लिये धारा 58 की उपधारा (a) के अधीन आवेदन

1. आवेदक का नाम :
2. पिता/पति–पत्नी का नाम :
3. आवेदक का पता :
4. अपराध का विवरण :
5. संहिता की धारा जिसके अधीन अपराध किया गया है
6. इस संहिता के अधीन अपराध के लिये प्रदान किया गया अधिकतम जुर्माना
7. क्या आवेदक के विरुद्ध कोई अभियोजन लम्बित है या नहीं
8. क्या यह अपराध प्रथम अपराध है या आवेदक ने इस अपराध से पहले कोई अन्य अपराध किया था। यदि हाँ, तो, पहले अपराध का पूर्ण विवरण दें।
9. कोई अन्य सूचना जो आवेदक प्रदान करना चाहता है

दिनांक

आवेदक
(नाम और हस्ताक्षर)

अनुसूची "क"
(नियम 4(3) देखें)

क्रम सं०	अकुशल
1	बेलदार,
2	ग्वाला,
3	खरवाहा,
4	क्लीनर (मोटर शेड, ट्रैक्टर, पशु–अस्पताल, एम.टी.),
5	चारा एकत्रित करना,
6	क्रेचरी धुलाई,
7	मजदूर (बागवान, क्रेचरी में फूस के ढेर लगाना, सिंचाई, गोबर के ढेर लगाना, खूप दौड़ने का कार्य रासन कार्य स्टोर, मलेरिया–दौरी, एन०आर०),
8	चालक (ट्रक्टर, बैल, ऊँट, गधा),
9	ड्रेसर,
10	चालक (बैल, खच्चर),
11	गड़रिया,
12	डेयरी कामगार,
13	स्टोर मजदूर,
14	वाहक(मलवा),
15	लोड़ना (दमली औजारी के इस्तेमाल से),
16	हैल्पर,
17	संदेशवाहक (कार्यालय),
18	माली,
19	साईस,
20	फूस बीनने और ले जाने वाला,
21	स्वीपर,
22	पत्थर तोलने और ले जाने वाला,
23	तुलाईकार (ट्रक्टर पल्ली),
24	पानी वाला,
25	साईस,
26	ट्राली पैन,
27	दाल्य वर्मी,
28	चाहेदार,
29	शाकेदी करने वाला,
30	लकड़हारा,
31	लकड़हारा (मजी),
32	बोरीमैन,
33	कोयला वर्मी,
34	कंडेनसर,
35	परिचालक,
36	घास काटने वाला,
37	मुखड़ जमादार,

38	कंडेन्सर परिचालक,
39	शन्टर्स,
40	टर्नर
41	बजरी पीसने वाला,
42	बुनने वाली महिला,
43	वेल्ड–महिला,
44	वेल्ड कर्मी,
45	वीट वैन,
46	बकेट वैन,
47	श्रमिक (बीमलर, पशु आहार, खेती, सामान्य घर बनाना–उसारना, बंडिंग, कार्टिंग–फर्टिलाईजर, हार्वेस्टिंग, डिबिंग वीज–अंकुरण, बीज बोना, छपाई, छप्पाईगण, खरपतवार की छंटाई),
48	खलीफर (क्रेन, ट्रक, सड़क के गड्ढे के लिये सुरक्षात्मक कीचला),
49	खलासी,
50	खलासन (पुल),
51	खलक (जल),
52	चौकीदार,
53	कंक्रीट (क्षार से मिलाने वाला),
54	दफादार,
55	धारक (बैल, छैंट, गधा, खच्चर)
56	धक्का वैन,
57	धक्का वैन (आयट ट्रेन),
58	धक्कीनी पर काम न करने वाला खलासी,
59	पैगवैन,
60	पेटिगवैन (स्थायी मार्ग),
61	हैंडर वैन, जम्पर वैन,
62	कमीन (महिला कामगार),
63	खलासी,
64	मैसिन,
65	मोपलाह,
66	पटौग रोड,
67	रोलर सर्वेक्षण,
68	श्रमिक (वगीचा),
69	मजदूर,
70	छिद्र काटने वाला,
71	लॉरी प्रशिक्षु
72	पैट्रोल वैन,
73	सार्वर,
74	सिग्नल वैन,
75	स्ट्राईकर,
76	वेल्ड निर्यातक,
77	वर्कीगर,
78	ड्रेवर/ड्रैविंग मजदूर,
79	लोडर,

80 मजदूर (पुरुष/महिला),
81 संदेशवाहक (पुरुष/महिला),
82 टेम्पर
83 रखवाल (कॉपर, डोलाइट और वैक्साइट खानों के अलावा जहाँ यह अधिसूचित है),
84 वर्गीकृत चपरासी/चपरासी (बॉक्साइट खानों के अलावा),
85 स्वीपर (पुरुष/महिला),
86 संपादक,
87 नंबर टेकर,
88 ट्रॉली ट्राईपर,
89 वाटर कैरियर,
90 वृक्ष कटर,
91 सर्वेक्षण खलासी,
92 पेटमैन,
93 कंक्रीट (हाथ से मिलाने वाला)
94 शिफ्ट्डन मंजदूर,
95 सीम्समैन,
96 वेलदार/वेलदार (कैंटीन),
97 कुली,
98 चपरासी,
99 एसोइये का सहायक,
100 ऑफिस बॉय,
101 खदान कारीगर,
102 पौधे बनाने वाला,
103 अंडर ग्राउंड अपसारक,
104 अपशिष्ट अपसारक मजदूर,
105 उठाने वाला,
106 खानपान श्रमिक,
107 खोदने वाला,
108 कसाई,
109 परिचारक,
110 लोडर सहायक,
111 लकड़ी लोडर,
112 लकड़हारा,
113 राइडर,
114 घुमिवाल मुकद्दम,
115 स्क्रेपर (मोपलाह गैंग),
116 टील बॉय,
117 टाईल,
118 लादने और उतारने में नियोजित व्यक्ति,
119. पैकर
120 किसी भी नाम से पुकारे जाने वाले अकुशल प्रकृति के स्वीपिंग और क्लीनिंग तथा अन्य कर्मों में नियोजित व्यक्ति।

क्रम सं०	अर्हकुशल
1	सहायक (चौकीदार),
2	परिचालक (ट्रेन–कण्डक्टिंग लाईन्स, चौकीदार, चाय वेटर, होस्टल, सुरक्षा स्टॉफ, अग्रज मेलक, क्लर्क, सीमान
3	आसवन, अड्डा स्टॉफ,
4	सहायक पुस्तपाल,
5	परिचालक,
6	सिलैक्ट,
7	आन्धर
8	पुलमैन,
9	वटलैन,
10	बोडमैन,
11	पीपी,
12	रोलीडर,
13	टकारी,
14	डिलीवरीमैन,
15	धोबी,
16	ड्रेसर,
17	फायरमैन,
18	ग्यास,
19	हैण्डमैन,
20	हैल्पर (सुधार),
21	जण्डहार (एटेण्ड),
22	जमादार,
23	खलासी,
24	माली कॉपर,
25	पेंट/पिंटर,
26	मजदूर (सिलेक्ट),
27	गलबन्द,
28	ओयलमैन,
29	हल वाला,
30	पीटकर्ता,
31	परीक्षक,
32	छप्पर,
33	खलमैन,
34	खलमैन (प्रशिक्षु),
35	हिप बोकडे लगाने वाला वायरमैन,
36	एसोइया,
37	कैन्डी,
38	प्रसव,
39	डाटी कामगार,
40	हैल्पर (लीको ड्रेन/टूल),
41	धोबी (बोटमैन),

42 बेल्टवाला
43 मुख्यालय (सार्वजनिक मुख्यालय घालक खान विनियम, 1961 के अधीन खानपटा प्रचालन क्षेत्र के लिए)
44 लिखित (मुख्य के साथ),
45 लीटमैन (मुख्य),
46 लेकर,
47 लेबर (अकुशल, कारीगर, प्रशिक्षी कारीगर, कारीगर मास्टर),
48 लैनयार्ड,
49 वेनमैन (मुख्य),
50 शारवाई मुन्शी,
51 शैकर,
52 श्रीकर,
53 सीसीमैन,
54 सहायक,
55 सिलर,
56 सुपरवाइजर (खनन),
57 सर्वेक्षक,
58 फोरमैन,
59 फायरमैन (ईंट भट्टा, बायर पीच रोलर),
60 ब्लास्टर,
61 ब्लास्टी,
62 ब्लास्टमैन,
63 ब्लेटर,
64 ब्लैजर-राड-फायरमैन,
65 बाइन्डर,
66 बैल्समैन,
67 बैल्पर (आसीएस),
68 बैल्पर (आरावकास),
69 बोरमैन,
70 मजदूरी (युग्म पर्चिकाएं, रिटर्नी-सीएजाइ पीए, पर्चियाँ),
71 मशिक (खनन-काटना),
72 मास्कर,
73 मजदी (मुख्य),
74 मटीकर्स और बीजलमैन,
75 मूसकमैन (आवश्य व्यवसाय),
76 टिम्बरमैन,
77 टूलमैन (ड्रिल मेकर),
78 टिप्पर (सहायक अर्थ-मूवर्स),
79 ट्रान्सपोर्ट (अर्थ मूवर्स),
80 वेट (मास्टर),
81 वेल्डर,
82 वेलमैन (लोकोमोटिव),
83 यशालभी पीडएन्डमैन्स
84 खनिक,

85	अप्रशिक्षित पेंटर/सहायक पेंटर/पार्टिकल बुलडोजर चालक खान विनियम, 1961 के अधीन स्थापना उपचार वस्त्र के लिए पेंटर,
86	पेंटर/रंगरेज,
87	पेंशन (खनिज उपकरणों के इस्तेमाल से),
88	पिंजु-सदन अध्यक्ष/अध्यक्ष/अप्रशिक्षित पिंजु-सदन परिचालक,
89	प्लास्टर ट्रिलर,
90	प्लेसमेन/प्लेसर,
91	पोलीदार/पोलमैन,
92	प्लैम्बर (वाल्वमिस्त्री, पाइपर्स, सुधार),
93	टिप-हेल्पर,
94	टोपाज,
95	ट्रोपाजर (पत्थर पाथर मंजक),
96	ट्रिली अम्बदार,
97	ट्रिमर्मेन,
98	वाल्विमेकि-सहायक,
99	सहायक वायरमैन,
100	वेल्डर,
101	वेल्डर (तुरपाल, टारपाल, पाइपर्स),
102	व्हिल ड्राईवर ऑपरेटर/चक्र परीक्षक,
103	फिटर,
104	वैगन,
105	मजदूर वाल्विमेकि,
106	स्थायी कर्मी,
107	फन्स चालक, टर्नर,
108	मजदूर (ड्रेसी-ग्रेड),
109	यार्डमैन,
110	लिफ्टी (युवक),
111	युलाकश,
112	रदि-गार्ड,
113	रनर (पोस्ट डाक),
114	लीवल मैन,
115	खदान परिचालक,
116	खदान कर्मी,
117	सटीमैन,
118	सटीकर,
119	सैपर,
120	फन्स परिचालक,
121	शिकर,
122	शैकमैन,
123	शाफ्टसिंकर गैंग,
124	प्रयोगशाला सहायक,
125	सीइन्टरमैन सेनजन्मी,
126	पत्थर खान तथा अर्ध-खुदान इकाई की किसी भी नाम से पुकारे जाने वाली श्रेणियाँ

क्रमांक	ट्रेडचे नाव
1	शिल्पकार (श्रेणी–II,III, IV).
2	सुतार.
3	सुतार (श्रेणी–II).
4	बॉयलरमॅन.
5	बढई.
6	बढई (श्रेणी–II) बढई–सह–सुतार.
7	चौकीदार.
8	चालक.
9	चालक (ट्रॅक्टर ड्रायव्हर, एच.टी.गॉटर).
10	इलेक्ट्रीशियन.
11	फिटर.
12	राजमिस्त्री.
13	राजमिस्त्री (श्रेणी–II).
14	मशीन ड्रेसर (श्रेणी–II, III, IV).
15	मशीनरमॅन.
16	मेट ग्रेड 1 (सर्विस).
17	मेकॅनिक.
18	मिल्क राईटर.
19	मिस्त्री (सुतार).
20	मॉडलर.
21	मस्टर वाइटर.
22	प्रचालक (ट्रक्टर).
23	पेन्टर.
24	पलराज.
25	पैलवार.
26	पैकिंगवाला.
27	प्लंबरमॅन.
28	फिटर.
29	फिटर–सह–यंत्रचालक.
30	रसोइया (सुपर).
31	टिलर.
32	टिलर (कुळी खोदणा).
33	चालक (लोको / ट्रक).
34	इलेक्ट्रीशियन (तंत्रज्ञ).
35	मेकॅनिक (ट्रक्टर–पेटर).
36	विजरी (रटेल, ट्रक्टर्स टेलीफोन).
37	वेल्टर वीडर.
38	वीडम अवजोकणकर्ता नवधानी.
39	प्रचालक (बिल्डिंग सेंटर, सिमेन्ट पॉरिडोक्षण, खनीज सेल्क, फन्क्शनर, प्रेस, ऑरिक, डीजल इंजिन.

ओपर, ड्रेगलिंग ऑपर, ऊत्खनक, पार्ड लिफ्ट ऑपरेटर, ड्रेजर, पोल हैमर एवं पेवमेंट ब्रेकर लोडर पम्प, पाइल ड्राइविंग, स्क्रीपर, स्क्रीनिंग संयंत्र, लोपल, ट्रैक्टर, ग्राईडेटर, वेट-मेकर, रेलवे पार्ट, मरम्मत (फिटर))।

40 शार्पर / स्लीटर,
41 स्टेपर (असिस्टेंट) स्टेशन मास्टर,
42 पर्यवेक्षक (सिल्क),
43 ट्रैकमन मैन,
44 ट्रैन जॉचकर्ता,
45 टर्नर / मिलर,
46 टायरमकर्मीनाइजर,
47 आरक्षण,
48 आरक्षण (क्यान ग्रेड श्रेणी–II सेवा),
49 सेरंगपाइल,
50 बॉयलर सहित ड्राइविंग पैनट्रम्स,
51 डीमसमैन,
52 पानी प्रभारी,
53 स्टेशनमैन,
54 स्लेयरमैन (लड़का),
55 पत्थर काटनेवाला,
56 पत्थर काटनेवाला (क्यान ग्रेड गेड IIश्रेणी–II),
57 स्टोन सिक्लर,
58 स्टोन सिक्लर (श्रेणी–II),
59 स्टोन क्लासटर,
60 उप–पर्यवेक्षक (निर्माण),
61 पर्यवेक्षक,
62 पम्प चालक,
63 पम्प चालक (क्यान ग्रेड), ग्रेड IIऔर III श्रेणी–II),
64 पम्प चालक (क्यान ग्रेड, पी.ई. चालक),
65 पम्पमैन,
66 पम्पमैन (राइमपक),
67 नलराज,
68 पोलीक्षर (सेंड के साथ) ग्रेड–II]
69 ग्राम मैन,
70 सिलिट कटर (सहायक),
71 सिविटर,
72 सिविटर (कटर),
73 शाइक निरीक्षक गेड II, रेलवे प्लेट लेयर,
74 रोड मैन्डर,
75 हॉलेज प्रधानक,
76 औषधालय परिचारक,
77 पर्वत सपार,
78 अक्षक फटर ग्रेड–I
79 ड्रेसर ग्रेड–IIअक्षक,

80	फर्नीचर कारपेन्टर,
81	कैनवस खानों में जमादार,
82	कन्वेयर चालक,
83	क्रम मैनें चालक ब्रेक, अंडर खानों में ड्राइवर,
84	फर्नीचर (सहायक),
85	दर्जी,
86	दर्जी (शिक्षक),
87	ड्रांसप्रेयर,
88	ड्राय मैन,
89	ड्राइन मैन,
90	ड्राइवर श्रेणी–II
91	ढीवर (कर्ल, ग्रेड),
92	ड्राईवर (वर्गन ग्रेड),
93	ड्रिग–हिमर,
94	ड्रिल सिक्ष (वर्गन ग्रेड, ग्रेड IIऔर IIश्रेणी–II),
95	ड्रैल सिन्कर,
96	सहायक मिस्त्री,
97	आर्मेचर राइन्डर ग्रेड IIऔर III,
98	भण्डारी,
99	सुधार,
100	सुधार (वर्गन ग्रेड, ग्रेड II, IIIऔर III),
101	बॉयलरमैन,
102	बॉयलरमैन ग्रेड IIऔर III,
103	फोरमैन ग्रेड II,
104	फार्म (सहायक),
105	ब्रिकलेयर,
106	ब्रिकलेयर (वर्गन ग्रेड II),
107	प्लास्टर,
108	चौकीदार (पुरुष),
109	सुरक्षा गार्ड (महिला),
110	बढ़ई,
111	बढ़ई (वर्गन ग्रेड, ग्रेड IIऔर IIIऔरIII सहायक),
112	वीआईएम्पलमार्ग,
113	वेल्डिंगेट करने वाला,
114	वेल्डमैन,
115	वीलरेटेकर,
116	वटर मेकर चार्जमैन, (द्वितीय श्रेणी और तृतीय श्रेणी बड़ी सामान्य)
117	वेकन्दर (अनिष्ठ),
118	विक निर्माता,
119	विक गैन (अनिष्ठ) कंक्रीट विब्रेशनवेर मिक्सर,
120	कंक्रीट मिक्सिंग प्रचालक,
121	कोयी,
122	यारेक्वेकर,

123	चालक,
124	चालक मोटर वाहन,
125	मोटर वाहन चालक ग्रेड,
126	मोटरलॉरी,
127	मोटर लॉरी ग्रेड॥,
128	लॉरी ग्रेड II,
129	डीजल इंजन,
130	डीजल इंजन ग्रेड II,
131	मैकेनिकल रोड रोलर आईसी और सीमेंट मिक्सर आदि,
132	रोड रोलर,
133	रोड रोलर ड्राईवर,
134	चालक इंजन स्टेटिक स्टोन क्रेशर), ट्रैक्टर बुलडोजर, स्टीम रोड रोलर, मोटर पंप, मैकेनिकल सहायक, रोडरोलर, मैकेनिकल, स्टीम, क्रेन, बुल डोजर, मैकेनिकल, सहित ट्रैक्टर, परिवहन, इंजन स्टेटिक और रोडरोलर बीएलर परिचर,
135	इंजन परिचालक (स्टोन क्रेशर मैकेनिकल),
136	फिटर्नेचर, इलेक्ट्रीशियन, इलेक्ट्रीकियन ग्रेड IIश्रेणी IIऔर श्रेणी III,
137	फिटर,
138	फिटर चालन ग्रेड, ग्रेड IIऔर IIIऔर IIIसहायक पाईप श्रेणी IIIवाइप लाइन बंद करने वाले स्टाफ,
139	पुनर्वीकरण स्वच-मैकेनिक और प्लम्बर,
140	धवाणी (प्रमुख),
141	ग्लेजियर (शीशा जड़ने वाला),
142	ग्लास्टिंग के लिये होल ड्रिलर,
143	ग्रोइनर,
144	ग्रोइनर (कैचर, कंचल ग्रेड II),
145	हाईम पैन (ग्रेड II, III चल्म रनपाल/मिल्म रनपाल),
146	राजमिस्त्री,
147	राजमिस्त्री (चालन ग्रेड, ग्रेड II, III और श्रेणीपूर्व 'ब' मिस्त्री),
148	स्टोन (स्टोन क्लास IIईट वर्क, स्टोन वर्क),
149	ईंट पत्त,
150	टाईल बिछाना,
151	बी.आई.एम. मुखदम प्रमुख,
152	पत्थर काटना,
153	साधारण मैकेनिक,
154	मैकेनिक,
155	मैकेनिक (श्रेणी II, एयर कंडीशनिंग, एयर कंडीशनिंग ग्रेड III)
156	डीजल ग्रेड II
157	रोड रोलर ग्रेड II
158	सहायक (रेडियो)
159	राज मिस्त्री (घराती),
160	मिस्त्री,
161	मिस्त्री ग्रेड II, एयर कंडीशनिंग ग्रेड II, पी ये, वर्क, संतरा वाली),
162	राज मिस्त्री श्रेणी क,
163	गाइडफर,

164 माउल्डर (ईंट, टाइल),
165 पेंटर,
166 पेंटर (वाहन ग्रेड II, और III, श्रेणी III, श्रेणी II, सहायक स्प्रेटर और पॉलिशर, पॉलिशर एवं),
167 लेपक,
168 लेपक (तकनिकी ग्रेड II)|
169 प्लम्बर,
170 प्लम्बर (वाहन ग्रेड, श्रेणी II, सहायक स्प्रेटर और पॉलिशर एवं),
171 लेपक,
172 प्लास्टर (तकनिकी ग्रेड II),
173 प्लम्बर (वाहन ग्रेड, श्रेणी–II, सहायक फीटर, चूनिपर, मिस्त्री ग्रेड II),
174 पाइपलाइन मिस्त्री,
175 प्लम्बर–सह–फिटर,
176 पॉलिशर,
177 पॉलिशर (टंकी),
178 सिलवर स्मेथ मण्,
179 भूमिज्ञानी,
180 ट्रेनर्स,
181 टर्नर,
182 चदरी लगाने वाला,
183 अपोलोस्टर ग्रेड II और III,
184 पेंटर ग्रेड श्रेणी II,
185 लकड़हारा,
186 लकड़हारा वाहन ग्रेड,
187 लकड़हारा श्रेणी II,
188 बार्ड सिरकार,
189 वेल्डर,
190 एक्सटिनेड होसेज परिचालक,
191 ऑटो इलेक्ट्रीशियन,
192 पेंटर,
193 लोहार,
194 दर्जी,
195 फोरिंग इचालक,
196 प्लास्टर–शीट / फाईबर,
197 ड्राईवर,
198 मुख्य रसोइया,
199 फार्मेसिस्ट,
200 कवाई,
201 कंक्रीट मिक्सर इचालक,
202 कंपेक्टर परिचर,
203 एयर कंप्रेसर परिचर,
204 टैक्टर चालक,
205 वाहन चालक,
206 लेपिस्ट और सहायक / केमिस्ट,

207 रूक–ऑपरेशियर (अयोग्य),
208 ट्रिमर,
209 हैवीहोल ट्रिमर,
210 ट्रिल मैकेनिक,
211 ड्राइवर ऑटो,
212 बिजली मिस्त्री,
213 बयार तौस संचालक सहायक फोरमैन,
214 फोरमैन,
215 फिटर,
216 फेरी चालक,
217 जारीकर्ता लोको,
218 सुपर फोरमैन,
219 लहरा संचालक,
220 आईएमसीई चालक,
221 चालक,
222 लोको ड्राईवर,
223 लोडर प्रचालक,
224 सारंगमैन,
225 मैकेनिक पालिशिस्ट,
226 राजमिस्त्री,
227 प्रसाधिका,
228 टिन से गढ़नेवाला,
229 सुपरवाइजर मैकेनिक,
230 केवल जिग्सम, बैसाइटस और शैल फॉस्फेट से पंप परिचर,
231 पंप ऑपरेटर/चालक,
232 खनिज खान विनियम, 1961 के अधीन दोष्पक्ष प्रमाण पत्र के साथ खनन मेट,
233 मिस्त्री,
234 कुशल मजदूर,
235 टर्नर,
236 वरिष्ठ मैकेनिक,
237 ब्लास्टमैन,
238 फार्मेसिक,
239 ड्राफ्टस मैन,
240 वायरमैन,
241 टिम्बर गैग/टिम्बर मिस्त्री इलैक्ट्रिशिन
242 स्टोन क्रेशर प्रचालक,
243 क्रशर प्रचालक,
244 चार्जर,
245 वैल्डर,
246 ऑपरेटर,
247 कार्य मिस्त्री,
248 इंजन चालक,
249 खनन इंजन चालक ग्रेड II,

250	इंजनमैन,
251	खलासी,
252	कटर,
253	रिगिंग इंजन चालक ग्रेड–II,
254	सुरक्षा गार्ड(अशस्त्र)/मुख्य चौकीदार,
255	फायरमैन प्रचालक,
256	डिम्पली लोडर प्रचालक,
257	फ्लूरल फर्नेसमैन,
258	कोलर संचालक,
259	कंप्रेसर ड्राइवर,
260	क्रेन्स ट्रैक्टर ऑपरेटर सहित,
261	बॉयलर मैन (प्रमाण पत्र सहित),
262	मशीनरी परिचर,
263	एक्सकेवेशन मैकेनिक,
264	क्रेन्स परिचर केवल गैंगवाइट, पैनलीज और पीक पहुन्ना में,
265	फायरमैन ऑपरेटर,
266	पावर और पम्पिंग हाउस प्रचालक,
267	खान ग्रेड–I,
268	ट्रैक्टर ऑपरेटर 80, ट्रक रिपेयर 81, खलासी सिग्नी,
269	स्टेशनरी इंजन परिचर जेनरेटर ऑपरेटर 84 लोडिंग कोलमैन,
270	कोलहल मैकेनिक,
271	फेरी क्रिटर एड–अप्पाह,
272	फ्लाइट रीगिंग और क्लस्टर रीगिंग मैन,
273	ऑपरेटर न्यूमेटिक उपकरण, ऑपरेटर (फिटर्स),
274	कोलमैन,
275	कोयर,
276	पावरमैन (ग्रेड II और III मैकेनिकल इलेक्ट्रिकल),
277	हवाइट वाशर,
278	फ्लाइट (सीनियर चक्कन ग्रेड, द्वितीय श्रेणी)
279	फायरमैन,
280	वेल्डर (श्रेणी II क्लिन कार्ड),
281	वेल्डर मैन,
282	मुक्कलास (खनिक खान विनियम, 1961 के अधीन वैध प्रमाण पत्र),
283	सुरक्षा गार्ड (अशस्त्र) और अन्य कर्मी जो भी नाम से जो कुशल प्रकृति के है,
284	सहायक (क्लर्क),
285	सहायक (क्लिनर),
286	पुस्तकालय अध्यक्ष,
287	टेलेक्स या टेलीफोन ऑपरेटर,
288	हिंदी अनुवादक,
289	टेलेक्स या टेलीफोन ऑपरेटर,
290	हिन्दी अनुवादक,
291	लेखा लिपिक,
292	लिपिक,

293	कम्प्यूटर/डाटा/एंट्री ऑपरेटर,
294	टेलीफोन ऑपरेटर, टाईपिस्ट,
295	स्टोर परिचर,
296	एम.टी.सिविक,
297	मुंशी (नेट्टिकुलेट, फैर नेट्टिकुलेट),
298	स्टोर लिपिक (नेट्टिकुलेट, फैर नेट्टिकुलेट),
299	स्टोरकीपर,
300	स्टोरकीपर ग्रेड II/ग्रेड II (नेट्टिकुलेट),
301	टाइम कीपर,
302	टाईम कीपर (नेट्टिकुलेट–नेट्टिकुलेट नॉन),
303	बुक कीपर,
304	कार्य मुंशी,
305	कार्य मुंशी (अटैचमेन्ट),
306	पत्रिका लिपिक,
307	टैलर लिपिक,
308	दुकान लिपिक,
309	टैली लिपिक
310	स्टोर जारीकर्ता,
311	औजार धारक,
312	कम्प्यूटर/डेटा एंट्री ऑपरेटर,
313	रिकार्ड धारक,
314	अभीलख,
315	फाइल लिपिक,
316	रजिस्टर कीपर,
317	टाइम लिपिक,
318	लिपिक,
319	मुंशी,
320	टाइपिस्ट और अन्य श्रेणी जिस भी नाम से पुकारते है जो लिपिक प्रकृति के है।

क्रमांक	आधुनिक कुशल
1	आर्टिफिशियल श्रेणी I,
2	लोहार श्रेणी I,
3	बढई श्रेणी I,
4	मशीन,
5	हथत श्रेणी I,
6	राजमिस्त्री श्रेणी I,
7	मैकेनिक (वरिष्ठ),
8	पेंटर (ग्रेड I श्रेणी I सही) प्लास्टर (राजमिस्त्री) श्रेणी–I,
9	प्लम्बर (मुख्य श्रेणी I),
10	मिस्त्री ग्रेड I,
11	पालिशर सही ग्रेड I,
12	लैब इंसपेक्टर ग्रेड I,

13	लकड़हारा श्रेणी I,
14	स्टोन कटर ग्रेड I,
15	स्टोन कटर श्रेणी I,
16	स्टोन सिलावर श्रेणी I,
17	स्टोन मेसन श्रेणी स I,
18	उप-ओवरसियर (कुशल),
19	टिलर श्रेणी I,
20	टिनस्मिथ ग्रेड I और श्रेणी I,
21	गद्दी लगाने वाला ग्रेड I,
22	वार्निश करने वाला श्रेणी I,
23	वेल्डर कम फिटर और एयर कंडीशनिंग मेकेनिक,
24	वेल्डर (गैस) श्रेणी I,
25	व्हाइट वीवर श्रेणी I,
26	वायरमैन ग्रेड I श्रेणी I,
27	लकड़हारा श्रेणी I,
28	यन्त्री (उपकरण) ग्रेड I,
29	प्रचालक (बिल्डिंग प्लांट ग्रेड I),
30	लीडर ग्रेड I,
31	पाइप ड्राइविंग ग्रेड I,
32	पंप ग्रेड,
33	स्क्रेपर ग्रेड I,
34	ग्रेडिंग प्लांट ग्रेड I,
35	पंप ग्रेड I,
36	स्क्रेपर ग्रेड1,
37	सुरक्षा गार्ड (सशस्त्र),
38	आर्मेचर विंडर ग्रेड1,
39	लोडार ग्रेड I और श्रेणी I,
40	बीयरलरमैन ग्रेड I,
41	बीयरलरमैन फोरमैन ग्रेड1,
42	ईंट परत श्रेणी I,
43	केबल जॉइनर ग्रेड I,
44	बढ़ई ग्रेड I और श्रेणी I,
45	सेली कटर और ऊकोलेटर,
46	चार्जमैन श्रेणी I,
47	ड्राईवर लॉरी ग्रेड I सीनियर (मेकर),
48	मोटर लॉरी ग्रेड I,
49	मोटर मेकेनिक श्रेणी I और डीजल इंजन ग्रेड1,
50	रोक रीलर ग्रेड1,
51	पंप कलस इलेक्ट्रीशियन ग्रेड I और श्रेणी I/ग्रेड1,
52	फिटर (ग्रेड I, श्रेणी I),
53	पाईप श्रेणी श्रेणी I (मुख्य),
54	फोरमैन (लड़ाकाक) लाईनमैन ग्रेड-I एजमिस्त्री (कुशल ग्रेड-I श्रेणी-I),
55	गरल रिंग,

56	मैकेनिक श्रेणी I और श्रेणी II,
57	मैकेनिक (डीजल ग्रेड I और रोड रोलर ग्रेड–I),
58	एंग्लरमैडिसनिंग ग्रेड I/श्रेणी I, मिस्त्री ग्रेड I,
59	मिस्त्री एंग्लरमैडिसनिंग ग्रेड–I,
60	ओवरसियर,
61	ओवरसियर (सीनियर और जूनियर),
62	ड्रेंगलाइन ग्रेड I,
63	ड्रिल ग्रेड I,
64	ड्रम्पर ग्रेड I,
65	खुदाई ग्रेड I,
66	फ्लड लिफ्ट ग्रेड I,
67	जेनरेटर ग्रेड I,
68	रिगर ग्रेड I,
69	रिगर ग्रेड II,
70	वार्पर सिटर ग्रेड/ I,
71	बकेट और ड्रेंगलाइन ट्रैक्टर ग्रेड I,
72	ट्रैक्टर्मैन खलासी I,
73	टर्नर फिटर ग्रेड/I,
74	कार्य सहायक ग्रेड I,
75	कंप्यूटर,
76	सर्वेयर,
77	डिग्रेन इंजन चालक,
78	ऑपरेटर (भारी मिट्टी उठाने वाली मैकेनिक और फुलडोजर),
79	मुख्य मिस्त्री,
80	स्टाफ नर्स डिप्लोमा धारक,
81	जैक हैमर के अतिरिक्त ड्रिल ऑपरेटर,
82	खोजकर्ता प्रमाण पत्र सहित विद्युत पर्यवेक्षक,
83	अंडरवाटर ब्लिस्ट बॉस,
84	मुख्य मैकेनिक,
85	योग्य और अनुभवी वेल्डर,
86	खनिज दूत मैकेनिक,
87	मैकेनिक/प्लांट ओपरेटर,
88	खनन पर्यवेक्षक,
89	व्यावसायिक प्रशिक्षण प्रशिक्षक/शिक्षक,
90	मुख्य इलेक्ट्रीशियन,
91	सेवा परीक्षक,
92	7 साल की सेवा वाले स्टेनो,
93	स्टोर प्रभारी,
94	शिफ्ट प्रभारी,
95	पर्यवेक्षक,
96	बीच और यार्ड के प्रभारी,
97	सुरक्षा गार्ड (सशस्त्र),
98	क्रेन ग्रेड I,

99	वीजल इंजन ड्रेक I,
100	डोजर ड्रेक I,
101	क्लीव शील ड्रेक I,
102	पंपेसर ड्रेक I,
103	ड्रेकर ड्रेक I,
104	ट्रैक्टर ड्रेक I,
105	माइकेटर ड्रेक I,
106	स्क्रीपिंग प्लांट ड्रेक I,
107	वेलमा ड्रेक्स,
108	फावडा और ड्रेगलाइन,
109	टावर पेलाकुलर ड्रेक I,
110	सिक्योरिटी गार्ड (लगातर) और अन्य सेवियो को जो भी काम से बुलाया जाता है जो आवधिक कुशल प्रकृति के है।

आज्ञा से,

डॉ० श्रीधर बाबू अद्दांकी,
सचिव।

In pursuance of the provision of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Notification No. **1115/VIII-1/2026-60(Labour)/2019,** Dehradun dated August 25, 2026 for general information:

No. 1115/VIII-1/2026-60(Labour)/2019
Dated Dehradun, August 25, 2026

NOTIFICATION

Whereas, under section 67 of the Code on Wages, 2019, the appropriate Government (State Government) is empowered to make rules by notification in the Official Gazette and subject to the condition of pre-publication under sub-section (1) of Section 67 of the said Code, for carrying out the provision of the said Code;

And whereas the proposed draft of the Uttarakhand Code on Wage Rules, 2026 was pre-published by the notification no. 329(1)/VIII-1/26-60(Labour)/2019, dated 17th March, 2026 of Labour Section, Uttarakhand Government, as required by sub-section (1) of Section 67 of the said Code;

And whereas the representations and objections of the general public and beneficiaries on the said draft have been considered by State Government;

Now, therefore, in exercise of the powers conferred by section 67 of the Code on Wages, 2019, the Governor is pleased to allow to make the following rules, namely:-

The Uttarakhand Code on Wages Rules, 2026

Chapter -I

Short title, extent and Commencement

1. (1) These Rules may be called the Uttarakhand Code on Wages Rules, 2026

(2) It shall extent to whole of Uttarakhand.

(3) It shall come into force from the date of publication in the Official Gazette.

Definitions

2. (1) In these rules unless the context otherwise requires,-

(a) **"Authority"** means Authority appointed by State Government under sub-section (1) of section 45;

(b) **"Appellate Authority"** means Appellate Authority appointed by Government under sub-section (1) of section 49;

(c) **"Appeal"** means appeal filed under sub section (1) of section 49;

(d) **"Board"** means the State Advisory Board constituted by State Government under sub-section (4) of section 42;

(e) **"Chairperson"** means Chairperson of the Board;

(f) **"Code"** means the Code on Wages, 2019 (Act 29 of 2019);

(g) **"Committee"** means committee appointed by State Government under clause (a) of sub-section (1) of section 8;

(h) **"day"** means period of 24 hours commencing from midnight;

(i) **"family"** means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:—

(a) a spouse;

(b) a minor legitimate or adopted child dependent upon the employee or an unorganised worker, as the case may be;

(c) a child who is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, and who is—

(i) receiving education, till he attains the age of twenty-one years; and

(ii) an unmarried daughter;

(d) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganized worker, as the case may be, so long as the infirmity continues;

(e) dependent parents (including father-in-law and mother-in-law of a woman employee), whose income from all sources does not exceed such income as may be prescribed by the State Government;

(f) in case the employee or an unorganised worker, as the case may be, is unmarried and his parents are not alive, a minor brother or sister wholly dependent upon the earnings of the Insured Person;

(j) **"form"** means form annexed in this rules;

(k) **"section"** means section of the Code on Wages, 2019;

(l) **"Inspector cum Facilitator"** means person appointed by State Government by notification under sub-section (1) of section 51;

(m) **"member"** means member of Board/ Committee/ sub-committee;

(n) **"geographical area"** means, the area notified as such by the State Government from time to time;

(o) **"population"** means the population which is determined in previous census and whose relevant data is published;

(p) **"Registered Trade Union"** means that trade union which is registered under the Trade Union Act, 1926 (Act 16 of 1926) or the Industrial Relations Code, 2020, as the case may be;

(q) **"State Government"** means State Government of Uttarakhand ;

(r) **"Schedule"** means schedule of this rules;

(s) **"un-skilled trade"** means that trade in which only operation experience is required and it does not involve any additional skill;

(t) **"semi-skilled trade"** means that trade in which performance requires skill acquired by experience on work and is likely to be used in supervision or guidance of skilled employee and it also include non- skilled trade;

(u) **"skilled trade"** means trade which requires performance skill and competency acquired through trading as a trainee in technical and trading institution or by experience on work which requires initiative and judgment in its performance;

(v) **"highly skilled trade"** means the trade which requires a particular degree of excellence in its performance and which requires competence acquired through professional trading experience or technical or vocational training over an adequate period and which also requires the employee to accept full responsibility for his opinion or decision involved in performance of such trade.

(2) The words and expressions used herein and not defined shall have the same meanings respectively assigned to them in the Code.

Chapter -2
Minimum Wages

Manner to calculate minimum rate of labour

3. (1) For the purpose of sub-section (5) of section 6, minimum wages shall be fixed on daily basis, while keeping in view the following criteria –

(a) a standard working class family includes, in addition to earning worker, his wife or her husband and two children, which is equivalent to three adult consumption units,

(b) total (net intake) consumption of 2700 calorie per consumption unit per day,

(c) 66 meter of cloth per standard working class family per year;

(d) residential rent expenditure which shall be 10 percent of food and cloth expenditure,

(e) fuel, electricity or other miscellaneous expenditure item shall be 20 percent of minimum wages,

(f) expenditure of children's education, medical requirement, entertainment and other incidental expenditure, shall be 25 percent of food and clothes expenditure,

(g) such other items and factors which State Advisory Board deems necessary;

(2) When one day wages rate are fixed then for fixing one hour rate such amount shall be divided by eight and to fix the rate of wages for a month it shall be multiplied by twenty six and in such division and multiplication half or more than half decimal shall be round off to next digit and decimal which is less than half shall be ignored. In case of a five day working week, the hourly rate of minimum wages so calculated shall be used to derive the minimum wages for the day.

(3) For the purpose of clause (b) of sub section (6) of section 6 for such category of workers engaged in the works where they tolerate extreme temperature or humidity, hazardous occupation or process or underground work shall be paid extra wages in addition to wages determined by State Government from time to time. Hazardous occupation and process shall be those as defined in Occupational Safety, Health and Working Conditions Code, 2020. In relation to determine the working condition in other related process and snow line, a committee shall be constituted, in which Labour Commissioner, Uttarakhand, officer nominated by Disaster Management Department, Additional Labour Commissioner Uttarakhand and Deputy Director, Factories Uttarakhand shall be included in which Labour Commissioner Uttarakhand shall be the Chairperson.

Criteria to fix rate minimum wages

4. (1) While fixing the minimum rates of wages under section 6, the State Government shall take into account the following:-

(i) geographical area,
(ii) experience in the area of employment, and
(iii) level of skill required for working under the categories of unskilled, semiskilled, skilled and highly skilled:

Provided that the State Government shall not fix minimum wages and allowances of State Government employees under this Code.

(2) The State Government, for the purpose of giving advice to State Government regarding skill categories, arduousness of work, hazardous occupations or processes and underground work and like other categories under section 6, shall constitute a technical committee which shall consist of following members-

(i)	Labour Commissioner, Uttarakhand	-	Chairperson
(ii)	Deputy/Joint Secretary, Labour Government Uttarakhand	-	Member
(iii)	Joint/Additional Labour Commissioner Uttarakhand	-	Member
(iv)	One representative skill development and enterprise department (not below the rank of Deputy Director)	-	Member
(v)	Two technical specialist in wages determination as nominated by State Government	-	Member
(vi)	Not more than two representative each of employer and trade union	-	Member

(3) State Government, on advice of technical committee referred in sub-rule (2) shall categorize the trade of employee in four categories, namely- non skilled, semi-skilled, skilled and highly skilled category by amending, deleting or adding any entry to the trade specified in Schedule 'A'.

(4) Technical committee referred in sub-rule (2) at the time of giving advice to State Government under sub- rule (3) as far as possible shall take into account the National classification of trade or the national skill qualification framework or any another similar framework being developed for the time being for identification of trade.

The interval for revision of dearness allowance

5. An effort shall be made to calculate the cost of subsistence allowance and the cash value of concession in respect of essential commodities at concessional rates once before 1st April and again before 1st October in every year for revising the dearness allowance payable to employs on minimum wages.

Matters and situation for purpose of clause (ii) of section 10

6. Save as otherwise provided in Standing Orders in force in any establishment under the Industrial Employment (Standing Orders) Act, 1946, or Industrial Relation Code, 2020 or any other law for the time being in force, no employee shall be entitled to receive wages for a full normal working day if failure to work is caused owing to justifiable lay-off resorted to by the employer.

Explanation- The expression "justifiable lay-off means a lay-off resorted to by an employer in the event of a fire, catastrophe, breakdown of machinery or stoppage of the power supply, epidemic, civil commotion, illegal strike, shortage of orders or any other trade reason, or other causes, whether of a like nature or not, beyond the control of the employer.

The work schedule for normal working day

7. (1) Under clause (a) of sub-section (1) of section 13-

(i) In any establishment/factory/Government establishment, no employee shall be compelled or permitted to work for more than ten hours in one day and 48 hours in a week and no worker shall be required to work for continuous five hours until he is given rest for more than half hour:

Provided that in case of work of urgent nature, with the prior approval of Inspector cum Facilitator, exemption in work hour or week rest may be given.

(ii) Any work exceeding ten hours or more in a day or more than 48 hours in any week shall be considered as an overtime and total number of overtime hours in three month duration shall not be more than one hundred forty four hours.

(2) In any establishment total number of hour of work in any shift including rest interval shall not be more than twelve hours.

(3) In case of employee employed in agriculture employment provision of sub rule (1) and (2) shall be subject to such modifications as determined by State Government from time to time.

Week day for rest

8. (1) Subject to provision of this rule, employee shall be given one day of rest (hereinafter referred as rest day) every week which shall generally be Sunday but employer may fix any other day as a rest day for any employee or employees:

Provided that in a six-day working week or less than six days working week, as the case may be, the remaining days of the week shall be paid rest days for such employees:

Provided further an employee shall be entitled for the rest days under this sub-rule if he has worked under the same employer in case of six-day week for a continuous period of not less than six days and in case of less than six day working week for a continuous period of the stipulated number of working days as the case may be:

Provided also that information of fixed rest day and change in rest day afterwards shall be given to employee before change come into effect by displaying information at the place specified by Inspector cum Facilitator in this regard, in the employment place.

Explanation- For the purpose of computation of the continuous period of not less than six days or the stipulated number of working days in a week specified in the second proviso to this sub-rule-

(a) any day on which the employee is required to attend for work but is given only an allowance for attendance and is not provided with work,

(b) any day on which employee is laid off on payment of compensation under the Industrial Relations Code, 2020(35 of 2020), and

(c) any leave or holiday with or without pay granted by an employer to an employee in the period of six days or during the stipulated number of working days of a weeks the case may be, immediately preceding the rest days on which the employee has worked.

(2) Any such employee shall not be required or allowed to work on the rest day unless he has or will have a substituted rest day for a whole day on one of the working days in a week immediately before or after the rest day:

Provided that no substitution shall be made as a result of which without full rest day employee have to work for 10 days.

(3) Where any employee work on rest day according to foregoing provisions of this rule and is given substituted rest day before or after the rest day, the rest day shall, for the purpose of calculating weekly hours of work shall be counted in that week in which substituted rest day falls.

(4) Employee shall:-

(a) be given wages calculated on applicable rate for rest day for the next preceding day;

(b) where he work on rest day and is given the substituted rest day then he shall be given wages at over time rate and at applicable rate for next preceding day for rest day:

Provided that where-

(i) under the Code minimum employee wage rate is calculated by dividing minimum monthly rate of wage by 26; or

(ii) actual daily rate of employee wages is calculated by dividing monthly wages rate by 26, and actual daily rate of such wage is not less than notified minimum daily rate then no wages shall be payable for rest day, and

(iii) employee has worked on rest day and he is given substituted rest day then he shall be given equivalent wages payable at overtime rate only for that rest day on the day he worked and if any dispute arises that his wages are calculated according to provisions of this provision then Assistant

Labour Commissioner or higher officer having jurisdiction shall decide it after giving opportunity to concerned parties for their written representation on application given to him:

Provided that if any employee is employed on Piece rate system then applicable wage for rest day or substituted rest day, as the case maybe, will be such as determined by State Government from time to time, having regard to the minimum rate of wages prescribed under the Code in this regard.

Explanation.- In this sub rule, next preceding day means the last day on which the employee worked which comes before rest day or substitute rest day, as the case may be, and where the rest day fall on the day immediately following the rest day, next preceding day means the last day on which the employee worked and which precedes the rest day.

(5) The provisions of this rule shall not prejudice the more favorable condition if any to which an employee is entitled under any other law or any award, contract or condition of contract and in that case employee shall be entitled for aforesaid favorable terms.

Explanation– For the purpose of this rule, week means a period of seven days starting from mid night of Saturday night.

Night shift

9. When employee work in shift in such an employment which continue beyond after mid night then-

(a) For the purpose of rule 8, in this case, complete rest day means 24 hours continuous duration started at the end of his shift, and

(b) In such case, next day shall be 24 hours commencing from the time of completion of such shift and the hours after midnight during which such employee has worked shall be counted in previous day.

Emergency under sub-section (2) of section 13

10. The provision of rule 7 shall subject to such extent and condition apply to the following categories- If employee-

(a) Is employed in an emergency which could not have been foreseen or prevented;

(b) Is engaged in preparatory or supplementary nature which necessarily requires to be carried outside the limits prescribed for normal work in the employment concerned;

(c) Whose employment is necessarily intermittent,

(d) Is employed in such work which, is to be completed in duty hours due to technical reasons and

(e) Is employed in such work, which cannot be done except at a time dependent on the uncontrolled action of natural powers. The provision of rule 7, 8 and 9 shall be applicable subject to the condition that-

(i) working hours of employee shall not exceed 12 hours on any working day;

(ii) the actual hours of work of an employee (including rest time or any other period) during which the employee is not required to work/ mark attendance, shall not exceed 10 hours.

Long wage period

11. For the purpose of minimum rate of wages under section 14, the long wage period shall be one month.

Chapter- 3
Payment of wages

Deduction under sub-clause (ii) of clause (f) of sub-section (2) of section 18

12. Loans taken from any fund constituted by the State Government for the welfare of workers and deductions for recovery of interest due thereon shall be subject to such instructions or circulars issued by the State Government from time to time regulating the limit for sanctioning such loans and the rate of interest payable thereon.

Recovery under sub-section (4) of section 18	13.	Where the total deductions authorized under sub-section (2) of section 18 exceed fifty per cent of the wages of the employee, the excess amount shall be carried forward and recovered from the subsequent wage period or periods, as the case may be, in such instalments so that the recovery in any month does not exceed fifty per cent of the wages of the employee in that month.
Authority under sub-section (1) of section 19	14.	For the purpose of sub-section (1) of section 19, the authority shall be Assistant Labor Commissioner and higher officer.
Manner of display of notice under sub-section (2) of section 19	15.	The notice referred to in sub-section (2) of section 19 shall be displayed at prominent places in the premises of the work place where the employment is carried on so that every employee concerned can easily read the contents of the notice, which shall be in Form 'A' and a copy of the notice shall be sent to the Inspector-cum-Facilitator having authority and jurisdiction under sub-section (1) of section 10 of the Code.
Procedure under sub-section (3) of section 19	16.	(1) According to sub-section (3) of section 19, the employer shall give a show-cause notice to the employee concerned, either electronically or in writing, in a language understood by the employee, specifying the reasons for the imposition of the penalty and the acts and omissions done by the employee which justify the imposition of the penalty. The employee shall be given an opportunity of not less than 15 days to present his case. (2) After the submission of reply of the employee or after the expiry of the period prescribed for period of reply of the case, the employer shall, for obtaining sanction for the imposition of penalty, give notice in writing containing the details specified therein within a period of one week to the officer mentioned in rule 14, who

shall, before granting or refusing the sanction, give an opportunity of being heard to the employee concerned and the employer. The decision as to sanction or refusal shall be taken by the said officer within a period of three weeks from the date of receipt of the notice from the employer.

(3) After approval of the officer specified in Rule 14, a penalty shall be imposed on the delinquent employee. The employee shall be informed of the imposition of such penalty within fifteen days from the date of imposition.

Notice of Deduction

17. (1) When an employer intends to make any deduction pursuant to sub-section (2) of section 20, he shall give a show-cause notice to the employee concerned, either electronically or in writing, in a language understood by the employee, specifying the reasons for the deduction and full particulars justifying the imposition of the deduction. The employee shall be given an opportunity of not less than 15 days to present his case. on establishment of charges, deduction shall be made from the wages of the employee in accordance with sub- section (3) of section 18..

(2) If no reply is received from the employee concerned within 15 days, the employer shall make such deduction from the wages and the same shall be intimated to the employee within fifteen days of the date of such deduction.

(3) The employer shall report such deduction to the Assistant Labour Commissioner or higher officer having jurisdiction within 10 days from the date of such deduction. In case of illegal deduction, the Assistant Labour Commissioner or higher officer shall hear the matter and take appropriate action as per law.

Procedure for deduction under sub-section (2) of section 21

18. (1) Any employer intending to make deduction for damages or loss under sub-section (1) of section 21 from the wages of an employee, shall give the show-cause notice to the employee concerned, either electronically or in writing, in a language understood by the employee, stating the reasons therefor regarding the value of the damage or loss to the goods entrusted to the employee. The employee shall be given an opportunity of not less than 15 days to present his case.

Provided that if the deduction is to be made in respect of more than one employee or workman, the show cause notice shall be issued by written order to each employee or workman separately.

(2) On establishment of the charges, deductions shall be made from the wages of the employee in accordance with sub-section (3) of section 18.

(3) In case no reply is received from the employee concerned within 15 days, the employer shall make such deduction from the wage of the employee concerned and the same shall be intimated to the employee within fifteen days of the date of such deduction.

(4) The order regarding deduction shall be made by the employer in a language understood by the employee.

(5) The employer shall report such deduction to the Assistant Labour Commissioner or higher officer having jurisdiction within 10 days from the date of such deduction. In case of illegal deduction or if the employee has not been given adequate opportunity of being heard by the employer, then after recording the reasons, the Assistant Labour Commissioner or higher officer shall hear the matter and take legal action.

Conditions regarding recovery

19. Deduction for recovery of advance of money given to

of advance under section 23

an employee, as the case may be-

(i) any advance given to an employee after the commencement of his employment under clause (b) of section 23, or

(ii) the advance of pay of an employee which has not been earned by him under clause (c) of section 23 shall be paid by the employer from the pay of the employee concerned in such instalments as may be determined so that no any instalment or the aggregate of all the instalments shall exceed fifty per cent of the pay of the employee for that pay period and the particulars of such recovery shall be recorded in a register maintained in Form I.

Deduction under section 24

20. Deductions on loans sanctioned for construction of house or other purposes approved by the State Government, and recovery on interest payable thereon shall be subject to the instructions or circulars issued by the State Government from time to time, regulating thereon the limit for sanctioning such loans and the rate of interest payable.

Chapter- 4

State Advisory Board

Composition and procedure of the State Advisory Board

21. (1) The State Government shall constitute a State Advisory Board for the purpose of advising the State Government in matters relating to the fixation and revision of minimum rates of wages and for coordinating the work of the Advisory Boards.

(2) The State Government shall nominate in the Board representatives of employers and employees as specified clause (a) and (b) of sub section (6) of section 42 of the Code, and independent persons as specified in clause (c) of

sub-section (6) of section 42 of the Code.

(3) The number of representatives of employers specified in clause (a) of sub-section (6) of section 42 shall not exceed 6. Similarly, the number of representatives of employees specified in clause (b) of that sub-section shall not be less than 6.

(4) The independent persons nominated by the State Government under clause (c) of sub-section (6) of section 42 of the Code shall be as follows:—

(i) Principal Secretary/Secretary, Labour- ex-officio Chairman

(ii) Labour Commissioner, Uttarakhand ex-Officio Member Secretary – Member

(iii) 04 other members shall be nominated by State Government;

(5) The State Government shall, while nominating the members of the Board, take into account that the independent members under sub-rule (2) shall not exceed one-third of the total members of the Board and that one-third of the members of the Board shall be women.

(6) **Advisory Committees and Sub-Committees:-**

In the constitution of advisory committees and sub-committees, persons representing employers and employees of the notified employments shall be nominated in equal numbers and not exceeding six. Independent persons shall also be nominated in the committees and sub-committees whose number shall not exceed one-third of the total number of members. The Chairperson of the Committees/Sub-Committees shall not be below the rank of Labour Commissioner.

Duties of the chairperson

22. Chairperson:-

(i) shall preside at the meetings of the Board,

provided that in the absence of the Chairperson at any meeting, the members shall elect from amongst themselves by a majority of votes a Chairperson to preside at that meeting;

(ii) determine the agenda of each meeting of the Board;

(iii) when at a meeting of the Board, if any matter is to be decided by voting, he shall conduct secret ballot at the meeting and shall count the votes or cause to the votes to be counted.

Board meeting

23. The Chairperson may, subject to the provisions of Rule 22, call a meeting of the Board at any time as he deems fit:

Provided that on receipt of a requisition in writing from not less than half of the members, the Chairperson shall give notice to each member within 15 (fifteen) days from the date of receipt of such requisition.

Notice of meeting

24. The Chairperson shall fix the date, time and place of each meeting and a written notice containing the said details along with the agenda to be transacted at the meeting shall be sent to every member by registered post and electronically at least fifteen days before the date fixed for such meeting:

Provided that in case of an emergency meeting, only 7 (seven) days' notice may be given to each member.

Quorum

25. No business shall be transacted at any meeting if at least one-third of the members and at least one representative each from the employers and employees are present:

Provided that if less than one-third of the members are present at a meeting, the Chairperson may adjourn the meeting for a period not exceeding seven days from the date of the original meeting and the business transacted at such adjourned meeting shall be

valid irrespective of the number of members present:

Provided further that the date and time of such adjourned meeting shall be intimated to all the members electronically or by registered post.

Disposal of board business 26. All matters of the Board shall be considered at a meeting of the Board and shall be decided by a majority of the members present and voting, and in the case of equality of votes, the Chairperson shall have a casting vote:

Provided that the Chairperson may, if he thinks fit, direct that a decision in respect of any matter shall be taken after circulation of necessary documents and after obtaining the opinion of the members in writing:

Provided further that no decision shall be taken on any matter under the preceding proviso unless it is supported by at least two-thirds of the members.

Other functions of the Board 27. In addition to the functions of the Board specified in sub-section (4) of section 42, the Board shall also advise the State Government on such other matters as may be specified to the State Advisory Board by the State Government.

Method of voting 28. Voting on the Board shall done generally by raising the hand:

Provided that if a member demands voting by ballot or if the Chairperson so decides, the voting shall be conducted by secret ballot in such manner as the Chairperson determines.

Proceedings of meetings 29. (1) The proceedings of every meeting of the Board, inter alia, showing the names of the members present at the meeting, shall be forwarded to each member and to the State Government immediately after the meeting and in any case not more than seven days before the next meeting.

(2) The proceedings of each meeting of the Board shall be confirmed with such amendments, if any, as may be considered necessary at the next meeting.

Summoning of witnesses and production of documents

30. (1) The Chairperson may, if required in the discharge of his duties, summon any person to appear as a witness and to produce any document.

(2) Every person who is summoned and appears as a witness before the Board shall be entitled to an allowance for the expenses incurred by him in accordance with the scale for the time being in force for payment of allowances to witnesses appearing before a civil court.

Appointment of committees

31. The State Government may appoint as many Committees under clause (z) of sub-section (1) of section 8 as it may deem necessary for the purposes specified in that clause, which shall function under the Chairmanship of a person not below the rank of Labour Commissioner.

Term of office members of the committees and sub-committees

32. (1) The term of office of every non-official member or ex-officio member shall be two years from the date of his appointment or nomination, as the case may be, under sub-section (1) of section 42:

Provided that such members shall continue to hold office notwithstanding the expiry of the period of two years with the permission of the State Government.

(2) If a casual vacancy occurs among the members of the Board, another person to be nominated, he shall hold office for the remainder of the term of the member in whose place he is nominated.

(3) Official members of the Board shall hold office until they are replaced by other like official members.

(4) Notwithstanding anything contained in sub-rules (1), (2) and (3), the members of the Board shall hold office during the pleasure of the State Government.

Traveling allowance

33. The Official and non-official members of the Board shall be entitled to following travel allowance for any journey performed by them in connection with their duties-

(1) The travelling allowance of any Official member of the Board, for a journey performed by him/her on official duty, shall be governed by the rules applicable to him/her and shall be paid by the authority competent to draw and disburse his/her salary.

(2) Non- official members of the Board, shall be paid a travelling allowance for a attending board meetings at the rates admissible to an officer of Level-10 in the State Government, and the daily allowance shall be calculated at the rates applicable to a state Government officer of leve-10 at the place concerned.

Officers and employees

34. The Labour Commissioner, Uttarakhand shall act as the ex-officio Member Secretary of the Board and the officers of the Labour Commissioner's office shall provide necessary executive assistance to the Board.

Eligibility for re-nomination of members of the Board

35. An outgoing member shall be eligible for re-nomination for membership of the Board

Resignation of the Chairperson and other members of the Board

36. (1) A member of the Board, other than the Chairperson, may resign from his membership by giving notice in writing to the Chairperson and the Chairperson may resign by writing to the State Government.

(2) The resignation shall take effect from the date of intimation of its acceptance or the expiry of 30 days from the date of resignation, whichever is earlier.

Chapter- 5

Payment of dues, claims etc.

Payment under clause (a) of sub-section (1) of section 44

40. (1) (a) Every employee shall make a declaration in Form-II, nominating a person conferring the right to receive the amount that may stand in his credit at the event of his death.

(b) If the employee has a family at the time of making nomination, the nomination shall be made in favour of the spouse or the spouse along with one or more members of his family:

Provided that nomination made by an employee having a family in favour of a person other than member of his family shall be invalid:

Provided further that a fresh nomination towards his spouse shall be made by the employee on his marriage and any nomination made before such marriage shall be deemed to be invalid.

(c) Where the nomination is made wholly or partly in favour of a minor, the employee may appoint a major person of his family, to be the guardian of the minor nominee or where there is no major person in the family, he may at his discretion, appoint any other person to be a guardian of the minor nominee.

(d) If the employee nominates more than one member, he shall specify in the nomination, the amount or share payable to each of his nominees at his own discretion so as to cover the whole of the amount that may stand to his credit.

(2) Where any amount payable to an employee under

the Code remains unpaid due to him on account of his death or his address being unknown and the amount has not been paid to the employee's nominee within three months from the date on which the amount became payable to the employee, the employer shall deposit the amount with the jurisdictional Assistant Labour Commissioner or higher officer who shall, after ascertaining the identity of the person nominated by the employee, pay the amount within two months from the date of deposit of the amount with him.

Deposit of undisbursed balance under sub-section (1) (b) of section 44

41. (1) Where any amount payable to an employee under this Code remains undisbursed due to the employee not making a nomination or for any other reason and the amount has not been paid to the employee's nominee within six months from the date on which the amount became due, the employer shall deposit the entire amount with the Assistant Labour Commissioner or higher officer having jurisdiction before the expiry of fifteen days from the last day of the said period of six months. A separate bank account shall be opened for this purpose and the amount shall be credited thereto and a record of the same shall be maintained by the authority having jurisdiction.

(2) The amount referred to in sub-rule (1) shall be deposited by the employer with the Assistant Labour Commissioner or higher officer having jurisdiction by way of bank transfer or by way of a crossed demand draft issued from a scheduled bank in India in favour of such Assistant Labour Commissioner or higher officer.

Manner of settlement of undisbursed dues under clause (b) of

42. (1) The amount of money referred to in sub-rule (1) of rule 41 (hereinafter in this rule referred to as the Amount) deposited with the Assistant Labour Commissioner or higher officer having

sub-section (1) of section 44

jurisdiction shall remain with him and he shall invest them in State Government securities or shall keep them in any scheduled bank as a fixed deposit.

(2) The Assistant Labour Commissioner or higher officer of the jurisdiction concerned shall, as soon as possible, display a notice on the notice board for a minimum period of fifteen days, giving such details of the amount as the Assistant Labour Commissioner or higher officer deems fit for information. Thereafter, the family or dependents of the worker concerned shall submit a Successor Certificate or Family Membership Certificate issued by the District Administration. The dues shall be paid to one or more of the deceased worker's heirs and on the basis of no objection. Otherwise, the payment shall be made to the legal heir (s) to whom the claim is payable/declared heir (s).

(3) If the amount disbursed remains unclaimed for a period of seven years, it shall be settled in such manner as may be directed by the State Government from time to time in this behalf.

Chapter- 6

Form, Register and pay slip

Form of single application

43. (1) A single application, may be filed under sub-section (5) of section 45 in Form-III manually or electronically along with documents specified in the said Form.

(2) Where an application under sub-section (5) of section 45 is entertained, the authority shall serve upon the employer electronically or by registered post a notice in Form IV to appear before him on the date specified in the notice

with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(3) If the employer or his representative fails to appear on the specified date, the authority may hear and determine the application ex-parte.

(4) If the applicant or his representative fails to appear on the specified date without any reasonable cause shown in advance, the authority may dismiss the application.

Appeal

44. (1) Any person aggrieved by an order passed by the authority under sub-section (2) of section 45 may prefer an appeal under sub-section (1) of section 49 in Form-V electronically or by registered post, along with documents mentioned by the appellant in the said Form, to the appellate authority having jurisdiction:

Provided that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant has deposited the claim amount with the appellate authority.

(2) Where an appeal under sub-section (1) of section 49 is entertained, the appellate authority, shall serve upon the respondent electronically or by registered post a notice in Form IV to appear before him on the date specified in the notice and shall inform the appellant of the date so specified.

(3) The appellate authority shall after hearing the appellant and the respondent shall, by order, decide the appeal.

Form of register, etc.

45. (1) The details of all fines and recoveries referred to in sub-section (8) of section 19 shall be

maintained electronically or otherwise in a register to be maintained by the employer in Form-I appended to these rules and the authority referred to in the said sub-section (8) shall be the Assistant Labour Commissioner and higher authority for the area.

(2) The details of all deductions and recoveries referred to in sub-section (3) of section 21 shall be maintained electronically or otherwise in a register to be maintained by the employer in Form-I appended to these rules.

(3) Every employer of any establishment on which this code is applicable he shall keep register under sub-section (1) of section 50 under form-I and form-VI in electronic or any other form.

Salary slip

46. Every employer at the time of payment or before shall issue a salary slip under sub-section (3) of section 50 under Form-VII in electronic or any other form.

Appointment of inquiry officer under sub-section (1) of section 53

47. The appointment of enquiry officer shall be made by State Government through separate order.

Manner of imposition of penalty and compounding of offences under sub-sections (1) and (4) of section

48. (1) Any accused person seeks compounding of an offence under sub-section (1) of section 56 may make an application in Form VIII, electronically or otherwise, to the officer notified under the said sub-section (1).

56

(2) The officer notified under sub-rule (1) shall, on receipt of such application, ascertain whether the offence is compoundable under the Code and, if so, may compound the offence with a sum not exceeding fifty per cent of the maximum penalty provided for such offence under the Code. The notified officer may also examine the application for compounding of the offence.

Chapter-7
Miscellaneous

Other Powers to be exercised by Inspector-Cum-Facilitator

49. In addition to the powers conferred under section 51, the Inspector-cum-Facilitator shall, subject to such instructions or guidelines as may be issued by the State Government from time to time, advise employers and workers regarding compliance with the provisions of the Code and inspect establishments as may be assigned by the State Government.

Payment of Wages

50. Where the employees are employed in an establishment through contractor, then, the company or firm or association or any other person who is the proprietor of the establishment shall pay to the contractor the amount payable to him or it, in respect of the wages of employees in accordance with the provisions of the Code.

Explanation.-For the purpose of this rule, the expression "firm" shall have the meaning as assigned to it in the Indian Partnership Act, 1932 (9 of 1932).

Technical Committee for working Journalist.

51. The State Government may, for the purpose of fixing minimum wages under the code for the working journalist as defined in clause (zym) of section 2 of the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020) appoint a technical advisory committee under clause (a) of sub-section (1) of section 8 to recommend the State Government in respect of such fixation.

Responsibility for payment of minimum bonus. 52. Where in an establishment, the employees are employed through contractor and the contractor fails to pay minimum bonus to them under section 26, then, the company or firm or association or other person as referred to in the proviso to section 43 shall, on the written information of such failure, given by the employees or any registered trade union or unions of which the employees are members and on confirming such failure, pay such minimum bonus to the employees.

Annual Return 53. The return under these rules shall be filed electronically by every employer of an establishment to which the Code applies in the relevant columns of the Form specified for such purpose in the rules made under the Occupational, Safety Health and Working Conditions Code, 2020 (37 of 2020). A copy of such return shall also be forwarded electronically to the Labour Bureau, Ministry of Labour and Employment, Government of India:

Provided that in case of filing of annual return under the Occupational Safety, Health and Working Conditions Code, 2020, there is no need to file separate annual return under any other labour codes.

Uploading on the official website of the department 54. These rules will be uploaded on the official website of the Labour Department within one month from the date of their final notification.

Repeal and Saving 55. (1) The Uttarakhand (Uttar Pradesh) Payment of Wages Rules, 1936 and the Uttarakhand (Uttar Pradesh) Minimum Wages Rules, 1952 shall be deemed to be repealed from the date of final notification of these rules.

(2) Notwithstanding such repeal under sub-rule (1), anything done or any action taken under the rules so repealed, including any notification, nomination, appointment, order or direction

thereunder or the amount of wages provided under any provision of such rules for any purpose, shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this rule and shall, to the extent it is not contrary to the provisions of this rule, continue to be in force under the corresponding provisions of this rule or until repealed by a notification to that effect by the State Government.

(3) Without prejudice to the provisions of sub-rule (2), the provisions of section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply to the repeal of such rules.

By Order,

DR. SRIDHAR BABU ADDANKI,
Secretary

FORM -A

Notice Under Section 19 (2) of the Code On Wages
See Rule 15

.....Name of the Establishment with Full Address.

.....Name of the employee with designations and employee code.

Particulars of Acts and Omission specified As per section 19 (1) of the Code on Wages 2019.

1.

2.

3.

Date

Signature of the Employer/Authorized Manager

Copy forwarded to :
1-Inspector-cum-facilitator of concerned region

2- Authority under section 19(1) of code on wages.

FORM-I

[See rule-19 and 45]

Register of Wages, Advance Recovery, Overtime, Fine, Deduction for damage and Loss

Name of the Establishment:.....

Name of the Employer:.....

Name of the Owner: .....

TAN of the Employer:.....

Labour Identification Number (LIN)/Employee Code in absence of LIN:

Sr. No. in Employee Register	Name of the employee	Designation / Department	Duration of Payment of Wages (Monthly/ Fortnightly /Weekly/Daily /Piece rated)	Wage Period From-To	Total no. of days worked during the period	Total overtime (hours worked or production in case of piece workers)	Rates of wages		
							Basic	DA	
1	2	3	4	5	6	7	8	9	10

Overtime earning	Nature of acts and omissions for which fine imposed with date	Amount of fine imposed	Damage or loss caused to the employer by neglect or default of the employee	Amount of deduction from wages/ Amount of Advance Recovery	Total amount of wages paid	Date of Payment	Attendance	
							Date	Signature
11	12	13	14	15	16	17	18	19

FORM-II

(See rule 40)

NOMINATION FORM

1. Name of person making nomination:
(In block letters):
2. Father's/Spouse's Name:
3. Date of Birth:
4. Sex:
5. Marital Status:
6. Address:
Permanent:
Temporary:

I hereby nominate the person(s)/cancel the nomination made by me previously and nominate the person(s) mentioned below to receive any amount due to me from the employer in the event of my death:-

Name of nominee/ nominees	Address	Nominee's relationship with the employee	Date of Birth	Total amount of share of accumulations in credit to be paid to each nominee	If the nominee is minor, name, relationship and address of the guardian who may receive the amount during the minority of nominee
(1)	(2)	(3)	(4)	(5)	(6)

1. Certified that I have no family and if I acquire a family hereafter, the above nomination shall be deemed as cancelled.
2. Certified that my father/mother is/are dependent upon me.
3. Strike out whichever is not applicable.

Signature or the thumb impression of the employee

CERTIFICATE BY EMPLOYER

Certified that the above declaration and nomination has been signed/thumb impressed before me by Shri/Smt/Ku .....employed in my establishment after he/she has read the entry/entries or have been read over to him/her by me and got confirmed by him/her in either of the cases.

Signature of the employer or other authorised officer of the establishment and Designation

Place:

Date:

Name and Address of the Factory/Establishment and rubber stamp thereof

FORM-III

[See rule 43]

[SINGLE APLICATION UNDER SUB-SECTION (5) OF SECTION 45]

BEFORE THE AUTHORITY APPOINTED UNDER SUB SECTION (1) OF SECTION 45 OF THE CODE ON WAGES, 2019 (29 OF 2019)

FOR..... AREA.....

Application No.....of 20.....

Between ABC (State the number) and..... other.....Applicant
(Through employees concerned or registered trade union or Inspector- cum- Facilitator)
Address.....

And
XYZ.....
Address.....

in between

The application states as follows:

(1) The applicant(s) whose name(s) appear in the attached schedule was/were/has/have been employed from.....to.....as.....(category) in.....(establishment) Shri/M/s.....engaged in.....(nature of work) which is/are covered by the Code on Wages, 2019.

(2) The opponent(s) is/are the employer(s) within the meaning of section 2(l) of the Code on Wages, 2019.

(3) (a) The applicant(s) has/ have been paid wages at less than the minimum rates of wages fixed for their category (categories) of employment(s) under the Code by Rs.....Per day for the period(s) from.....to.....

(b) The applicant(s) has/ have not been paid wages at Rs.....Per day for the weekly days of rest from to.....

(c) The applicant(s) has/ have not been paid wages at overtime rate(s) for the period from.....to.....

(d) The applicant(s) has/have not been paid wages for period from.....to.....

(e) Deductions have been made which are in contravention of the Code, from the wage(s) of the applicant(s) as per details specified in the annexure appended with this application.

(f) The applicant(s) has/have not been paid minimum bonus for the accounting year.....

(4) The applicant(s) estimate(s) the value of relief sought by him/ them on each amount asunder:

(a) Rs.....

(b) Rs.....

(c) Rs.....

Total Rs.....

(5) The applicant(s), therefore, pray(s) that a direction may be issued under section 45(2) of the Code on Wages, 2019 for;

(a) payment of the difference between the wages payable under the Code and the wages actually paid,

(b) payment of remuneration for the days of rest

(c) payment of wages at the overtime rates,

(d) Compensation amounting to Rs.....

(6) The applicant(s) do hereby solemnly declare(s) that the facts stated in this application are true to the best of his/their knowledge, belief and information.

Signature or thumb-impression of the employed person(s),or official of a registered trade union duly authorizedor Inspector- cum-Facilitator.

Note: The applicant(s), if required, may append annexure containing details, with this application

FORM IV

(See rule 43 and rule 44)

(A). FORM OF NOTICE TO THE RESPONDENT TO BE ISSUED BY THE AUTHORITY UNDER SUBSECTION(5) OF SECTION 45

(Title of the application)

To

Name

Address

Whereas (name of the applicant) has made the above said application tome under the Code on Wages, 2019, you are hereby summoned to appear before me in person or by a duly authorized representative, and required to answer all material questions relating to the application, or shall be, accompanied by some person duly authorized by you and able to answer such question on the.....Day of.....20....at.....AM/PM, to answer the claim in application and as the day fixed for the appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence and the documents upon which you intend to rely in support of your defense.

Take notice that in default of your appearance on the day mentioned here above, the application will be heard and disposed of in your absence.

Date.....

Signature of the authority with seal

(B). FORM OF NOTICE TO THE RESPONDENT TO BE ISSUED BY THE APPELLATE AUTHORITY UNDER SUB-SECTION (1) OF SECTION 49

(Title of the appeal)

To

Name

Address

Take notice that an appeal (copy of which is enclosed) under section 49 of the Code on Wages, 2019 has been presented by_____(name of appellant) before this appellate authority, and that the _____ day of _____20____ has been fixed by this appellate authority for the hearing of the appeal.

If no appearance is made by you in person or by a duly authorized representative to act for you in this appeal, it will be heard and decided in your absence.

Date.....

Signature of the Appellate authority with seal

FORM V

(See rule 44)

Appeal under Section 49(1) of the Code on Wages, 2019 before the Appellate Authority under the Code on Wages, 2019

A.B.C
Address.....APPELLANT

Vs.
C.D.E.
Address.....RESPONDENT

DETAILS OF APPEAL:

1. Particulars of the order against which the appeal is made : Number and date:
The authority, who has passed the impugned order:

Amount awarded:

Compensation awarded, if any:

2. Facts of the case:

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue or fact).

3. Grounds for appeal:

4. Matters not previously filed or pending with any other Court or any Appellate Authority:

The appellant further declares that he had not previously filed any appeal, writ petition or suit regarding the matter in respect of which this appeal has been made, before any Court or any other Authority or Appellate Authority nor any such appeal, writ petition or suit is pending before any of them.

5. Reliefs sought :

In view of the facts mentioned above the appellant prays for the following relief(s):— [Specify below the relief(s) sought]

6. List of enclosures:

1.
2.
3.
4. .....

Date:
Place:

Signature of the appellant

For office use

.....

.....

Date of filing

Or

Date of receipt by post

Registration No.

Authorized Signatory

FORM VI

[See rule 45]

EMPLOYEE REGISTER

Name of the Establishment:.....

Name of the Employer:.....

Name of the Owner:.....

PAN/TAN of the Employer:.....

Labour Identification Number (LIN):

Sl. No.	Employee Code	Name	Surname	Gender	Father's / Spouse Name	Date of Birth	Nationality	Educational Level	Date of Joining	Designation	Category (HS/S/SS/US)*	Type of Employment
1	2	3	4	5	6	7	8	9	10	11	12	13

Mobile No.	UAN	PAN	ESIC IP No	AADHAAR	Bank A/c Number	Bank	Branch (IFSC)	Present Address	Permanent Address
14	15	16	17	18	19	20	21	22	23

Service Book No.	Date of Exit	Reason for Exit	Mark of Identification	Photo	Specimen Signature/Thumb Impression	Remarks
24	25	26	27	28	29	30

*(Highly Skilled/Skilled/Semi skilled/Unskilled)

FORM VII

[See rule 46]

WAGE SLIP

Date of issue:

Name of the Establishment..... Address.....
Period.....

1. Name of employee :
2. Father's /Spouse name :
3. Designation:
4. UAN:
5. Bank Account No.
6. Wage period:
7. Rate ofwagespayable: (a)Basic (b) D.A. (c) other allowances
8. Total attendence/unit of work done:
9. Overtimewages:
10. Gross wages payable :
11. Totaldeductions: (a.) PF (b). ESI (c.) Others
12. Net wages paid:

Employer/Pay-in-charge signature

FORM VIII

[See rule 48]

APPLICATION UNDER SUB-SECTION (4) OF SECTION 56 FOR COMPOSITION OF OFFENCE

1. Name of applicant :
2. Father's /Spouse name :
3. Address of the applicant :
4. Particulars of the offence: .....
.....
.....
.....
5. Section of the Code under which the offence is committed:
.....
6. Maximum fine provided for the offence under the Code:
.....
7. Whether prosecution against the applicant is pending or not.....
8. Whether the offence is first offence or the applicant had committed any other offence prior to the offence. If yes, then, full details of the prior offence.
.....
.....
.....
9. Any other information which the applicant desires to provide.....
.....
.....
.....

Dated:

Applicant
(Name and signature)

Schedule 'A'
(See rule 4 (3)

S.No.	UNSKILLED
1	Beldar
2	Calf boy
3	Cattleman
4	Cleaner (Motor shed, Tractor, Cattle,Yard, M.T)
5	Collecting loose fodder
6	Dairy coolie
7	Mazdoor (Arporculturist Compost, Dairy's Haystaking, Irrigation, Manure,Stacking, Milk- room, Ration room Store, Anti-Malaria, M.R.)
8	Driver (Mule, Bullock, Camel, Donkey)
9	Dresser
10	Driver (Bullocks Mule)
11	Grazier
12	Dairyman
13	(Store-Mazdoor)
14	Carrier (Stone),
15	Breaker (using manual appliances)
16	Helper
17	Messenger (Office)
18	Mali
19	Syce
20	Tying and Carrying loose hay
21	Sweeper,
22	Weighing and Carrying bales,
23	Weighman (Bales, pally),
24	Waterman,
25	Stable man,
26	Trolly man
27	Valveman,
28	Watchman,
29	White Washer,
30	Wooderman,
31	Wooder Woman,
32	Borryman,
33	Coalman,
34	Condenser,
35	Attendant,
36	Grass Cutter,

37	MuchheraJamadars,
38	Condemner Attendant,
39	Shunters
40	Turner,
41	Bajri Spreader,
42	Beater Women,
43	Bell-Woman,
44	Chain Man,
45	Boat Man,
46	Bucket Man,
47	Labourer (Boiler, Cattle Yard, Cultivation, General Loading and Unloading, Bunding, Carting- Fertilizers, Harvesting, Miscellaneous Seeding, Sewing, Thatching, Transplanting, Weeding)
48	Cleaner (Crane, Truck, Cinder for ash Pit).
49	Cart man,
50	Caretaker (Bridge).
51	Carrier (Water).
52	Chowkidar,
53	Concrete (Hand Mixer).
54	Daffadar,
55	Driver (Bullock, Camel, Donkey, Mule).
56	Flag Man,
57	Flagman (Blast Train).
58	Khalasi not attending to machines
59	Gangmen,
60	Gatingman (Permanent Way).
61	Handle Man, Jumper Man,
62	Kamin (Female Work).
63	Khalas,
64	Marine,
65	Moplah,
66	Steam Road,
67	Roller Surveyor,
68	labourer (Garden).
69	Mazdoor,
70	Hole Cutter,
71	Lorry Trainees,
72	Petrol man,
73	Searcher,
74	Signal man,
75	Strikers,
76	Vaks Controller,

77	Cleaner,
78	Dresser / Dressing Mazdoor
79	Loader
80	Mazdoor (Male/Female)
81	Messenger (Male / Female)
82	Trimmer
83	Caretaker (except in Copper, Chromite and Graphite mines where it is semiskilled)
84	Office Peon /Peon (except in Bauxite Mines)
85	Sweeper (Male / Female)
86	Carrier
87	Number Taker
88	TrollyTriper
89	Water Carrier
90	Earth Cutter
91	Survey Khalasi
92	Gate Man,
93	Concrete (Hand Mixer)
94	Dismantling stocks
95	Lampman
96	Beldar/Beldar (Canteen)
97	Coolie
98	Peon
99	Cook-helper
100	Office Boy
101	Quarry Worker
102	Jelly Maker
103	Over burden Remover
104	Waste removing mazdoor
105	Unloader
106	Excavating Labour
107	Digger
108	Butcher
109	Attender
110	Lorry Helper
111	Surface loader
112	Wood Cutter
113	Surface Mukar
114	Under Ground Mukar
115	Striker (Moplah gang),
116	Tall Boy,
117	Tile
118	Person employed in loading and unloading
119	Packer
120	Person employed in sweeping and cleaning and other categories by whatever name called which are of unskilled nature.

S.No	SEMI SKILLED
1	Assistant (Chowkidar)
2	Attendant (Bull-calving lines, Chowkidar, Chaff cutter, Hostel, Dry Stock, Grair crusher, Pump, Sickline, Stable, Yard Stock)
3	Stables, Corral, Stock
4	Assistant-Plumber
5	Attendant
6	Bhisti
7	Brander
8	Bullman
9	Butter man
10	Coachman
11	Cobbler
12	Cultivator
13	Dafiry
14	Deliveryman
15	Dhobi
16	Dresser
17	Fireman
18	Gowala
19	Hammer mnn
20	Helper (Blacksmith)
21	Jamadar (stand)
22	Jamadar
23	Khalasi
24	Mali Senior
25	Mate/Mistry
26	Mazdoor (literate)
27	Nalband
28	Oilman
29	Ploughman
30	Vtackers
31	Supervisor
32	Thatcher
33	Valve man
33	Valve man (Senior)
35	Wireman fixing tin cables
36	Cook
37	Dandee
38	Frash
39	Hacksaw man

40	Helper (locco-Crane/Truck)
41	Manjhee (Boatman)
42	Belchawala
43	Muccadam (without competency certificate under Metalliferous Bulldozer Driver Mines Regulations, 1961)
44	Bhisti (with Mushk)
45	Boatman (head)
46	Breaker,
47	Breaker (Stone, Rock, Rock Stone, Stone Metal
48	Can weaver
49	Chainman(Head)
50	Charpoy-Stringer
51	Checker
52	Cracker
53	Dolly man
54	Assistant
55	Driller
56	Driver (Skin)
57	Excavator
58	Ferroman
59	Fireman (Brick Kiln, Steam Road Roller)
60	Gate Keeper
61	Gharami
62	Classman
63	Greier
64	Greaser-cum-Fireman
65	Grinder
66	Hammer man
67	Helper (Artisan)
68	Helper (Sewyer)
69	Keyman
70	Khalasi (Head Survey, Riverners-Moplah Gang, Supervisory)
71	Labourer (Rock-Cutting)
72	Lascar
73	Mali (Head)
74	Stockers and Boiler man
75	Thoombaman (Spade worker)
76	Tindals
77	Trollyman (Head Motor)
78	Fitter (Assistant Semi-Skilled)
79	Jamadar (Semi-skilled)

80	Mate (Stone)
81	Kassb
82	Khalasi (Structural)
83	Masalchi P.M. Mates
84	Miner
85	Untrained Mate/ Mining Mate/ Mate without Competency certificate Under Metalliferous Mines Regulations, 1961
86	Butler/Cook
87	Breaker (using mechanical appliances)
88	Crech Ayah/Ayah/Untrained Crech Attendant
89	Assistant Driller
90	Oilman/Oiler
91	Chowkidar/ Watchman
92	Helper (Mason, Carpenter, Blacksmith)
93	Tindals
94	Topas
95	Topkar (Big Stone Breaker)
96	TrollyJamadar
97	Winchman
98	Attendance-keeper
99	Assistant Wireman
100	Mate
101	Mate (Blacksmith, Road, Carpenter)
102	Engine Driver and/or Feeder
103	Fitter
104	Gang
105	Mazdoor Mason
106	Permanent Way
107	Pump-Driver,Turner)
108	Mazdoor (Heavy-weight)
109	Charge-man
110	Mistri (Head
111	Muccadam
112	Night-guard
113	Runner (Post dak)
114	Oilman
115	Quarry man
116	Quarry Operator
117	Stoneman
118	Stocker
119	Thatcher
120	Pump Attendant
121	Bearer
122	Breakman
123	Crowder Man
124	Laboratory Boy
125	Pointsman Sencummy
126	Stone mines and other categories by whatever name called which are of semi-skilled nature

S.No	SKILLED
1	Artificer (Class-II, III, IV)
2	Blacksmith
3	Blacksmith (Class II)
4	Boiler man
5	Carpenter
6	Carpenter (Class II) Carpenter-cum- Blacksmith
7	Chowdhary
8	Driver
9	Driver (Engine Tractor, M.T.Motor)
10	Electrician
11	Fitter
12	Mason
13	Mason Class II
14	Machine hand (Class II, III, IV)
15	Machineman
16	Mate Gr. I (Senior)
17	Mechanic
18	Milk Writer
19	Mistry (Head)
20	Moulder
21	Muster Writer
22	Operator (Tube-well)
23	Painter
24	Plumber
25	Welder
26	Upholsterer
27	Wireman,
28	Chipper
29	Chipper-Cum-Grinder
30	Cook (Head)
31	Driller
32	Driller (Well Boring)
33	Driver(Loco/Truck)
34	Electrician (Assistant)
35	Mechanic (Tube-Well)
36	Mistry(Stell, Tube-Well, Telephone)
37	Meter Reader
38	Meteorological Observer Navghani

77	Work Sekar
78	Mica Cutter Grade -I
79	Dresser Grade -I Mica
80	Supervisory Fireman
81	Fireman only in Mines
82	Compressor Driver
83	Pump Man Driver 96. Grinder in Mica Mines
84	Surveyors (Assistant)
85	Tailor
86	Tailor(Upholstery)
87	Tran sprayer
88	Tar man
89	Line Man
90	Tiler Class II
91	Wall(Floor, Roof)
92	Tiler (Selection Grade)
93	Tin-Smith
94	Tin Smith(Selection Grade, Grade II and III, Class II) Tinker
95	Well Sinker
96	Assistant Mistry
97	Armature Winder Grade-II and III
98	Bhandari
99	Blacksmith
100	Blacksmith (Selection Grade, Grade II, III, Class II and III)
101	Boiler man
102	Boiler man Grade II and III
103	Boiler Foreman Grade II
104	Work (Assistant)
105	Brick Layer
106	Bricklayer (Selection Grade, Class II)
107	Blaster
108	Chowkidar (Head)
109	Security Guard (without arms)
110	Carpenter
111	Carpenter (Selection Grade, Grade II and III, Class I and III Assistant
112	B.I.M. Road
113	Cabinet Maker
114	Caneman
115	Celotex
116	Cutter Maker Chargeman, Class II and Class III, Carpenter Ordinary)
117	Checkder (Junior)

118	Chick Maker
119	Chickman (Junior) Concrete Mixure Mixer
120	Concrete Mixure Operator
121	Cobbler
122	Coremaker
123	Driver
124	Driver Motor Vehicle
125	Motor Vehicle Selection Grade
126	Motor Lorry
127	Motor-Lorry Grade II
128	Lorry Grade II
129	Diesel Engine
130	Diesel Engine Grade II
131	Mechanical Road Roller I.C. and Cement Mixer etc.
132	Road Roller
133	Road Roller Driver Grade II
134	Driver (Engine Static Stone Crusher, Tractor/Bull Dozer, Steam Road Roller,Water Pump, Mechanical Assistant, Road Roller, Mechanical, Steam Crane,Tractor with Bull Dozer Mechanical, Transport, Engine Static and Road Roller Boiler Attendant
135	Engine Operator (Stone Cusher Mechanical)
136	Distemper, Electrician, Electrician (Grade II, Class II and Class III)
137	Fitter
	Fitter (Selection Grade, Grade II and III) class II and III Assistant, Pipe class II
138	Pipe Line ending Bars for
139	reinforcement Cum-mechanic, Mechanic and Plumber)
140	Gharami (Head)
141	Glazier
142	Hole Drillar for Blasting
143	Joiner
144	Joiner (Cable,Cable Grade II)
145	Lineman (Grade II,III, High Tension/Low Tension)
146	Mason
147	Mason (Selection Grade, Grade II, III and Class B Mistry)
148	Stone (Stone Class II, Brick Work, Stone work)
149	Brick-layer
150	Tile Flooring
151	B.I.M Muccadam (Head)
152	Stone cutting
153	Ordinary Machines
154	Mechanic
155	Mechanic (Class II, Air conditioning, Air conditioning Grade II

156	Diesel Grade II
157	Road Roller Grade II
158	Assistant, Radio)
159	Manson (Gharami)
160	Mistry
161	Mistry Grade II, Air conditioning Grade II, P. Way, Survey, Santras Works)
162	Mason Class A
163	Moulder
164	Moulder (Brick, Tile)
165	Painter
166	Painter (Selection Grade,Grade II and III, Class II, Assistant Letter and Polisher Polisher, Rough)
167	Plasterer
168	Plasterer (Mason Grade II)
169	Plumber
170	Plumber (Selection Grade, Class II, Assistant Letter and Polisher, Rough),
171	Plasterer
172	Plasterer (Mason Grade II)
173	Plumber (Selection Grade, Class-II, Assistant Senior, Junior, Mistry Grade II)
174	Plumbing Mistry
175	Plumber-cum-Fitter
176	Polisher
177	Polisher (Floor)
178	Sirdhar Lathe Men
179	Geologist
180	Tailors
181	Turner
182	Upholsterer
183	Upholsterer (Grade II and III)
184	Painter Spray (Class II)
185	Wood Cutter
186	Wood Cutter Section Grade
187	Wood Cutter Class II
188	Work Sircar
189	Welder
190	Airwinch Haulage Operator
191	Auto-electrician
192	Painter
193	Blacksmith
194	Tailor
195	Compressor Operator

196	Blaster/Shot-firer
197	Driver
198	Head cook
199	Chargeman
200	Carpenter
201	Concrete Mixer Operator
202	Compressor Attendant
203	Air Compressor Attendant
204	Tractor Driver
205	Vehicle Driver
206	Chemist and Assistant/ Chemist
207	Sub- overseer (unqualified)
208	Driller
209	Handhole Driller
210	Drill Mechanic
211	Driver Auto
212	Electrician
213	Wirelesss Operator Asstt. Foreman
214	Foreman
215	Fitter
216	Ferry Driver
217	Issuer Loco
218	Super Foreman
219	Hoist Operator
220	EMCE Driver
221	Driver
222	Loco Driver
223	Loader Operator
224	Linesman
225	Mechanic/ Machinist
226	Mason
227	Mid Wife
228	Tinsmith
229	Supervisory Mechanic
230	Pump Attendant only in Gypsum, Barytes and Rock Phosphates
231	Pump Operator/Driver
232	Mining Mate with competency certificate under Metalliferous Mines' Regulations, 1961.
233	Mistry
234	Skilled Mazdoor
235	Turner

236	Senior Mechanic
237	Pipe Fitter
238	Supervisor
239	Drafts Man
240	Wireman
241	Timber Man/Timber Mistry Elect.
242	Stone Crusher Operator
243	Crusher Operator
244	Moulder
245	Welder
246	Operator
247	Work Mistry
248	Engine Driver
249	Mining Engine Driver Grade -II
250	Engineman
251	Valveman
252	Cutter
253	Winding Engine Driver Grade - II
254	Security Guard (Unarmed) /Head Chowkidar
255	Shovel Operator
256	Limco Loader Operator
257	Surface Supervisor
258	Dozer Operator
259	Compressor Driller
260	Dumper Tractor Operator
261	Boiler Man (with Certificate)
262	Machinery Attendant
263	Air-conditions Mechanic
264	Creche Attendant only in Magnesite, Manganese and Mica Mines
265	Power Shovel Operator
266	Power and Pump House Operator
267	Miner Grade - I
268	Tractor Operator 80. Tub Repairer 81. Lathe Mistry
269	Stationery Engine Attendant 83. Generator Operator 84. Loading Foreman
270	Diesel Mechanic
271	Ferro Printer cum-chairman
272	White Washing and Colour Washing Man
273	Operator Pneumatic Tools, Operator (Fitter)
274	Boreman
275	Borer
276	Wireman (Grade II and III, Mechanic, Electrical)

S. No.	HIGHLY SKILLED
1	Artificer Class I
2	Blacksmith Class I
3	Carpenter Class I
4	Machine
5	Hand Class I
6	Mason Class I
7	Mechanic (Senior)
8	Painter (Grade I, Class I, Spray) Plasterer (Mason) Class I
9	Plumber (Head, class I)
10	Mistry Grade I
11	Polisher (with spray Grade I)
12	Road Inspector Grade I
13	Sawyer Class I
14	Stone Cutter Class I
15	Stone Cutter Grade I
16	Stone Chisler Class I
17	Stone Mason Class I
18	Sub-Overseer (Qualified)
19	Tiler Class I
20	Tinsmith Grade I and Class I
21	Upholsterer Grade I
22	Varnisher Class I
23	Welder-Cum-Fitter and Air Conditioning Mechanic
24	Welder (Gas) Class I
25	White Washer Class I
26	Wireman Grade I, Class I
27	Wood Cutter Class I
28	Grinder (Tool) Grade I
29	Operator (Batching Plant Grade I)
30	Leader Grade I
31	Pile Driving Grade I
32	Pump Grade
33	Scrapper Grade I
34	Screening Plant Grade I
35	Pump Grade I
36	Scrapper Grade I
37	Security Guards (with arms)
38	Armature Winder Grade I

39	Blacksmith Grade I and Class I
40	Boilerman Grade I
41	Boilerman Foreman Grade I
42	Brick Layer class I
43	Cable Joiner Grade I
44	Carpenter grade I and Class I
45	Celo Cutter and Decorator
46	Chargeman Class I
47	Checker (Sr) Driver Lorry Grade I
48	Motor Lorry Grade I
49	Motor Vehicle Class I and Diesel Engine Grade I
50	Road Roller Grade I
51	Pump Class Electrician Grade I and Class I/ Grade I
52	Fitter (Grade I, Class I)
53	Pipe Class I (Head)
54	Foreman(Assistant) Line Man Grade I Mason (Skilled Grade I, Class I)
55	Mast Rig
56	Mechanic Class I and Class II
57	Mechanic (Diesel Grade I and Road Roller Grade I
58	Airconditioning Grade I/Class I, Mistry Grade I
59	Mistry (Airconditioning Grade I)
60	Overseer
61	Overseer (Senior and Junior)
62	Dragline Grade I
63	Drill Grade I
64	Dumper Grade I
65	Excavator Grade I
66	Fork Lift Grade I
67	Generator Grade I
68	Rigger Grade I
69	Rigger Grade II
70	Charper/Sletter Grade I
71	Shovel and Dragline Tractor Grade I
72	Tradesman Class I
73	Turner/Miller Grade I
74	Work (Assistant) Grade I
75	Compounder
76	Surveyor
77	Winding Engine Driver
78	Operator (Heavy Earth Moving Shovel and Bulldozer)
79	Head Mistry
80	Staff Nurse with Diploma

81	Drill Operator other than Jack Hammer
82	Electrical Supervisor with Competency Certificate
83	Underground Shift Boss
84	Head Mechanic
85	Qualified and Experienced Welder
86	Machine Tool Mechanic
87	Mechanical/Plant Foreman
88	Mining Supervisor
89	Vocational Training Instructor/Teacher
90	Head Electrician
91	Auditor
92	Steno with 7 years of service
93	Store Incharge
94	Shift Incharge
95	Supervisor
96	Incharge of Watch and Ward
97	Security Guard (Armed)
98	Crane Grade I
99	Diesel Engine Grade I
100	Dozer Grade I
101	Clamp Shell Grade I
102	Compressor Grade I
103	Grader Grade I
104	Tractor Grade I
105	Vibrator Grade I
106	Screening Plant Grade I
107	Shovel Grade I
108	Shovel and Dragline
109	Tyrevulcanser Grade I
110	Security Guard (with Arms) and other categories by whatever name called which are of Highly- skilled nature.

By Order,

DR. SRIDHAR BABU ADDANKI,
Secretary.

पी0एस0यू0 (आर0डी0) 11/श्रम/387–2026–100+100 प्रतियां (कम्प्यूटर/पीडियो)।

पंजीकरण संख्या–UA/GD/DDN/38/2024-2026



सरकारी गजट, उत्तराखण्ड

उत्तराखण्ड सरकार द्वारा प्रकाशित

असाधारण

दैहरादून, मंगलवार, 25 अगस्त, 2026 ई0

भाद्रपद 03, 1948 शक सम्वत्

उत्तराखण्ड शासन

श्रम अनुभाग

संख्या– 1117 / VIII-1 / 2026–39(श्रम)2018

दैहरादून, 25 अगस्त, 2026

अधिसूचना

चूंकि औद्योगिक संबंध संहिता, 2020 (संख्या 35 वर्ष 2020) की धारा 99 के अधीन सशक्षित सरकार (राज्य सरकार) को उक्त संहिता के उपबन्धों को प्रभावशील करने के लिए, राजपत्र में अधिसूचना द्वारा तथा उक्त अधिनियम की धारा 99 की उपधारा (1) के अधीन पूर्व प्रकाशन की शर्तों के अधीन रहते हुए नियम बनाने की शक्ति प्राप्त है;

और चूंकि उक्त संहिता की धारा 99 की उपधारा (1) की अपेक्षानुसार "उत्तराखण्ड औद्योगिक संबंध नियमावली, 2026" का प्रस्तावित प्रारूप श्रम अनुभाग, उत्तराखण्ड शासन की अधिसूचना संख्या 511/VIII–1/2026–39(श्रम)2018 दिनांक 30 अप्रैल, 2026 द्वारा पूर्व प्रकाशित किया गया था;

और चूंकि उक्त प्रारूप नियमावली के संबंध में जनसामान्य और हितधिकारियों से अभ्यावेदन एवं आपत्तियों पर राज्य सरकार द्वारा विचार कर लिया गया है;

अतएव, अब राज्यपाल औद्योगिक संबंध संहिता, 2020 की धारा 99 द्वारा प्रदत्त शक्ति का प्रयोग करते हुए निम्नलिखित नियमावली बनाये जाने की सहर्ष स्वीकृति प्रदान करते है; अर्थात् –

उत्तराखण्ड औद्योगिक संबंध नियमावली, 2026

अध्याय 1

प्रारंभिक

संक्षिप्त नाम, विस्तार और प्रारंभ

1. (1) इस नियमावली का संक्षिप्त नाम उत्तराखण्ड औद्योगिक संबंध नियमावली, 2026 है।

(2) इसका विस्तार संपूर्ण उत्तराखण्ड राज्य पर होगा।

(3) यह शासकीय राजपत्र में प्रकाशन की दिनांक से प्रवृत्त होगी।

परिभाषाएं

2. (1) जब तक कि विषय या संदर्भ में कोई बात प्रतिकूल न हो, इस नियमावली में–

(क) 'संहिता' से औद्योगिक संबंध संहिता 2020 अभिप्रेत है;

(ख) 'धारा' से औद्योगिक संबंध संहिता 2020 की धारा अभिप्रेत है;

(ग) 'इलैक्ट्रॉनिक रूप से' से कोई सूचना जिसे ई–मेल द्वारा प्रस्तुत किया गया हो अथवा जिसे विनिर्दिष्ट पोर्टल पर अपलोड किया गया हो अथवा संहिता के प्रयोजन किसी भी रूप में डिजिटल भुगतान करना अभिप्रेत है;

(घ) 'प्रपत्र' से नियमावली में संलग्न प्रपत्र से अभिप्रेत है;

(ङ) 'राज्य सरकार' से उत्तराखण्ड राज्य की सरकार अभिप्रेत है;

(2) उन शब्दों और पदों के जो इसमें प्रयुक्त हैं और परिभाषित नहीं हैं, किन्तु औद्योगिक संबंध संहिता, 2020 परिभाषित है, के वही अर्थ होंगे जो संहिता में है।

अध्याय 2

समझौता

समझौता ज्ञापन

3. (1) सुलह की कार्यवाही के दौरान किया गया समझौता या नियोजक और कर्मकार के बीच सुलह की कार्यवाही के अलावा किसी अन्य तरीके से किया गया लिखित समझौता प्रपत्र–क में होगा।

(2) समझौते पर निम्नलिखित द्वारा हस्ताक्षर किए जाएंगे,–

(क) नियोजक द्वारा या उसके अधिकृत प्रतिनिधि द्वारा, या जहां नियोजक कोई निगमित कंपनी या अन्य निगमित निकाय है, वहां ऐसी कंपनी या ऐसे अन्य निगमित निकाय के प्रतिनिधि, प्रबंधक या अन्य प्रमुख अधिकारी द्वारा; और

(ख) कर्मकारों की ओर से, व्यवसाय संघ के निम्नलिखित किसी पदाधिकारी द्वारा, अर्थात्:–

(i) अध्यक्ष; या

(ii) उपाध्यक्ष; या

(iii) सचिव (महासचिव सहित); या

(iv) संयुक्त सचिव; या

(v) व्यवसाय संघ का कोई अन्य पदाधिकारी जिसे संघ के अध्यक्ष और सचिव द्वारा इस निमित्त प्राधिकृत किया गया हो;
या

(vi) इस प्रयोजन के लिए आयोजित कर्मकारों की बैठक में इस संबंध में विधिवत् प्राधिकृत कर्मकारों के पांच प्रतिनिधि।

(3) किसी कर्मकार और नियोजक के बीच औद्योगिक विवाद की स्थिति में, समझौते पर नियोजक और संबंधित कर्मकार द्वारा हस्ताक्षर किए जाएंगे।

(4) जहां सुलह की कार्यवाही के दौरान समझौता हो जाता है, वहां सुलह अधिकारी, विवाद के पक्षकारों द्वारा हस्ताक्षरित समझौता ज्ञापन की एक प्रति के साथ राज्य सरकार को इसकी रिपोर्ट भेजेगा।

(5) जहां नियोजक और उसके कर्मकार के बीच, सुलह की कार्यवाही की प्रक्रिया के अलावा किसी अन्य तरीके से समझौता हो जाता है, तो समझौते के पक्षकार संयुक्त रूप से उसकी एक प्रति इलैक्ट्रॉनिक रूप में या स्पीड पोस्ट या पंजीकृत डाक द्वारा श्रम आयुक्त और सुलह अधिकारी को भेजेंगे।

(6) सुलह अधिकारी अपने अधिकार क्षेत्र के अंतर्गत आने वाले क्षेत्र में औद्योगिक विवादों के संबंध में संहिता के अंतर्गत किए गए सभी समझौतों को इलैक्ट्रॉनिक रूप से या अन्य बनाए गए रजिस्टर में दर्ज करेगा।

(7) उपनियम (6) में निर्दिष्ट रजिस्टर में क्रम संख्या, उद्योग का नाम, समझौते के पक्षकार, समझौते की तारीख, टिप्पणियों और यह जानकारी कि क्या समझौता, सुलह अधिकारी के हस्तक्षेप के बाद या आपसी बातचीत से हुआ था, सहित ब्यौरे शामिल होंगे,

परन्तु यह कि समझौते पर सुलह अधिकारी के हस्ताक्षर आवश्यक नहीं होंगे, यदि समझौता सुलह प्रक्रिया के बाहर किया गया हो;

परन्तु यह और कि इस नियमावली की कोई बात कर्मकार या कर्मकारों या व्यवसाय संघ और किसी नियोजक के बीच पारस्परिक रूप से सहमत शर्तों पर समझौते को प्रतिबंधित नहीं करेगी और ऐसे समझौते प्रपत्र क के अलावा किसी अन्य प्रारूप में भी हो सकते है। सुलह प्रक्रिया से बाहर किये गये समझौते की प्रति सुलह अधिकारी को अनिवार्य रूप से प्रेषित की जायेगी।

अध्याय–3

द्वि–पक्षीय मंच

कार्य समिति का गठन एवं इससे संबंधित मामले

4. (1) प्रत्येक नियोजक, जिसके संबंध में धारा 3 की उपधारा (1) के अधीन राज्य सरकार द्वारा आदेश किया गया है, नियोजक और कर्मकारों के बीच सौहार्द और अच्छे संबंधों को सुरक्षित और संवर्द्धित करने, सामान्य हित एवं सरोकार के मामलों में टिप्पणी करने के लिए नियमावली में निर्दिष्ट तरीके से तत्काल एक कार्य समिति (इसके पश्चात् इस नियम में समिति के रूप में संदर्भित) का गठन करेगा।

(2) सदस्यों की संख्या

(i) समिति के सदस्यों की संख्या इस प्रकार प्रकार निर्धारित की जाएगी कि औद्योगिक प्रतिष्ठान में और उसके अनुभागों, विभागों में लगे कर्मकारों की विभिन्न श्रेणियों, समूहों और वर्गों को प्रतिनिधित्व मिल सके।

(ii) समिति के सदस्यों की कुल संख्या बीस से अधिक नहीं होगी।

(iii) समिति में कर्मकारों के प्रतिनिधियों की संख्या, उसमें नियोजक के प्रतिनिधियों की संख्या से कम नहीं होगी:

परन्तु यह जिन औद्योगिक प्रतिष्ठान में महिला कर्मकार नियोजित हैं, वहां कार्य समिति में महिला कर्मकारों का पर्याप्त प्रतिनिधित्व होगा और ऐसा प्रतिनिधित्व औद्योगिक प्रतिष्ठान में नियोजित कुल महिला कर्मकारों के अनुपात से कम नहीं होगा।

(3) नियोजक का प्रतिनिधित्व — इस नियम के उपबंधों के अध्यधीन समिति में नियोजक के प्रतिनिधि, नियोजक द्वारा नामित किए जाएंगे और जहां तक संभव हो, वे औद्योगिक प्रतिष्ठान के कार्य से सीधे संपर्क में रहने वाले या उसमें संबद्ध अधिकारी होंगे।

(4) ट्रेड यूनियन के साथ परामर्श — जहां औद्योगिक प्रतिष्ठान के कर्मकार किसी रजिस्ट्रीकृत व्यवसाय संघ या रजिस्ट्रीकृत व्यवसाय संघों के सदस्य हैं, वहां नियोजक ऐसे रजिस्ट्रीकृत व्यवसाय संघ या रजिस्ट्रीकृत व्यवसाय संघों से लिखित रूप से उसे सूचित करने के लिए कहेगा कि–

(क) ऐसे कर्मकारों की संख्या जो रजिस्ट्रीकृत व्यवसाय संघ या व्यवसाय संघों के सदस्य हैं; और

(ख) यदि नियोजक के पास यह विश्वास करने का कारण है कि रजिस्ट्रीकृत व्यवसाय संघ या ट्रेड यूनियनों द्वारा उसे दी गई सूचना मिथ्या है, तो वह ऐसे रजिस्ट्रीकृत व्यवसाय संघ या व्यवसाय संघों को सूचित करने के पश्चात् मामले को उप रजिस्ट्रार/संयुक्त रजिस्ट्रार/अपर रजिस्ट्रार को संदर्भित करेगा, जो पक्षों को सुनने के बाद एक रिपोर्ट श्रम आयुक्त/रजिस्ट्रार को प्रेषित करेगा, जो पक्षों को सुनने के बाद मामले का निर्णय करेगा और उसका निर्णय अंतिम होगा।

(5) कर्मकार प्रतिनिधियों का चयन — उपनियम (4) के अधीन मांगी गई सूचना के प्राप्त होने तक, नियोजक निम्नलिखित रीति से समिति के लिए कर्मकार प्रतिनिधि के चयन की व्यवस्था करेगा, अर्थात्:–

(क) धारा 14 की उपधारा (2) या उपधारा (3) के अधीन वार्ताकारी संघ के मामले में, ऐसी वार्ताकारी संघ समिति के लिए कर्मकार प्रतिनिधियों को नामित करेगा;

(ख) धारा 14 की उपधारा (4) के अधीन वार्ताकारी परिषद के मामले में, गणांकन इस प्रकार किया जाएगा कि वार्ताकारी परिषद में प्रतिनिधित्व करने वाले प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ का समिति में प्रतिनिधित्व उस औद्योगिक प्रतिष्ठान के उन कर्मकारों की संख्या के अनुपात में होगा जो ऐसे व्यवसाय संघ के सदस्य हैं;

(ग) जहां खंड (क) और (ख) में निर्दिष्ट मान्यताप्राप्त कोई वार्ताकारी यूनियन या वार्ताकारी परिषद् नहीं है, वहां औद्योगिक प्रतिष्ठान के कर्मकार आपस में से समिति के कर्मकार प्रतिनिधियों का चुनाव करेंगे:

परन्तु यह कि नियोजक, सूचना प्रौद्योगिकी अनुप्रयोग, ऑनलाइन प्लेटफॉर्म या ऐसे किसी अन्य प्लेटफॉर्म पर चुनाव प्रक्रिया का आयोजन करने के लिए एक इलैक्ट्रॉनिक प्लेटफॉर्म तैयार कर सकता है ताकि यह सुनिश्चित किया जा सके कि इस खण्ड के अंतर्गत समिति के लिए कर्मकारों के प्रतिनिधियों का चुनाव कैसे किया जाएगा:

परन्तु यह और कि जहां रजिस्ट्रीकृत व्यवसाय संघ उपनियम (4) के अधीन मांगी गई सूचना, मांगी जाने की तारीख से एक माह के भीतर प्रस्तुत करने में असफल रहता है, तो ऐसे व्यवसाय संघ को इस नियम के प्रयोजन के लिए, ऐसे माना जाएगा मानो वह अस्तित्व में ही न हो:

परन्तु यह भी कि जहां नियोजक द्वारा उपनियम (4) के अधीन कोई निर्देश दिया गया है, वहां उससे संबंधित कर्मकार के प्रतिनिधि को चुनने की प्रक्रिया, श्रम आयुक्त का निर्णय प्राप्त होने पर की जाएगी।

(छ) निर्वाचन क्षेत्र — यदि नियोजक उचित समझे तो वह निर्देश दे सकता है कि कर्मकार, समूहों, अनुभागों, दुकानों या विभागों के माध्यम से मतदान करेंगे।

(7) चुनाव के लिए उम्मीदवारी की अर्हता

कोई भी कर्मकार, जिसकी आयु उन्नीस वर्ष के कम न हो और जिसने औद्योगिक प्रतिष्ठान में कम से कम एक वर्ष की सेवा की हो, यदि इस निमम में यथा उपबंधित, नामित किया गया हो, तो वह समिति के कर्मकार प्रतिनिधि के रूप में चुनाव के लिए उम्मीदवार हो सकता है:

परन्तु यह कि ऐसी सेवा अर्हता किसी औद्योगिक प्रतिष्ठान के प्रथम चुनाव पर लागू नहीं होगी, जो एक वर्ष से कम समय से अस्तित्व में है।

स्पष्टीकरण– इस उपनियम के प्रयोजन के लिए, कोई कर्मकार जिसने एक ही नियोजक के दो या अधिक औद्योगिक प्रतिष्ठानों में कम से कम एक वर्ष तक निरन्तर सेवा की है, यह समझा जाएगा कि उसने इसमें विनिर्दिष्ट सेवा अर्हता पूरी कर ली है।

(8) मतदाताओं के लिए अर्हता

सभी कर्मकार जिनकी आयु अठारह वर्ष से कम नहीं है और जिन्होंने औद्योगिक प्रतिष्ठान में कम से कम छह महीने की निरंतर सेवा की है, समिति के कर्मकार प्रतिनिधि के चुनाव में मतदान करने के हकदार होंगे।

स्पष्टीकरण– इस उपनियम के प्रयोजनों के लिए, कोई कर्मकार जिसने एक ही नियोजक के दो या अधिक औद्योगिक प्रतिष्ठानों में कम से कम छह माह की निरंतर सेवा की है, यह समझा जाएगा कि उसने इसमें विनिर्दिष्ट सेवा अर्हता पूरी कर ली है।

(9) चुनाव के लिए कार्यक्रम का निर्धारण

(i) नियोजक, समिति के कर्मकार प्रतिनिधियों के रूप में चुनाव के लिए उम्मीदवारों से नामांकन प्राप्त करने की अंतिम तारीख के रूप में तारीख निर्धारित करते समय अन्य अपेक्षित विवरणों के साथ नामांकन दाखिल करने के लिए कम से कम तीन कार्य दिवसों की न्यूनतम समय अवधि प्रदान करेगा।

(ii) खंड (i) में निर्दिष्ट चुनाव कराने के लिए नियोजक द्वारा निर्धारित तारीख नामांकन प्राप्त करने की अंतिम तारीख के तीन दिन से पहले और पंद्रह दिन के बाद नहीं होगी।

(iii) खण्ड (i) के अंतर्गत निर्धारित की गई चुनाव की तारीख, संबंधित कर्मकारों को कम से कम सात दिन पहले अधिसूचित की जाएगी और ऐसी सूचना, जिसमें निर्वाचित होने वाली सीटों की संख्या निर्दिष्ट की जाएगी, औद्योगिक प्रतिष्ठान के नोटिस बोर्ड या इलैक्ट्रॉनिक नोटिस बोर्ड पर प्रदर्शित की जाएगी और कर्मकारों के बीच पर्याप्त प्रचार किया जाएगा।

(10) चुनाव के लिए उम्मीदवारों का नामांकन

(i) समिति में कर्मकार प्रतिनिधि के रूप में निर्वाचन के लिए प्रत्येक नामांकन, नियोजक द्वारा उपलब्ध कराए जाने वाले नामांकन पत्र पर किया जाएगा तथा नियोजक द्वारा उसकी प्रतियां आवश्यकता पड़ने पर कर्मकारों को उपलब्ध कराई जाएंगी।

(ii) खण्ड (i) में निर्दिष्ट प्रत्येक नामांकन पत्र पर उस उम्मीदवार द्वारा हस्ताक्षर किया जाएगा, जिनसे वह संबंधित है और उस समूह, अनुभाग, दुकान या विभाग से संबंधित कम से कम दो अन्य मतदाताओं द्वारा सत्यापित किया जाएगा, जिसका प्रतिनिधित्व निर्वाचन चाहने वाला अभ्यर्थी करता है, और उसे नियोजक को दिया जाएगा।

(11) नामांकन पत्रों की जांच

(i) नामांकन पत्र दाखिल करने के लिए निर्धारित अंतिम दिन के अगले दिन नियोजक द्वारा

उम्मीदवारों और संस्थापन करने वाले व्यक्तियों की उपस्थिति में नामांकन पत्रों की जांच की जाएगी और जो नामांकन वैध नहीं होंगे उन्हें अस्वीकार कर दिया जाएगा।

(ii) किसी नामांकन पत्र को इस उपनियम के अधीन वैध नहीं माना जाएगा, यदि–

(क) नामित उम्मीदवार उपनियम (7) के अधीन उम्मीदवार होने के लिए अपात्र है, या

(ख) उपनियम (10) की अपेक्षाओं का अनुपालन नहीं किया गया है:

परन्तु यह कि जहां कोई उम्मीदवार या संस्थापनकर्ता व्यक्ति, जांच के समय उपस्थित होने में असमर्थ हो, तो वह इस प्रयोजन के लिए विधिवत् प्राधिकृत व्यक्ति को भेज सकेगा।

(12) उम्मीदवार का नाम वापस लेना: कोई भी उम्मीदवार जिनका निर्वाचन के लिए नामांकन स्वीकार कर लिया गया है, नामांकन पत्रों की जांच पूरी होने के 48 घंटे के भीतर अपना नाम वापस ले सकता है।

(13) चुनाव में मतदान

(i) यदि समिति के कर्मकार प्रतिनिधि के रूप में चुनाव के लिये वैध रूप से नामांकित उम्मीदवारों की संख्या सीटों के बराबर है, तो उम्मीदवार को तुरंत विधिवत निर्वाचित घोषित किया जाएगा।

(ii) जहां किसी औद्योगिक प्रतिष्ठान में समिति के कर्मकार प्रतिनिधि के निर्वाचन के लिए वैध रूप से नामांकित उम्मीदवारों की संख्या, उसे आवंटित सीटों की संख्या से अधिक है, वहां मतदान निर्वाचन के लिए नियत दिन पर होगा।

(14) समिति के पदाधिकारी

(i) समिति के पदाधिकारियों में एक अध्यक्ष, एक उपाध्यक्ष और एक सचिव और एक संयुक्त सचिव होगा।

(ii) नियोजक द्वारा समिति का अध्यक्ष समिति के नियोजक के प्रतिनिधियों में से नामित किया जाएगा और वह, जहां तक संभव हो, औद्योगिक प्रतिष्ठान का प्रमुख होगा।

(iii) उपाध्यक्ष का चुनाव कर्मकारों का प्रतिनिधित्व करने वाले समिति सदस्यों द्वारा अपने बीच में किया जाएगा:

परन्तु यह कि उपाध्यक्ष के चुनाव में मत बराबर होने की स्थिति में मामले का निर्णय लॉटरी द्वारा किया जाएगा।

(iv) समिति के सचिव और संयुक्त सचिव का चुनाव प्रत्येक वर्ष किया जाएगा।

(v) समिति, सचिव और संयुक्त सचिव का चुनाव करेगी बशर्ते कि जहां सचिव का चुनाव नियोजकों के प्रतिनिधियों में से किया जाना है, वहीं संयुक्त सचिव का चुनाव कर्मकारों के प्रतिनिधियों में से किया जायेगा और इसके विपरीत:

परन्तु यह कि सचिव या संयुक्त सचिव का पद जैसा भी मामला हो, नियोजक या कर्मकारों के किसी प्रतिनिधि द्वारा लगातार तीन वर्षों तक धारण नहीं किया जाएगा:

परन्तु यह और भी नियोजक के प्रतिनिधि सचिव या संयुक्त सचिव, जैसा मामला हो, के चुनाव में भाग नहीं लेंगे और केवल कर्मचारी के प्रतिनिधि ही सचिव या संयुक्त सचिव के पद के लिए चुनाव में मतदान करने के हकदार होंगे:

परन्तु यह और भी इस उपनियम के अधीन चुनाव में मतों की बराबरी की स्थिति में, मामले का निर्णय लॉटरी द्वारा किया जाएगा।

(15) पदावधि:

(i) आकस्मिक रिक्ति को भरने के लिए चुने गए सदस्य को छोड़कर समिति के सदस्यों की पदावधि तीन वर्ष होगी।

(ii) आकस्मिक रिक्ति को भरने के लिए चुना गया प्रत्येक सदस्य अपने पूर्ववर्ती के कार्यकाल की शेष अवधि के लिए पद धारण करेगा।

(iii) यदि कोई सदस्य समिति से अनुमति प्राप्त किए बिना समिति की लगातार तीन बैठकों में उपस्थित नहीं होता है तो उसकी सदस्यता समाप्त हो जाएगी।

(16) रिक्तियां यदि कर्मकार का प्रतिनिधि, उपनियम (15) के खंड (iii) के अधीन सदस्य नहीं रह जाता है या औद्योगिक प्रतिष्ठान में नियोजित नहीं रहता है या उसके त्यागपत्र, मृत्यु या अन्यथा की स्थिति में, समिति की शेष अवधि के लिए इस नियम के उपबंधों के अनुसार उसके उत्तराधिकारी का चयन उसी समूह से किया जाएगा जिससे पद खाली करने वाला सदस्य संबंधित था।

(17) सहयोजित करने की शक्ति समिति को परामर्शी क्षमता में चर्चा के अधीन किसी मामले का विशेष या विशिष्ट ज्ञान रखने वाले औद्योगिक प्रतिष्ठान में नियोजित व्यक्तियों को सहनियोजित करने का अधिकार होगा और ऐसा सहयोजित सदस्य मत देने का हकदार नहीं होगा और केवल उस अवधि के लिए बैठकों में उपस्थित रहेगा, जिसके दौरान विशेष प्रश्न समिति के समक्ष हो।

(18) बैठकें

(i) समिति आवश्यकतानुसार जितनी बार बैठक कर सकेगी, किन्तु तीन माह में एक बार से कम नहीं होगी।

(ii) समिति अपनी पहली बैठक में अपनी स्वयं की प्रक्रिया विनिश्चित करेगी।

(19) बैठकों आदि के लिए सुविधाएं आदि

(i) नियोजक समिति की बैठकें आयोजित करने के लिए बैठक स्थल उपलब्ध कराएगा तथा समिति और उसके सदस्यों की समिति का कार्य संचालित करने के लिए सभी आवश्यक सुविधाएं भी उपलब्ध कराएगा।

(ii) समिति की बैठक, सामान्यतः किसी भी कार्य दिवस पर संबंधित औद्योगिक प्रतिष्ठान के कार्य अवधि के दौरान होगी तथा बैठक में उपस्थित होने पर कर्मकारों के प्रतिनिधियों को ड्यूटी पर माना जाएगा।

(iii) समिति का सचिव, अध्यक्ष की पूर्व सहमति से, औद्योगिक प्रतिष्ठान के नोटिस बोर्ड पर समिति के कार्यों के संबंध में सूचना लगाएगा।

(20) वार्षिक रिटर्न — नियोजक, व्यावसायिकजन्य सुरक्षा, स्वास्थ्य और कार्य स्थिति संहिता, 2020 (2020 का 37) के अधीन इस संबंध में बनाए गए नियमों में प्रदान की गई एकीकृत वार्षिक रिटर्न के एक भाग के रूप में समिति के गठन और कामकाज का विवरण प्रस्तुत करेगा।

(21) कार्य समिति का विघटन — राज्य सरकार या उसकी ओर से प्राधिकृत अधिकारी ऐसी जांच करने के पश्चात्, जैसा वह उचित समझे, किसी भी समिति को किसी भी समय, लिखित रूप में कारण दर्ज करके एक आदेश द्वारा यह समाधान हो जाने पर भंग कर सकेगा कि समिति का गठन इस नियम के उपबंध के अनुसार नहीं किया गया है या कर्मकारों के प्रतिनिधियों की संख्या के कम से कम दो-तिहाई सदस्य बिना किसी उचित औचित्य के समिति की लगातार तीन बैठकों में उपस्थित होने में विफल रहे हैं या समिति ने किसी अन्य कारण से कार्य करना बंद कर दिया है:

परन्तु यह कि जहां समिति इस उपनियम के अधीन विघटित कर दी जाती है, वहां नियोजक और यदि ऐसा अपेक्षित हो, राज्य सरकार यथास्थिति ऐसे अधिकारी द्वारा इस नियम के अनुसार समिति का पुनर्गठन करने के लिए कदम उठा सकेगी।

धारा 4 की उपधारा 5. (2) के अधीन शिकायत निवारण समिति के लिए नियोजकों और कर्मकारों में से सदस्यों का चयन

(1) बीस या अधिक कर्मकारों को नियोजित करने वाले औद्योगिक प्रतिष्ठान में शिकायत निवारण समिति (जहां इसके पश्चात् इस नियम में शिकायत समिति के रूप में संदर्भित) में नियोजक और श्रमिकों का प्रतिनिधित्व करने वाले सदस्यों की संख्या समान होगी जो दस से अधिक नहीं होगी।

(2) शिकायत समिति में नियोजक के प्रतिनिधियों को नियोजक द्वारा नामित किया जाएगा और जहां तक संभव हो, ऐसे प्रतिनिधि औद्योगिक स्थापन के कामकाज के साथ सीधे संपर्क में होंगे या उससे संबंधित अधिकारी होंगे। औद्योगिक स्थापन के प्रमुख विभागों के प्रमुखों को प्राथमिकता दी जानी चाहिए।

(3) शिकायत समिति में कर्मकार प्रतिनिधियों का चयन निम्नलिखित रीति से किया जाएगा, अर्थात्:–

(क) जहां धारा 14 की उपधारा (2) या उपधारा (3) के अधीन मान्यताप्राप्त संघ है, वहां यथास्थिति, ऐसे मान्यताप्राप्त संघ या मान्यताप्राप्त परिषद्, शिकायत समिति में कर्मकार प्रतिनिधियों को नामित करेगा;

(ख) धारा 14 की उपधारा (4) के अधीन मान्यताप्राप्त परिषद के मामले में, नामांकन इस प्रकार किया जाएगा कि मान्यताप्राप्त परिषद में प्रतिनिधित्व करने वाले प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ का प्रतिनिधित्व, शिकायत समिति में औद्योगिक प्रतिष्ठान के उन कर्मकारों की संख्या के अनुपात में होगा जो ऐसे व्यवसाय संघ के सदस्य हैं;

(ग) जहां खंड (क) और (ख) में निर्दिष्ट मान्यता प्राप्त कोई वार्ताकारी संघ या वार्ताकारी परिषद् नहीं है, वहां औद्योगिक प्रतिष्ठान के कर्मकार आपस में से शिकायत समिति के कर्मकार प्रतिनिधियों का चुनाव करेंगे:

परन्तु यह कि नियोजक इस खण्ड के अंतर्गत सूचना प्रौद्योगिकी एप्लीकेशन, ऑनलाइन प्लेटफॉर्म या ऐसे अन्य प्लेटफॉर्म नियोजित कर सकता है;

परन्तु और यह कि शिकायत समिति में महिला कर्मकारों का पर्याप्त प्रतिनिधित्व होगा और ऐसा प्रतिनिधित्व औद्योगिक प्रतिष्ठान में नियोजित कुल कर्मकारों में महिला कर्मकारों के अनुपात से कम नहीं होगा।

(4) शिकायत समिति के सदस्यों का कार्यकाल तीन वर्ष का होगा।

(5) जहां कोई मान्यता प्राप्त वार्ताकारी संघ या वार्ताकारी परिषद् नहीं है और शिकायत समिति में कर्मकार के प्रतिनिधि के चयन के संबंध में कोई विवाद उत्पन्न होता है, तो मामला श्रम आयुक्त को भेजा जा सकता है, जो पक्षों को सुनने के पश्चात् मामले का निर्णय करेगा, जिसका निर्णय अंतिम होगा।

धारा 4 की उपधारा (5) के अधीन शिकायत निवारण समिति के समक्ष आवेदन

6. (1) कोई भी व्यथित कर्मकार/अधिक शिकायत निवारण समिति के समक्ष अपना नाम, पदनाम, कर्मचारी कोड, विभाग जहां नियुक्त है, सेवा की अवधि वर्षों में, पत्राचार के लिए पता, कर्मकार की श्रेणी, मोबाइल नंबर, शिकायतों का विवरण और जो राहत मांगी गई है के विवरणों के साथ इलैक्ट्रॉनिक या अन्यथा रूप में आवेदन दायर कर सकते हैं।

(2) उपनियम (1) में संदर्भित आवेदन, इलैक्ट्रॉनिक रूप से या किसी और तरीके से भेजा जा सकता है।

(3) उपनियम (1) में संदर्भित आवेदन, ऐसे विवाद का कारण उत्पन्न होने की तारीख से एक वर्ष के भीतर दायर किया जाएगा।

धारा 4 की उपधारा (8) के अधीन शिकायत निवारण समिति के निर्णय के

7. कोई भी कर्मकार/कर्मचारी जो शिकायत निवारण समिति के निर्णय से असंतुष्ट है या जिसकी शिकायत का समाधान आवेदन प्राप्त होने के तीस दिनों के भीतर शिकायत समिति द्वारा नहीं किया जाता है, शिकायत निवारण समिति के निर्णय की तारीख

विरुद्ध सुलह अधिकारी को शिकायत के माध्यम से आवेदन दाखिल करने की रीति

या उस तारीख से जिस पर धारा 4 की उपधारा (5) में निर्दिष्ट अवधि समाप्त हो जाती है, दो सात दिनों की अवधि के भीतर जैसी भी स्थिति हो व्यवसाय संघ के माध्यम से जिसमें वह एक सदस्य है अथवा व्यक्तिगत रूप से संबंधित क्षेत्र के सुलह अधिकारी को रजिस्ट्रीकृत डाक या स्पीड पोस्ट या माध्यम से आवेदन दाखिल कर सकता है:

परन्तु यह कि ऐसे आवेदन को मैनुअल रूप से या रजिस्ट्रीकृत या स्पीड पोस्ट के माध्यम से प्राप्त होने पर, सुलह अधिकारी आवेदन को डिजिटलीकृत करेगा तथा संबंधित कर्मकार के आवेदन की विशिष्टियों को ऑनलाइन प्रणाली में प्रविष्ट करेगा और इसकी सूचना सम्बन्धित कर्मकार को देगा।

अध्याय–4

व्यवसाय संघ

धारा 7 के खण्ड (घ) के अधीन अंशदान

8. व्यवसाय संघ के सदस्यों द्वारा अंशदान, निम्न होगा–

(i) रू0 200.00 प्रति वर्ष प्रति असंगठित क्षेत्र के कर्मकार

(ii) रू0 300.00 प्रति वर्ष प्रति संगठित क्षेत्र के कर्मकार

(iii) अंशदान की राशि राज्य सरकार द्वारा आवश्यकतानुसार समय समय पर सामान्य आदेश के संशोधित की जा सकेगी।

(iv) सदस्यों के अतिरिक्त किसी बाहरी व्यक्ति से इलेक्ट्रॉनिक/डिजिटल माध्यम से रू0 5000.00 तक का वार्षिक चन्दा लिया जा सकेगा। इस हेतु संबंधित व्यक्ति को चन्दा दिये जाने की दिनांक से एक सप्ताह की अवधि में संबंधित संघ के अध्यक्ष अथवा इस हेतु अधिकृत अन्य पदाधिकारी द्वारा रसीद उपलब्ध करायी जाएगी।

धारा 7 के खण्ड (ञ) के अधीन वार्षिक लेखा परीक्षण की रीति

9. (1) उपनियम (2) में दिए गए प्रावधानों के अलावा, व्यवसाय संघ का वार्षिक लेखा परीक्षा भारतीय कम्पनी अधिनियम, 2013 की धारा 141 की उपधारा (1) सहपठित अन्य लेखापरीक्षक द्वारा की जाएगी।

(2) यदि किसी वित्तीय वर्ष के दौरान किसी भी समय व्यवसाय संघ की सदस्यता 2500 से अधिक नहीं हुई है, तो संघ का वार्षिक लेखा परीक्षण–

(क) राजकीय सेवा में कार्यरत स्थानीय लेखा परीक्षक द्वारा;

(ख) किसी ऐसे व्यक्ति जोकि राजकीय लेखा सेवा में लेखा परीक्षक के पद पर कार्यरत रहा हो;

(ग) किसी सहकारी समिति के लेखा परीक्षण हेतु नियुक्त लेखा परीक्षक द्वारा, या

(घ) रजिस्ट्रार सहकारी समिति या इस प्रयोजन से राजकीय मान्यता प्राप्त किसी राज्य सहकारी संगठन के द्वारा किया जा सकेगा।

(3) उपनियम (1) में किसी बात के होते हुए भी कोई भी व्यक्ति जिसे वर्ष के दौरान किसी भी समय निधि के किसी भाग या व्यवसाय संघ की प्रतिभूतियों के कार्य को सौंपा गया हो, उस व्यवसाय संघ के लेखों के परीक्षण करने के लिये अर्ह नहीं होगा।

(4) नियमों के अनुसार नियुक्त लेखा परीक्षक या लेखा परीक्षकों को व्यवसाय संघ की सभी पुस्तकों तक पहुंच दी जाएगी और वार्षिक विवरण का, सम्बन्धित हिसाब किताब और बीजकों के साथ मिलान कर सत्यापन करेगा और उसके उपरांत प्रपत्र–ख में अलग से इंगित करते हुए यह या ये एक विवरणी जिसमें उनके द्वारा त्रुटिपूर्ण विवरण, बिना बीजक के या संहिता के अनुसार न पाये जाने का उल्लेख करते हुए हस्ताक्षर करेंगे। इस विवरणी में निम्नानुसार विवरण दर्शाये जायेंगे :–

(क) प्रत्येक भुगतान जो व्यवसाय संघ के नियमों या संहिता के प्रावधानों के विपरीत हो,

(ख) धनराशि की कमी या हानि जो किसी व्यक्ति की लापरवाही या कदाचार के द्वारा किया जाना प्रतीत हो,

(ग) धनराशि जो किसी व्यक्ति द्वारा खाते में लाई जानी चाहिए थी, लेकिन नहीं लाई गयी।

राजनीतिक निधि का लेखा परीक्षण

10. रजिस्ट्रीकृत व्यवसाय संघ की राजनीतिक निधि का लेखा परीक्षण सामान्य निधि के लेखा परीक्षण के साथ–साथ उसी लेखा परीक्षक या परीक्षकों द्वारा किया जाएगा।

निरीक्षण

11. (1) व्यवसाय संघों की धारित पंजिका का निरीक्षण किसी भी व्यक्ति द्वारा शुल्क रू0 50.00 का भुगतान पर किया जा सकेगा।

(2) रजिस्ट्रार के पास मौजूद किसी भी रजिस्ट्रीकृत व्यवसाय संघ से प्राप्त दस्तावेजों का निरीक्षण उस संघ के किसी भी सदस्य द्वारा प्रत्येक दस्तावेज के लिए पचास रूपये का शुल्क देकर कर सकता है।

(3) रजिस्ट्रार के कार्यालय में किसी भी कार्य दिवस को रजिस्ट्रार द्वारा इस उद्देश्य हेतु निश्चित कार्य के घण्टों के दौरान दस्तावेजों का निरीक्षण किया जा सकेगा।

(4) रजिस्ट्रार द्वारा रजिस्ट्रीकृत व्यवसाय संघ या उसके सदस्य को रू० 2.00 प्रति पृष्ठ के भुगतान पर किसी भी दस्तावेज की सत्यापित प्रति दी जा सकती है।

धारा 9 की उपधारा (1) के अधीन रजिस्ट्रीकरण आवेदन का प्रारूप

12. (1) किसी व्यवसाय संघ के रजिस्ट्रीकरण के लिये प्रत्येक आवेदन, रजिस्ट्रार को प्रपत्र–ग में इलैक्ट्रॉनिक रूप से या अन्यथा किया जायेगा और उसके साथ निम्नलिखित संलग्न किये जायेंगे–

(क) शपथ पत्र द्वारा प्रपत्र–ग की अनुसूची–1 के अनुसार प्रतिवेदक, नाम, आयु, पता एवं व्यवसाय की घोषणा;

(ख) व्यवसाय संघ के नियमों की प्रति के साथ ऐसे नियम अंगीकृत करने वाले व्यवसाय संघ के सदस्यों के द्वारा संकल्प की प्रति। विभिन्न मामलों के लिए नियम बनाने के प्रावधानों की संख्या प्रपत्र–ग की अनुसूची–2 के अनुसार होगी;

(ग) व्यवसाय संघ के सदस्यों द्वारा रजिस्ट्रीकरण के आवेदन करने के लिये प्राधिकृत आवेदकों द्वारा अंगीकृत प्रस्ताव की प्रति;

(घ) व्यवसाय संघ के रजिस्ट्रीकरण के लिए देय शुल्क रू० 2000 अथवा राज्य सरकार द्वारा समय–समय पर सामान्य आदेश से जारी किये जाने वाला संशोधित शुल्क।

(ङ) व्यवसाय संघ के फेडरेशन या व्यवसाय संघों के केन्द्रीय संगठन, होने के मामले में, फेडरेशन या व्यवसाय संघों के केन्द्रीय संगठन की पृथक बैठक में प्रत्येक सदस्य, व्यवसाय संघ के सदस्यों द्वारा अंगीकृत प्रस्ताव जिसमें व्यवसाय संघों के परिसंघ या केन्द्रीय संगठन गठित करने के अंगीकृत प्रस्ताव की प्रति।

स्पष्टीकरण : इस खंड के प्रयोजन के लिये, व्यवसाय संघों के सदस्यों द्वारा अंगीकृत प्रस्ताव, से व्यवसाय संघ के फेडरेशन या व्यवसाय संघों के केन्द्रीय संगठन,

होने के मामले में, प्रत्येक सदस्य व्यवसाय संघ के सदस्यों द्वारा पृथक बैठक में अंगीकृत प्रस्ताव अभिप्रेत है।

(2) जहां व्यवसाय संघ रजिस्ट्रीकरण के आवेदन की दिनांक से एक वर्ष से अधिक से अस्तित्व में है, वहां आवेदन के साथ रजिस्ट्रार को व्यवसाय संघ की परिसम्पत्तियों और दायित्वों का सामान्य विवरण प्रस्तुत किया जाएगा, जो प्रपत्र–ग की अनुसूची–3 में तैयार किया गया हो।

(3) रजिस्ट्रार स्वयं का यह समाधान करने के लिए कि आवेदन, संहिता के उपबंधों के अनुसार है और व्यवसाय संघ इस संहिता के अधीन रजिस्ट्रीकरण का हकदार है, प्रकरण से संबंधित अतिरिक्त सूचना की मांग कर सकता है तथा ऐसी सूचना प्रस्तुत किये जाने तक व्यवसाय संघ को पंजीकृत करने से इंकार कर सकता है :

परन्तु यह कि रजिस्ट्रार, आवेदन प्राप्त होने के 120 दिन के भीतर व्यवसाय संघ का पंजीकरण करने अथवा न करने के संबंध में अंतिम निर्णय लेगा

परन्तु यह और कि प्रस्तावित संघ के आवेदन की जांच हेतु अधिकृत कोई अधिकारी ऐसे अधिकृत होने की दिनांक से 60 दिन के भीतर अपनी आख्या रजिस्ट्रार के समक्ष प्रस्तुत करेगा।

(4) ऐसा नाम, जिसके अन्तर्गत व्यवसाय संघ, संघ का पंजीयन करने का प्रस्ताव करता है, यदि वह किसी विद्यमान पंजीकृत व्यवसाय संघ के समरूप है जिससे कि ऐसा नाम जिससे जन सामान्य या किसी भी व्यवसाय संघ के सदस्यों में भ्रम उत्पन्न होने की सम्भावना हो तो रजिस्ट्रार आवेदन करने वाले व्यक्तियों से व्यवसाय संघ के नाम को परिवर्तित करने को निर्देशित करेगा और जब तक ऐसा परिवर्तन नहीं किया जाता है व्यवसाय संघ का रजिस्ट्रीकरण करने से इंकार कर सकता है।

धारा 9 की उपधारा (2) के अधीन रजिस्ट्रीकरण प्रमाण पत्र

13. (1) जहां, रजिस्ट्रार, किसी व्यवसाय संघ के रजिस्ट्रीकरण का आदेश करता है वहां वह, प्रपत्र–ध में आवेदक व्यवसाय संघ को एक पंजीयन प्रमाण पत्र निर्गत करेगा, जो इस बात का निश्चायक साक्ष्य होगा कि व्यवसाय संघ इस संहिता के अधीन पंजीकृत कर लिया गया है।

(2) यदि रजिस्ट्रार द्वारा व्यवसाय संघ को रजिस्ट्रीकरण प्रमाण पत्र निर्गत किया गया है तो व्यवसाय संघ के नाम और अन्य विवरणों को, इस निमित्त प्रपत्र–ङ में बनाये गये रजिस्टर में प्रविष्ट किया जाएगा।

(3) संहिता के प्रारम्भ होने की दिनांक से पूर्व, व्यवसाय संघ अधिनियम, 1926 (1926 का संख्या 16) के अन्तर्गत रजिस्ट्रीकृत प्रत्येक व्यवसाय संघ, जिसका इस संहिता के प्रारंभ होने की दिनांक के तुरंत पूर्व विधिमान्य रजिस्ट्रीकरण है, को संहिता के अधीन रजिस्ट्रीकृत किया हुआ समझा जायेगा :

परन्तु यह कि ऐसा व्यवसाय संघ, रजिस्ट्रार के पास विवरण उपलब्ध कराएगा कि व्यवसाय संघ की कार्यपालिका का गठन संहिता के अनुसरण में है, जिसके साथ व्यवसाय संघ के नियम संहिता की धारा 7 के अनुसरण में अद्यतन है, और रजिस्ट्रार अपने अभिलेखों में तद्नुसार संशोधित करेगा।

धारा 9 की उपधारा (3) के अधीन व्यवसाय संघ का रजिस्ट्रीकरण

14. रजिस्ट्रार, यह समाधान हो जाने पर कि व्यवसाय संघ द्वारा, रजिस्ट्रीकरण हेतु इस अध्याय में उल्लिखित आवश्यक उपबंधों का अनुपालन कर दिया गया है, आवेदन पत्र के साथ प्राप्त व्यवसाय संघ से संबंधित विवरणों को प्रपत्र–ङ में प्रविष्टि के द्वारा व्यवसाय संघ का रजिस्ट्रीकरण करेगा।

धारा 9 की उपधारा (5) के अन्तर्गत रजिस्ट्रीकरण का निरस्त अथवा वापस लिया जाना

15. व्यवसाय संघ के रजिस्ट्रीकरण प्रमाण पत्र को रजिस्ट्रार द्वारा आवेदन/सूचना प्राप्ति के 45 दिवसों के अंदर वापस लिया या रद्द किया जा सकता है :–

(क) उप/संयुक्त/अपर रजिस्ट्रार से इस पर जांच कराने के पश्चात्, या

(ख) व्यवसाय संघ द्वारा संहिता या उसके अधीन बनाये गये नियमों या अपने गठन या नियमों के उपबंधों के उल्लंघन के संबंध में सूचना प्राप्त होने पर, या

(ग) यदि वह संतुष्ट है कि व्यवसाय संघ के सदस्यों की संख्या कुल कर्मकारों की संख्या के दस प्रतिशत से कम अथवा 100 कर्मकार, जो भी कम हो, है, वापस लिया जा सकेगा या निरस्त किया जा सकेगा:

परन्तु यह कि व्यवसाय संघ के आवेदन से अन्यथा रजिस्ट्रीकरण प्रमाण पत्र रद्द किये जाने से पूर्व व्यवसाय संघ का रजिस्ट्रीकरण प्रमाण पत्र रद्द करने के प्रस्ताव के आधारों को विनिर्दिष्ट करते हुये रजिस्ट्रार द्वारा व्यवसाय संघ को सात दिन से अन्यून की पूर्व सूचना दी जायेगी।

धारा 10 की उपधारा (1) के अन्तर्गत अपील दायर करने की अवधि

16. किसी व्यवसाय संघ का, धारा 9 के अधीन रजिस्ट्रीकरण करने से रजिस्ट्रार के इंकार करने या उक्त धारा की उपधारा (5) के अधीन रजिस्ट्रीकरण प्रमाणपत्र रद्द किये जाने से व्यथित कोई व्यक्ति, ऐसे निर्णय/इन्कार/रजिस्ट्रीकरण निरस्त किये जाने के आदेश की दिनांक से पैंतालीस दिवसों के भीतर क्षेत्राधिकार वाले न्यायाधिकरण को अपील कर सकता है:

परन्तु यह कि यदि अपीलार्थी न्यायाधिकरण को यह समाधान कर देता है कि ऐसा विलंब पर्याप्त कारण से या अपरिहार्य परिस्थितियों के कारण हुआ है, तो न्यायाधिकरण, इस नियम के अधीन अपील करने की परिसीमा के पश्चात् भी अपील ग्रहण कर सकेगा।

धारा 11 के अधीन संसूचनाएं और नोटिस

17. (1) किसी रजिस्ट्रीकृत व्यवसाय संघ को सभी संसूचनायें और नोटिस, रजिस्ट्रार द्वारा रखे गये रजिस्टर में यथाप्रविष्ट व्यवसाय संघ के मुख्यालय के पते पर इलेक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक से भेजे जायेंगे।

(2) यदि व्यवसाय संघ के सदस्यों की संख्या कुल कर्मकारों की संख्या के दस प्रतिशत या एक सौ से कम होती है, तो ऐसे परिवर्तन/तथ्यों के प्रकट होने के 21 दिनों के भीतर इलेक्ट्रॉनिक रूप से अथवा रजिस्ट्रीकृत डाक से व्यवसाय संघ, रजिस्ट्रार को, सूचित करेगा।

(3) व्यवसाय संघ रजिस्ट्रार को रजिस्ट्रीकरण के लिये दिये गये आवेदन, दी गयी विशिष्टियों में और उसके गठन या नियमों, में किसी परिवर्तन की सूचना, ऐसे परिवर्तन प्रभावी होने की दिनांक से पैंतालीस दिवसों के भीतर रजिस्ट्रार को इलेक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक से सूचित करेगा।

औद्योगिक प्रतिष्ठान में कार्यकारी संघ या कार्यकारी परिषद् और नियोजक के बीच वार्ता के मामले

18. धारा 14 की उपधारा (1) के अन्तर्गत कर्मकारों से संबंधित निम्नलिखित मामलों पर औद्योगिक स्थापना के नियोजक द्वारा कार्यकारी संघ या कार्यकारी परिषद् द्वारा वार्ता की जायेगी:—

(i) कर्मकारों के ग्रेडों और वर्गों का श्रेणीकरण;

(ii) औद्योगिक स्थापना में लागू स्थायी आदेशों के अंतर्गत नियोजक द्वारा पारित आदेश;

(iii) वेतन अवधि, महंगाई भत्ता, बोनस, वेतन वृद्धि, परम्परागत छूट या विशेषाधिकार, प्रतिपूरक या अन्य भत्तों सहित कर्मकारों का वेतन;

(iv) कर्मकारों के कार्य घंटे, सप्ताह के विश्राम दिवस, सप्ताह में कार्य दिवसों की संख्या, विश्राम अंतराल, पालियों की कार्यशीलता;

(v) वेतन सहित छुट्टी और अवकाश;

(vi) पदोन्नति एवं स्थानांतरण नीति और अनुशासनिक कार्य विधि;

(vii) कर्मकारों के लिए वर्क्स (आवास) आवंटन विधि;

(viii) सुरक्षा, स्वास्थ्य और कार्यदशाएं और संबंधी मानक;

(ix) सेवा की शर्तों और रोजगार के नियंत्रण से संबंधित अन्य विषय जो पूर्वोक्त खंडों में शामिल नहीं है; और

(x) औद्योगिक स्थापना के नियोजक तथा कार्यकारी संघ या परिषद् यथास्थिति के बीच सहमत अन्य कोई विषय।

धारा 14 की उपधारा 19. (2) के अन्तर्गत कर्मकारों की एक मात्र कार्यकारी संघ के रूप में कर्मकारों की पंजीकृत एकल यूनियन को मान्यता देने का मापदंड

जहां पर किसी औद्योगिक स्थापना में केवल एक रजिस्ट्रीकृत संघ काम कर रही है, जिसके औद्योगिक स्थापना में नियोजित कुल कर्मकारों के कम से कम तीस प्रतिशत सदस्य है, तब ऐसे औद्योगिक स्थापना का नियोजक ऐसी व्यवसाय संघ को कर्मकारों की एक मात्र कार्यकारी संघ के रूप में मान्यता देगा।

धारा 14 की उपधारा (3) और (4) के अन्तर्गत औद्योगिक स्थापना में ट्रेड यूनियनों की सदस्यता के सत्यापन की रीति

20. (1) (क) राज्य सरकार औद्योगिक स्थापना में व्यवसाय संघों की सदस्यता के सत्यापन के लिए एक सत्यापन अधिकारी(इस नियम में इसे इसके बाद सत्यापन अधिकारी के रूप में उल्लेख किया गया है) नियुक्ति करेगी, जिसका औद्योगिक स्थापना में किसी भी व्यवसाय संघ में कोई हित नहीं होगा जिनकी सदस्यता का सत्यापन उसके द्वारा किया जाना है:

परंतु कार्यकारी संघ या कार्यकारी परिषद्, जैसी भी स्थिति हो, की मान्यता देने की प्रक्रिया संहिता के अन्तर्गत नियोजक द्वारा मान्यता प्राप्त कार्यकारी संघ या कार्यकारी परिषद्, जैसा भी मामला हो, की मौजूदा मान्यता अवधि की समय सीमा की समाप्ति के तीन महीने से पहले प्रारंभ की जाएगी।

(ख) सत्यापन अधिकारी सदस्यता सत्यापन के कार्य की मात्रा के आधार पर अपनी सहायता के लिए अतिरिक्त अधिकारियों की सेवा का उपयोग कर सकता है।

(ग) सत्यापन अधिकारी राज्य सरकार द्वारा निर्धारित समय सीमा में औद्योगिक स्थापना में सदस्यता सत्यापन का कार्य करेगा।

(2) औद्योगिक स्थापना का नियोजक उपनियम (1) के अंतर्गत व्यवसाय संघ की सदस्यता के सत्यापन के संबंध में व्यय का वहन और व्यवस्था करेगा।

(3) (क) जो व्यवसाय संघ निम्नलिखित शर्तों को पूरा करेगी, वे औद्योगिक प्रतिष्ठान के नियोजक को वार्ताकारी संघ या वार्ताकारी परिषद्, जैसा भी मामला हो, के प्रतिनिधियों का दर्जा प्रदान करने के लिए आवेदन प्रस्तुत कर सकता है, अर्थात् ऐसी संघ को पारा व्यवसाय संघ अधिनियम, 1926 अथवा औद्योगिक संबंध संहिता, 2020 (2020) का 35) जैसी भी स्थिति हो, के अंतर्गत, वैध पंजीकरण होना चाहिए, और

(ख) व्यवसाय संघ में मान्यता के आवेदन के साथ पंजीकरण प्रमाण-पत्र की प्रति, सदस्यों की सूची की प्रति, सदस्यता विवरण और ट्रेड यूनियन रजिस्ट्रार के पास जमा कराई गई व्यवसाय संघ की नवीनतम वार्षिक विवरणी की प्रति और अन्य कोई संगत प्रलेख, लगाने होंगे जिसे व्यवसाय संघ अपने दावे के समर्थन में प्रस्तुत करना चाहती है।

(4) यदि संहिता के अंतर्गत वार्ताकारी संघ अथवा वार्ताकारी परिषद्, जैसी भी स्थिति हो, गठित की गई है तो औद्योगिक स्थापना का नियोजक, वार्ताकारी संघ अथवा वार्ताकारी परिषद्, जैसी भी स्थिति हो, के पदाधिकारी के कार्यकाल की समाप्ति से पूर्व किन्तु तीन महीने से अधिक नहीं, वार्ताकारी संघ अथवा वार्ताकारी परिषद्, जैसी भी स्थिति हो, के पदाधिकारी के कार्यकाल की समाप्ति से पूर्व कार्रवाई शुरू करेगा:

(5) व्यवसाय संघों की सदस्यता के प्रयोजनार्थ तारीख की गणना औद्योगिक स्थापना के सत्यापन अधिकारी द्वारा निर्धारित की जाएगी

(6) स्थापना का नियोजक व्यवसाय संघों द्वारा प्रस्तुत किए गए प्रलेखों और अभिलेखों को सत्यापन अधिकारी के पास भेजेगा।

(7) प्रलेखों और अभिलेखों के प्राप्त होने पर सत्यापन अधिकारी व्यवसाय संघ के पंजीकरण की प्रतिलिपि और संबंधित मामलों को अभिनिश्चित करने के लिए ट्रेड यूनियन द्वारा प्रस्तुत किए गए अभिलेखों या प्रलेखों की जांच करेगा।

(8) सत्यापन अधिकारी औद्योगिक स्थापना के नियोजक और सभी प्रतिभागी संघों के प्रतिनिधियों के साथ गुप्त मतदान के माध्यम से व्यवसाय संघों की सदस्यता की प्रक्रिया के बारे में निर्णय करने के लिए बैठक आयोजित करेगा।

(9) नियोजक सत्यापन अधिकारी के परामर्श से सूचना प्रौद्योगिकी अनुप्रयोग, ऑनलाइन प्लेटफॉर्म या इसी प्रकार की अन्य प्लेट फार्म पर चुनाव प्रक्रिया कराने के लिए इलैक्ट्रॉनिक प्रक्रिया का उपयोग कर सकता है।

(10) गुप्त मतदान के माध्यम से व्यवसाय संघों की सदस्यता का सत्यापन–

(i) सत्यापन अधिकारी वास्तविक मतदान की तारीख से कम से कम 60 दिन पूर्व निम्नलिखित पर निर्णय करने के लिए औद्योगिक स्थापना में कार्यरत सभी पंजीकृत व्यवसाय संघों के प्रतिनिधियों की एक बैठक आयोजित करेगा–

(क) मतदाता सूची का प्रकाशन;

(ख) मतदान की तारीख, समय, विधि, मतदान का स्थान;

(ग) मतगणना की तारीख, समय और गणना स्थान; और

(घ) गुप्त मतदान से संबंधित अन्य नीति

(ii) सत्यापन अधिकारी बैठक के कार्यवृत्त को तैयार कराएगा और सभी प्रतिभागी व्यवसाय संघों से हस्ताक्षर कराएगा। सभी प्रतिभागी ट्रेड

यूनियनों को इसी बैठक में निशान आवंटित किए जाएंगे। यदि तारीख, समय, मतदान की विधि, मतदान के स्थान, निशान के आवंटन, गणना की तारीख, समय और स्थान तथा इसी प्रकार के विषयों पर बैठक में कोई निर्णय नहीं लिया जाता है तब सत्यापन अधिकारी का निर्णय और वह ऐसे गुप्त मतदान की समय सूची, कार्यक्रम कार्य विधि को प्रकाशित करेगा,

(iii) सभी कर्मकार, जिनके नाम गणना की तारीख में औद्योगिक स्थापना के मस्टर रोल पर लिखे गए हैं, अपना वोट देने के लिए पात्र होंगे,

(iv) औद्योगिक स्थापना के नियोजक द्वारा खंड (iii) में संदर्भित मस्टर रोल में दर्ज श्रमिकों के नामों के आधार पर मतदाता सूची तैयार की जायेगी। इस मतदाता सूची में श्रमिक का नाम, पिता का नाम, पदनाम, नियोजक द्वारा जारी श्रमिक क्रमांक/पहचान पत्र क्रमांक और कार्यस्थल का नाम शामिल होगा। सत्यापन अधिकारी की स्वीकृति प्राप्त करने के बाद नियोजक द्वारा अंतिम मतदाता सूची प्रकाशित की जाएगी और इसे औद्योगिक स्थापना के मुख्य प्रवेश द्वार पर स्थित सूचना बोर्ड और वेबसाइट (यदि कोई हो) पर प्रदर्शित किया जाएगा। ऐसी मतदाता सूची की एक प्रति प्रतिभागी व्यवसाय संघों को दस्ती द्वारा, पंजीकृत डाक द्वारा अथवा इलैक्ट्रौनिक साधन द्वारा भी भेजी जाएगी,

(v) सत्यापन अधिकारी, सूची को अंतिम रूप दिए जाने के दो दिन के भीतर प्रतिभागी ट्रेड यूनियनों के नाम की सूची और उनको आवंटित निशान, औद्योगिक स्थापना के प्रवेश द्वार पर नोटिस बोर्ड और वेबसाइट, यदि है तो, पर प्रदर्शित करेगा:

(vi) मतदान और वोटों की गिनती सत्यापन अधिकारी के पर्यवेक्षण में सत्यापन अधिकारी द्वारा निर्धारित तारीख, समय और स्थान पर की जाएगी और गिनती के दौरान सभी प्रतिभागी व्यवसाय संघों के एजेंटों को उपस्थित रहने की अनुमति होगी;

(vii) वोटों की अंतिम गिनती होने के बाद सत्यापन अधिकारी द्वारा परिणाम घोषित किया जाएगा। परिणाम शीट में चुनाव में सभी प्रतिभागी व्यवसाय संघों के नामों, डाले गए वोटों की कुल संख्या और प्रत्येक व्यवसाय संघ, जिसने चुनाव में भाग लिया है, के पक्ष में डाले गए वोटों की संख्या का उल्लेख होगा।

(11) नियोजक को सत्यापन रिपोर्ट प्रस्तुत करना– सत्यापन अधिकारी औद्योगिक प्रतिष्ठान के नियोजक को परिणाम–शीट के साथ सत्यापन रिपोर्ट प्रस्तुत करेंगे।

वार्ताकारी संघ या वार्ताकारी परिषद् के घटक के रूप में ट्रेड यूनियन को मान्यता प्रदान करना

21. (1) सत्यापन अधिकारी द्वारा प्रस्तुत की गई सत्यापन रिपोर्ट के आधार पर औद्योगिक प्रतिष्ठान के नियोजक, व्यवसाय संघ को संहिता की धारा 14 की उपधारा (3) या उपधारा (4) जैसा भी मामला हो, के प्रावधानों के अनुसार वार्ताकारी संघ या वार्ताकारी परिषद् के घटक के रूप में मान्यता प्रदान करेगा।

(2) वार्ताकारी संघ या वार्ताकारी परिषद के रूप में कोई भी मान्यता, मान्यता या गठन की तारीख से तीन वर्षों तक वैध होगी अथवा ऐसी आगामी किसी अवधि तक, कुल 5 वर्ष से अनधिक अवधि के लिए, जैसा कि नियोजक और वार्ताकारी संघ या वार्ताकारी परिषद् मान्यता दे जैसा भी मामला हो, आपस में निर्णय करें, वैध होगी।

धारा 14 की उपधारा (7) के अन्तर्गत वार्ताकारी संघ या वार्ताकारी परिषद् को औद्योगिक प्रतिष्ठान द्वारा प्रदान की जाने वाली सुविधाएं

22. किसी औद्योगिक प्रतिष्ठान में, जहां एक वार्ताकारी संघ या वार्ताकारी परिषद् है, जैसा भी मामला हो, ऐसे औद्योगिक प्रतिष्ठान के नियोजक द्वारा वार्ताकारी संघ या वार्ताकारी परिषद् जैसा भी मामला हो, को निम्नलिखित सुविधाएं प्रदान करेंगे, अर्थात्:–

(i) वार्ताकार संघ या वार्ताकारी परिषद् जैसा भी मामला हो, की गतिविधियों से संबंधित सूचना प्रदर्शित करने के प्रयोजनार्थ नोटिस बोर्ड;

(ii) औद्योगिक प्रतिष्ठान के नियोजक और वार्ताकारी संघ या वार्ताकारी परिषद् के बीच तय की जाने वाली सूची और एजेंडा के अनुसार, वार्ताकारी संघ या वार्ताकारी परिषद् द्वारा चर्चा आयोजित करने के लिए स्थल और आवश्यक सुविधाएं;

(iii) वार्ताकारी संघ के सदस्यों या वार्ताकारी परिषद् के घटकों, जैसा भी मामला हो, के बीच चर्चा के लिए आयोजन स्थल और आवश्यक सुविधाएं;

(iv) कर्मकारों की कामकाजी परिस्थितियों से संबंधित मामलों का पता लगाने के प्रयोजनार्थ औद्योगिक प्रतिष्ठान में वार्ताकारी संघ या वार्ताकारी परिषद् जैसा भी मामला हो, के पदाधिकारियों के प्रवेश की सुविधा;

(v) औद्योगिक स्थापना का नियोजक कर्मकार की लिखित सहमति के आधार पर व्यवसाय संघों के सदस्यों के अंशदान की कटौती करेगा;

(vi) वार्ताकारी संघ या वार्ताकारी परिषद् के जैसा भी मामला हो, के पदाधिकारी नियोजक और ऐसे पदाधिकारियों के बीच सहमत कार्यक्रम के अनुसार नियोजक के साथ बैठकें आयोजित करते हैं, तब ऐसे नियोजित पदाधिकारियों को काम पर होने के रूप में माना जाएगा; और

(vii) औद्योगिक प्रतिष्ठान, जिसमें तीन सौ या उससे अधिक कर्मकार हैं, के नियोजक वार्ताकारी संघ या वार्ताकारी परिषद् के जैसा भी मामला हो, को उपर्युक्त कार्यालय स्थल के साथ आवश्यक सुविधाएं प्रदान करेगा।

धारा 15 के अन्तर्गत साधारण निधि के उद्देश्य एवं उपयोग

23. (1) किसी रजिस्ट्रीकृत व्यवसाय संघ की साधारण निधियों को ऐसे उद्देश्यों जिनका उल्लेख व्यवसाय संघ के उपविधि में किया गया है और जो संबंधित क्षेत्र के व्यवसाय संघ पर रजिस्ट्रार द्वारा लागू होते हैं, से भिन्न किन्हीं अन्य उद्देश्यों पर खर्च नहीं किया जाएगा।

(2) कोई रजिस्ट्रीकृत व्यवसाय संघ पृथक रूप से उद्ग्रहित किये गये अभिदाय या उक्त निधि में किये गये अभिदाय से संबंधित क्षेत्र के उप/संयुक्त/ अपर रजिस्ट्रार के सत्यापन करने पर एक पृथक निधि का गठन कर सकेगा, जिससे ऐसे उद्देश्य, जैसा कि रजिस्ट्रीकृत व्यवसाय संघ के उपविधि में उल्लिखित है, को अग्रसर करने के लिये उसके सदस्यों के आर्थिक और राजनीतिक हितों के संवर्धन करने के लिये संदाय किया जा सकेगा।

धारा 22 की उपधारा (1) के अधीन न्यायाधिकरण के समक्ष आवेदन दायर किये जाने की रीति

24. (1) रजिस्ट्रीकृत व्यवसाय संघ की दशा में, जहां निम्न प्रकार से विवाद हो–

(क) एक व्यवसाय संघ और दूसरे व्यवसाय संघ के मध्य, या

(ख) एक या अधिक कर्मकार जो व्यवसाय संघ के सदस्य हैं और व्यवसाय संघ के मध्य व्यवसाय संघ के रजिस्ट्रीकरण, प्रशासन या प्रबंध या पदाधिकारियों के निर्वाचन के संबंध में कोई विवाद है, या

(ग) एक या अधिक ऐसे कर्मकार, जिन्हें सदस्य के रूप में प्रवेश से इंकार किया गया है और व्यवसाय संघ के मध्य, या

(घ) जहां कोई विवाद किसी ऐसे व्यवसाय संघ से संबंधित है, जो व्यवसाय संघों का परिसंघ है और इस निमित्त व्यवसाय संघ द्वारा प्राधिकृत प्रतिनिधियों के मध्य है

यहां ऐसे सभी विवादों के प्रकरणों में विवाद से प्रभावित होने वाले पक्षकार/पक्षकारों द्वारा क्षेत्राधिकार रखने वाले न्यायाधिकरण के समक्ष विवाद उत्पन्न होने की दिनांक से अधिकतम एक माह की अवधि के भीतर विवाद के विवरण के साथ प्रपत्र–च में आवेदन किया जा सकेगा।

(2) न्यायाधिकरण से भिन्न किसी सिविल न्यायालय को उपनियम (1) में निर्दिष्ट किसी विवाद के संबंध में कोई वाद या अन्य कार्यवाहियां ग्रहण करने की शक्ति नहीं होगी।

धारा 24 के अधीन नाम परिवर्तन एवं समामेलन

25. (1) कोई रजिस्ट्रीकृत व्यवसाय संघ उपनियम (3) के उपबंधों के अधीन रहते हुए तथा अपने सदस्यों की कुल संख्या के दो तिहाई से अन्यून की सहमति से अपना नाम परिवर्तित कर सकेगा।

(2) कोई दो या अधिक रजिस्ट्रीकृत व्यवसाय संघ समामेलित हो सकेंगे।

(3) नाम परिवर्तन और विलय की प्रत्येक सूचना लिखित में दी जाएगी। नाम परिवर्तन के मामले में, नाम बदलने वाले व्यवसाय संघ के सचिव और सात सदस्यों द्वारा और विलय के मामले में, उसमें शामिल प्रत्येक व्यवसाय संघ के सचिव और सात सदस्यों द्वारा इस पर हस्ताक्षर किये जाएंगे। यह सूचना पंजीकृत डाक अथवा ईमेल के माध्यम से रजिस्ट्रार को भेजी जाएगी। यदि विलयित व्यवसाय संघ का मुख्यालय किसी अन्य राज्य में स्थित है, तो सूचना उस राज्य के रजिस्ट्रार को भेजी जाएगी।

साथ ही नाम परिवर्तन या विलय के संबंध में लिए गए निर्णय पर हस्ताक्षर करने वाले सभी सदस्यों का विवरण भी भेजा जाएगा। यह सूचना निर्णय को अंतिम रूप दिए जाने और संबंधित सदस्यों द्वारा हस्ताक्षर किए जाने के एक माह के भीतर भेजी जाएगी।

(4) यदि प्रस्तावित नाम वही है, जिसमें कोई अन्य विद्यमान व्यवसाय संघ रजिस्ट्रीकृत हुआ है या रजिस्ट्रार की राय में ऐसे नाम के इतना अधिक सदृश है कि उससे जनता का या उन व्यवसाय संघों के किसी के भी सदस्यों को धोखे में पड़ जाना संभाव्य है तो रजिस्ट्रार उस नाम के परिवर्तन को रजिस्ट्रीकृत करने से इंकार कर देगा।

(5) उपनियम (4) में यथा उपबंधित के सिवाय रजिस्ट्रार, यदि उसका यह समाधान हो जाता है कि नाम परिवर्तन के बारे में संहिता/नियमावली के उपबंधों का अनुपालन हो गया है, तो वह नाम का परिवर्तन धारा 9 की उपधारा (3) में निर्दिष्ट रजिस्टर में रजिस्ट्रीकृत करेगा और नाम का परिवर्तन ऐसे रजिस्ट्रीकरण की तारीख से प्रभावी होगा।

(6) जिस राज्य में सम्मेलित व्यवसाय संघ का प्रधान कार्यालय स्थित है, उसके रजिस्ट्रार का समाधान हो जाता है कि सम्मेलन के बारे में संहिता/ नियमावली के उपबंधों का अनुपालन हो गया है और जो व्यवसाय संघ तद्द्वारा बना है वह धारा 9 के अधीन रजिस्ट्रीकृत किए जाने का हकदार है, उस व्यवसाय संघ को रजिस्ट्रीकृत करेगा और सम्मेलन ऐसे रजिस्ट्रीकरण की तारीख से प्रभावी होगा।

(7) रजिस्ट्रीकृत व्यवसाय संघ के नाम में किया गया परिवर्तन, व्यवसाय संघ के किन्हीं अधिकारों के दायित्वों पर प्रभाव नहीं डालेगा और न ही उस व्यवसाय संघ द्वारा या उसके विरुद्ध की गयी किसी विधिक कार्यवाही को ही त्रुटिपूर्ण बनाएगी और कोई भी ऐसी विधिक कार्यवाही जो उसके पूर्व नाम में उसके द्वारा या उसके विरुद्ध चालू रखी जा सकती थी या प्रारंभ की जा सकती थी, उसके नए नाम में उसके द्वारा या उसके विरुद्ध चालू रखी जा सकेगी या प्रारंभ की जा सकेगी।

(ङ) दो या अधिक रजिस्ट्रीकृत व्यवसाय संघों का समामेलन ऐसे व्यवसाय संघों में से किसी के अधिकार पर या उनमें से किसी के लेनदार के अधिकार पर प्रतिकूल प्रभाव नहीं डालेगा।

धारा 25 की उपधारा 26. (1) जब कोई रजिस्ट्रीकृत व्यवसाय संघ विघटित किया जाता है तब विघटन की सूचना जिस पर उस व्यवसाय संघ के सात सदस्यों और उसके सचिव के हस्ताक्षर होंगे विघटन के चौदह दिन के भीतर रजिस्ट्रार को भेजी जाएगी और यदि उसका यह समाधान हो जाता है कि विघटन व्यवसाय संघ के नियमों के अनुसार किया गया है तो वह सूचना उसके द्वारा रजिस्ट्रीकृत की जाएगी और विघटन ऐसे रजिस्ट्रीकरण की तारीख से प्रभावी होगा।

(2) जहां किसी रजिस्ट्रीकृत व्यवसाय संघ का विघटन रजिस्ट्रीकृत हो गया है और व्यवसाय संघ के नियम विघटन पर व्यवसाय संघ की निधियों के वितरण के लिए उपबंध नहीं करते हैं, वहां रजिस्ट्रार उन निधियों को सदस्यों के बीच, सदस्यों द्वारा सदस्यता की अवधि में जमा किये गये अंशदान के अनुपात में वितरित करेगा।

धारा 26 की उपधारा 27. (1) प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ–

(क) रजिस्ट्रार को प्रपत्र–ख में वार्षिक विवरणी, जिसमें व्यवसाय संघ द्वारा 31 दिसम्बर को समाप्त होने वाले वर्ष के दौरान प्राप्ति एवं व्यय ऐसी रीति से तथा ऐसे व्यक्ति जैसा विहित किया जाय के द्वारा संप्रेक्षित विवरण एवं 31 दिसम्बर को विद्यमान परिसम्पत्तियों और देनदारियों का विवरण दिया गया हो, अगले वर्ष की 31 जनवरी या इससे पूर्व तक प्रेषित करेगा।

(ख) खण्ड (क) में निर्दिष्ट साधारण विवरण के साथ रजिस्ट्रार को एक ऐसा विवरण, जिसमें उस वर्ष के दौरान जिसके प्रति ऐसा साधारण विवरण निर्दिष्ट है, व्यवसाय संघ द्वारा किए गए पदाधिकारियों के परिवर्तन दर्शित की जाएंगी, के साथ व्यवसाय संघ के नियमों की एक प्रतिलिपि भी उक्त रजिस्ट्रार को, जो प्रेषित करने की तारीख तक शुद्ध की हुई होगी, अग्रेषित करेगी।

(2) औद्योगिक संबंध संहिता, 2020 की धारा 99 के अन्तर्गत किसी व्यवसाय संघ के नियमों में परिवर्तन के लिए किए गए आवेदन की प्रति प्राप्त होने पर, रजिस्ट्रार, यदि उसे यह मानने का कोई कारण न हो कि परिवर्तन इन नियमों में निर्धारित तरीके से नहीं किया गया है, तो इस उद्देश्य के लिये रखे गए रजिस्टर में परिवर्तन को दर्ज करेगा और व्यवसाय संघ के सचिव को इसकी सूचना देगा। नियमों में परिवर्तन के लिए पंजीकरण के लिये देय शुल्क एक साथ लिए गए प्रत्येक परिवर्तन के लिए 200 रुपये होगा।

(3) रजिस्ट्रार या उसके द्वारा साधारण या विशेष आदेश द्वारा प्राधिकृत कोई अधिकारी उपनियम (1) के खण्ड (ग) तथा (घ) तथा उपनियम (2) में निर्दिष्ट दस्तावेजों की परीक्षा करने के प्रयोजन के लिए, व्यवसाय संघ से सम्बन्धित रजिस्ट्रीकरण प्रमाण पत्र, लेखा बहियों, रजिस्टरों और अन्य दस्तावेजों का निरीक्षण उसके रजिस्ट्रीकरण कार्यालय में सभी सुविधायुक्त समयों पर कर सकेगा।

अध्याय–5

स्थायी आदेश

धारा 30 कि सपभारा (3) के अधीन प्रमाणक अधिकारी को सूचना अग्रेषित करने की रीति

28. (1) यदि नियोजक अपने औद्योगिक स्थापन या उपक्रम से संबंधित मामलों के संबंध में धारा 29 में निर्दिष्ट केंद्र सरकार के आदर्श स्थायी आदेशों को अपनाता है, तो वह संबंधित प्रमाणक अधिकारी को औद्योगिक स्थापन/उपक्रम के प्रारंभ होने की दिनांक से छः माह के भीतर इलैक्ट्रॉनिक या रजिस्ट्रीकृत डाक से उस विशिष्ट दिनांक से जिसमें से आदर्श स्थाई आदेश के प्रावधान जो उसकी स्थापना हेतु प्रासंगिक है, को अपनाया गया है, सूचित करेगा।

(2) उपनियम (1) में जानकारी प्राप्त होने पर, ऐसे प्राप्त होने से 30 दिनों की अवधि के भीतर प्रमाणकर्ता अधिकारी नियोजक को संलिखित प्रासंगिक प्रावधानों को सम्मिलित करने हेतु निर्देशित करेगा तथा मॉडल के उन प्रासंगिक प्रावधानों को इंगित करेगा जिन्हें अपनाया नहीं गया है तथा नियोजक को इस संबंध की निर्देश की प्राप्ति की तारीख से तीस दिनों की अवधि के भीतर जोड़, विलोपन या संशोधन के माध्यम से स्थायी आदेश में संशोधन करने का निर्देश भी देगा

तथा केवल उन प्रावधानों के संबंध में अनुपालन रिपोर्ट मांगेगा जो प्रमाणक अधिकारी को आदेश संशोधित करने हेतु चाहिए तथा इस तरह की रिपोर्ट को नियोजक द्वारा इलेक्ट्रॉनिक या रजिस्ट्रीकृत डाक से भेजा जाएगा।

(3) यदि उपनियम (1) और (2) में निर्दिष्ट जानकारी की प्राप्ति के तीस दिनों की अवधि के भीतर प्रमाणक अधिकारी द्वारा कोई टिप्पणी नहीं की जाती है, तो, स्थायी आदेश को नियोजक द्वारा अपनाया गया माना जाएगा।

प्रमाणकर्ता अधिकारी द्वारा नोटिस जारी करने हेतु औद्योगिक प्रतिष्ठान के श्रमिकों के प्रतिनिधियों के चुनाव की रीति जहाँ धारा 30 के उपधारा (6) के खण्ड (ii) के अधीन कोई व्यवसाय संघ परिचालन में नहीं है

29. जहाँ धारा 30 की उपधारा (6) के खंड (ii) में उल्लिखित ऐसा कोई व्यवसाय संघ नहीं है, तो, प्रमाणकर्ता अधिकारी चार प्रतिनिधियों को चुने जाने के लिए निरीक्षक–सह–सुकरकर्ता को निर्देशित करेगा, जिसे वह ऐसे चुने जाने पर आपत्तियों हेतु स्थायी आदेश की एक प्रति प्रतिनिधियों को भेजेगा, यदि कोई है जिसे कर्मचारी स्थायी आदेश के मसौदे में बनाने की इच्छा करे, नोटिस प्राप्त होने के पंद्रह दिनों के भीतर प्रस्तुत करना होगा।

प्रमाणित स्थायी आदेशों के प्रमाणीकरण की रीति

30. धारा 30 की उपधारा (8) के अनुसरण में प्रमाणित स्थायी आदेश, स्थायी आदेशों में संशोधन, या धारा 33 की उपधारा (1) के अधीन अपीलीय प्राधिकारी के आदेश की प्रतिया जैसा भी मामला हो, प्रमाणनकर्ता अधिकारी या अपीलीय प्राधिकारी द्वारा प्रमाणित की जाएंगी, तथा सभी संबंधितों को इलेक्ट्रॉनिक या रजिस्ट्रीकृत/स्पीड पोस्ट से एक सप्ताह के भीतर भेजा जाएगा, परंतु धारा 30 की उपधारा (3) के अधीन डीम्ड प्रमाणीकरण के मामले में प्रमाणन की कोई आवश्यकता नहीं होगी तथा ऐसे मामले में जहां नियोजक ने मॉडल स्थायी आदेश को अपनाने की प्रमाणित किया गया हो।

धारा 30 की उपधारा (6) के अधीन प्रारूप स्थायी आदेशों के साथ दिया जाने वाला विवरण

31. (1) प्रारूप स्थायी आदेश में विवरण जैसे कि औद्योगिक स्थापन या संबंधित उपक्रम का नाम, पता, ई–मेल पता, संपर्क नंबर व उसमें काम करने वाले श्रमिकों का विवरण तथा व्यवसाय संघ का विवरण जिससे ऐसे श्रमिक संबंधित हैं। तथा

(2) विद्यमान प्रारूप स्थायी आदेशों में संशोधन में ऐसे स्थायी आदेशों के विवरण शामिल होंगे जिन्हें एक सारणीबद्ध विवरण के साथ संशोधित करने का प्रस्ताव है, जिसमें स्थायी आदेश के प्रत्येक प्रासंगिक प्रावधान का विवरण, प्रस्तावित संशोधन का विवरण व उसके

कारण शामिल है तथा ऐसे कथन पर औद्योगिक स्थापन या उपक्रम द्वारा अधिकृत व्यक्ति द्वारा हस्ताक्षर किए जाएंगे।

धारा 30 की उपधारा (10) के अधीन नियोजकों के समूह द्वारा सामान प्रतिष्ठान में प्रारूप स्थायी आदेश प्रस्तुत करने की शर्तें

32. समान औद्योगिक प्रतिष्ठान में लगे नियोजक के समूह के मामलों में धारा 30 के अधीन तथा संबंधित व्यवसाय संघ या कर्मकारों के प्रतिनिधियों, यदि वहां कोई संघ नहीं है, से परामर्श के बाद उपधाराओं (1), (5), (6), (8) और (9) में निर्दिष्ट कार्यवाही के उद्देश्य के लिए एक संयुक्त स्थायी आदेश प्रारूप प्रस्तुत कर सकते हैं

धारा 32 के अधीन अपीलीय प्राधिकारी द्वारा अपील के निराकरण की रीति–

33. (1) नियोजक या व्यवसाय संघ या कर्मकार, जो अपील करने का इच्छुक है, धारा 30 की उपधारा (5) के अधीन दिए गए प्रमाणकर्ता अधिकारी के आदेश के विरुद्ध आदेश की प्राप्ति के साठ दिनों के भीतर लिखितबद्ध रूप में अपील का एक ज्ञापन जिसमें स्थायी आदेशों के ऐसे प्रावधान जिन्हें परिवर्तित या संशोधित या हटाए जाने या जोड़े जाने की आवश्यकता है तथा कारणों को अपीलीय प्राधिकारी को इलैक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक/स्पीड पोस्ट द्वारा भेजा जाएगा।

(2) अपीलीय प्राधिकारी अपील की सुनवाई हेतु एक तारीख निश्चित करेगा तथा इसके लिए निम्नांकित को सूचना देने हेतु निर्देश देगा–

(क) जहां अपील नियोजक या कर्मकार द्वारा दायर की जाती है, वहां औद्योगिक स्थापन के कर्मकारों के व्यवसाय संघ, नियोजक को, अथवा संबंधित कर्मकारों के प्रतिनिधि, जैसा भी मामला हो, को;

(ख) जहां अपील एक व्यवसाय संघ द्वारा दायर की जाती है, तो नियोजक तथा औद्योगिक स्थापन के कर्मकारों के अन्य व्यवसाय संघों को, तथा

(ग) जहां अपील कर्मकारों के प्रतिनिधि द्वारा दायर की जाती है, नियोजक को एवं अन्य ऐसे कर्मकारों को जिन्हें अपील प्राधिकारी प्रथाकार के रूप में सम्मिलित करें।

(3) अपीलार्थी प्रत्येक उत्तरदाता को अपील के ज्ञापन की एक प्रति प्रस्तुत करेगा।

(4) अपीलीय प्राधिकारी कार्यवाही के किसी भी दौर पर, किसी भी ऐसे साक्ष्य की मांग कर सकता है, जो अपील के निराकरण हेतु आवश्यक है।

(5) अपील की सुनवाई हेतु उपनियम (2) के अधीन नियत तारीख को, अपीलीय प्राधिकारी साक्ष्यों को पत्रावली का भाग बनाने के उपरांत और पक्षकारों को सुनने के पश्चात् अपील प्राप्त होने के साठ दिवसों के भीतर आदेश पारित करेगा।

(6) अपीलीय प्राधिकारी उपनियम (5) के अन्तर्गत पारित आदेश को सात दिवसों के भीतर उसकी प्रति प्रमाणनकर्ता अधिकारी, नियोजक और व्यवसाय संघ या कर्मकारों के नियत प्रतिनिधियों को प्रेषित करेगा।

(7) इस अध्याय के उद्देश्य के लिए प्रमाणनकर्ता अधिकारी एवं अपीलीय अधिकारी राज्य सरकार द्वारा अधिसूचना के माध्यम से नामित किये जाएंगे।

धारा 33 के अधीन स्थायी आदेश को बनाए रखने की भाषा एवं रीति

34. (1) प्रमाणकर्ता अधिकारी द्वारा अंतिम रूप से प्रमाणित स्थायी आदेश धारा 30 के अधीन डीम्ड प्रमाणीकरण के मामले को छोड़कर इलैक्ट्रॉनिक रूप से या रजिस्ट्रीकृत डाक/स्पीड पोस्ट द्वारा भेजा जाएगा।

(2) अंतिम रूप से प्रमाणित या प्रमाणित माने गये या अंगीकृत मॉडल स्थायी आदेश के रूप में स्थायी आदेश की भाषा नियोजक द्वारा हिंदी तथा अंग्रेजी भाषा में रखा जाएगा और स्थापन के किसी कर्मकार द्वारा आवेदन किए जाने पर, आवेदन प्राप्ति के एक सप्ताह के भीतर रू0 2.00 प्रति पेज के भुगतान पर उसे उपलब्ध कराया जाएगा।

धारा 34 के अधीन स्थायी आदेश की अंतिम प्रमाणित प्रति हेतु रजिस्टर एवं प्रमाणित प्रति उपलब्ध कराने के लिए शुल्क

35. (1) प्रमाणकर्ता अधिकारी इलैक्ट्रॉनिक रूप से या हस्तलिखित एक रजिस्टर प्रपत्र-ज पर बनाए रखेगा, जो परस्पर सभी औद्योगिक स्थापनों के स्थापित किये गये स्थायी आदेश या प्रमाणित माने गये या अंगीकृत आदर्श स्थायी आदेशों का है, जिसमें अन्य के साथ-साथ निम्नलिखित विवरण होगा:-

(क) प्रत्येक स्थायी आदेश को दी गयी विशिष्ट संख्या;

(ख) औद्योगिक स्थापन का नाम;

(ग) औद्योगिक स्थापन की प्रकृति;

(घ) प्रत्येक स्थापन अथवा उपक्रम द्वारा प्रमाणन की दिनांक अथवा मानद प्रमाणन की दिनांक अथवा आदर्श स्थायी आदेश को अंगीकृत करने की दिनांक;

(ङ) औद्योगिक स्थापन के संचालन का क्षेत्र; तथा

(घ) स्थायी आदेशों को पुनः प्राप्त करने के लिए प्रासंगिक एवं सहायक कोई अन्य विवरण तथा ऐसे सभी स्थायी आदेशों के डेटा बेस का निर्माण करना।

(2) प्रमाणित करने वाला अधिकारी, आवेदन करने वाले प्रत्येक व्यक्ति को प्रमाणित आदेशों अथवा मानक प्रमाणित स्थायी आदेशों, जैसा भी मामला हो, की प्रति पृष्ठ दो रुपये की दर से भुगतान करने पर उसकी प्रति उपलब्ध कराएगा। इस प्रयोजनार्थ भुगतान इलैक्ट्रॉनिक माध्यम से भी किया जा सकता है।

धारा 35 के अन्तर्गत स्थायी आदेश के संशोधन हेतु आवेदन

36. (1) धारा 35 की उपधारा (2) के अन्तर्गत विद्यमान स्थायी आदेश में संशोधन के लिए आवेदन प्रपत्र-अ में सारणीबद्ध सूचिका, जिसमें प्रवृत्त स्थायी आदेशों के प्रासंगिक उपबंधों का विवरण तथा उनमें प्रस्तावित संशोधन, उनके कारण तथा इसके अन्तर्गत कार्यरत रजिस्ट्रीकृत व्यवसाय संघों के विवरण सहित, संशोधन के लिए प्रस्तावित ऐसे स्थायी आदेश के विवरण शामिल होंगे तथा ऐसे विवरण पर औद्योगिक स्थापन अथवा उपक्रम द्वारा प्राधिकृत व्यक्ति द्वारा हस्ताक्षर किये जाएंगे, इलैक्ट्रॉनिक या रजिस्ट्रीकृत डाक/स्पीड पोस्ट से भेजा जाएगा। प्रमाणकर्ता अधिकारी स्थायी आदेशों के संशोधन हेतु आवेदन प्राप्ति के सात दिवसों के भीतर आदेश निर्गत करेगा।

(2) जहां संशोधन हेतु कोई आवेदन कर्मकार से प्राप्त होता है, प्रमाणकर्ता अधिकारी औद्योगिक स्थापन के जहां कर्मकारों के एक से अधिक व्यवसाय संघ विद्यमान हैं, प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ के एक प्रतिनिधि को सम्मिलित करेगा। यदि कोई रजिस्ट्रीकृत व्यवसाय संघ नहीं है, तो नियम 37 में दी गयी प्रक्रिया का अनुसरण कर कर्मकार के प्रतिनिधि का चुनाव किया जाएगा।

(3) कर्मकार से संशोधन हेतु आवेदन प्राप्त होने पर इसे संघ के प्रतिनिधि या चुने गये प्रतिनिधि, जैसा भी मामला हो, को सच जानने के लिए भेजा जाएगा।

(4) संशोधन के वांछित प्रस्तावन की कार्यवाही केवल इस सीमा तक कि संशोधन व्यवसाय संघ के प्रतिनिधियों या चुने गये प्रतिनिधियों, जैसा भी मामला हो, के द्वारा अनुमोदित है और ऐसा व्यवसाय संघ या प्रतिनिधि प्रस्तावन की कार्यवाही के दौरान प्रतिनिधित्व कर रहे हों, संशोधन स्वीकार किया जाएगा।

(5) संहिता और नियम के अन्तर्गत सभी नोटिस, अभिसूचनाएं और आदेश सम्बन्धित पक्षकारों को रजिस्ट्रीकृत पावती पत्र या इलैक्ट्रॉनिक मेल या विशेष सन्देश वाहक द्वारा भेजे जाएंगे। बाद के मामले में अन्य संबंधित पक्ष या सम्बन्धित पक्ष की ओर से पहुंच की प्राप्ति, प्राप्तकर्ता से लिखित पावती ली जाएगी।

अध्याय–6

परिवर्तन की सूचना

धारा 40 के खण्ड (j) के अधीन प्रस्तावित परिवर्तन हेतु नोटिस देने की रीति

37. (1) कोई भी नियोजक इस संहिता की तीसरी अनुसूची में विनिर्दिष्ट किसी भी मामले के संबंध में किसी भी कर्मकार हेतु लागू सेवा की शर्तों में कोई बदलाव करना चाहता है, तो इस तरह के परिवर्तन से प्रभावित ऐसे कर्मकार को प्रपत्र–अ में नोटिस देगा:

परन्तु प्रस्तावित परिवर्तन का नोटिस दिये जाने से पूर्व नियोजक द्वारा प्रभावित होने वाले कर्मकारों के साथ कम से कम एक बैठक आहूत की जायेगी गयी, जिसमें प्रस्तावित परिवर्तन के संबंध में कर्मकारों को विस्तृत रूप से समझाया जायेगा।

(2) उपनियम (1) में सन्दर्भित नोटिस को नियोजक द्वारा औद्योगिक स्थापन के मुख्य प्रवेश द्वार के सदृश्य स्थान पर हिन्दी तथा अंग्रेजी में नोटिस बोर्ड तथा औद्योगिक स्थापन से संबंधित प्रबंधक के कार्यालय में लगाया जायेगा:

परन्तु जहां औद्योगिक स्थापन से संबंधित एक रजिस्ट्रीकृत व्यवसाय संघ या एक से अधिक रजिस्ट्रीकृत व्यवसाय संघ है, ऐसे नोटिस की प्रति भी ऐसे व्यवसाय संघ के सचिव या ऐसे संघों के प्रत्येक सचिवों को भी दी जाएगी।

अध्याय–7

मध्यस्थता हेतु विवादों का संदर्भन

धारा 42 की उपधारा (3) के अधीन मध्यस्थम करार का प्ररूप एवं उसकी रीति

38. (1) जहां नियोजक और कर्मकार विवाद को मध्यस्थम हेतु संदर्भित करने के लिए सहमत हो जाते हैं, वहां मध्यस्थम करार प्रपत्र–ब में होगा तथा करार के पक्षों द्वारा इस पर हस्ताक्षर किये जाएंगे। करार के साथ मध्यस्थम अथवा मध्यस्थता की लिखित अथवा इलैक्ट्रॉनिक सहमति होगी।

(2) उपनियम (1) में सन्दर्भित माध्यस्थम करार पर हस्ताक्षर किए जाएंगे:–

(i) नियोजक के मामले में, नियोजक द्वारा स्वयं, या जब नियोजक एक निगमित कंपनी या अन्य नियमित निकाय कॉर्पोरेट है, वहां ऐसे प्रयोजन हेतु प्राधिकृत निगम के अभिकर्ता, प्रबन्धक अथवा अन्य अधिकारियों द्वारा;

(ii) कर्मकारों के मामले में, इस संबंध में प्राधिकृत रजिस्ट्रीकृत व्यवसाय संघ के अधिकारी द्वारा अथवा ऐसे प्रयोजन हेतु आयोजित संबंधित कर्मकारों की बैठक में इस संबंध में प्राधिकृत कर्मकारों के तीन प्रतिनिधियों द्वारा;

(iii) व्यक्तिगत कर्मकार के मामले में, कर्मकार द्वारा स्वयं या रजिस्ट्रीकृत व्यवसाय संघ के अधिकारी द्वारा, जिसका कर्मकार सदस्य है;

स्पष्टीकरण– इस नियम में 'अधिकारी' से निम्नलिखित में से कोई अधिकारी अभिप्रेत है: –

(क) अध्यक्ष;
(ख) उपाध्यक्ष;
(ग) सचिव (महासचिव सहित);
(घ) संयुक्त सचिव; तथा
(ङ) व्यवसाय संघ का कोई अन्य अधिकारी, जो संघ के अध्यक्ष और सचिव द्वारा इस संबंध में प्राधिकृत है।

धारा 42 की उपधारा (5) के अधीन अधिसूचना जारी करने की रीति

39. जहां किसी औद्योगिक विवाद को माध्यस्थम् हेतु संदर्भित किया गया है एवं राज्य सरकार का यह समाधान हो गया है कि संदर्भ करने वाले सक्षम प्रत्येक पक्ष के बहुमत का प्रतिनिधित्व करते हैं, वह आधिकारिक गजट में इस आशय की अधिसूचना प्रकाशित करेगी। जहां इस प्रकार की अधिसूचना जारी की जाती है एवं नियोजकों और ऐसे कर्मकारों जो माध्यस्थम् करार के पक्षकार नहीं हैं, किन्तु विवाद से संबंध रखते हैं, द्वारा माध्यस्थम् के समक्ष अपना पक्ष रखने की इच्छुक है वह अधिसूचना जारी होने के अधिकतम 45 दिनों की अवधि में इलैक्ट्रॉनिक/रजिस्टर्ड /स्पीड डाक से आवेदन करेंगे।

श्रमिकों के प्रतिनिधियों के चुनाव की रीति जहां कोई व्यवसाय संघ नहीं है

40. जहां व्यवसाय संघ नहीं है, श्रमिकों के प्रतिनिधि को धारा 42 के उपधारा (5) के खण्ड (i) के उपखण्ड (ग) के अनुसरण में माध्यस्थम् या माध्यस्थमों के समक्ष उनका मामला प्रस्तुत करने हेतु कर्मकारों के प्रतिनिधियों का चयन सम्बन्धित कर्मकारों के बहुमत द्वारा प्रपत्र–ए में धारित प्रस्ताव द्वारा किया जाएगा जिसमें

उन्हें मामले के प्रतिनिधित्व करने के लिए प्राधिकृत किया जाएगा। ऐसे कर्मकार, प्रतिनिधियों के क्रियाकलापों द्वारा बाध्य होंगे जिन्हें यथास्थिति या यथास्थितियों, जैसा भी मामला हो, के सम्मुख प्रतिनिधित्व करने हेतु प्राधिकृत किया गया हो।

अध्याय–6

औद्योगिक विवादों के निपटान हेतु तन्त्र

धारा 53 की उपधारा (1) के अधीन सुलह कार्यवाही करने की रीति, उपधारा (4) के अधीन पूर्ण रिपोर्ट, तथा उपधारा (5) के अधीन आवेदन का प्रपत्र एवं इस आवेदन पर निर्णय लेने की रीति

41. (1) (1) जहां कोई औद्योगिक विवाद विद्यमान हो या जहां विवाद होने की आशंका हो या धारा 62 के अन्तर्गत नोटिस दिया गया हो, वहां सुलह अधिकारी ऐसे आवेदन की प्राप्ति के 15 दिन की अवधि के भीतर आवेदन की जांच करेगा और यदि वह उचित समझे तो संबंधित पक्षों को नोटिस जारी करेगा जिसमें यह घोषित किया जाएगा कि वह सुलह संबंधी कार्यवाही आरम्भ करने का इरादा रखता है।

(2) पहली बैठक में नियोजक या कर्मकार के प्रतिनिधि कथित विवाद के मामले से संबंधित अपने-अपने विवरण प्रस्तुत करेंगे।

(3) सुलह अधिकारी द्वारा विवाद के निपटान के प्रयोजनार्थ सुलह संबंधी कार्य किए जाएंगे और ऐसे सभी कार्य कर सकता है जिन्हें वह पक्षों को एक उचित और सौहार्दपूर्ण समझौते के लिए उपयुक्त समझता है।

(4)(i) किसी औद्योगिक विवाद पर सुलह अधिकारी के समक्ष संचालन कार्यवाही या न्यायाधिकरण/अधिकरण के समक्ष औद्योगिक विवाद की कार्यवाही लम्बित रहने के दौरान कोई नियोजक :–

(क) विवाद से जुड़े संबंधित मामले में ऐसे विवाद से संबंधित कर्मकारों पर ऐसी कार्यवाही प्रारम्भ होने से ठीक पूर्व लागू सेवा शर्तों में प्रतिकूल परिवर्तन नहीं करेगा,

(ख) प्राधिकारी जिसके समक्ष कार्यवाही लम्बित हो, की लिखित अनुमति को छोड़कर विवाद से सम्बन्धित कर्मकार को किसी कदाचार के कारण बर्खास्तगी या किसी अन्य कारण से हटाने या डिस्चार्ज करने की कार्यवाही नहीं करेगा।

(ii) ऐसी कार्यवाही लंबित रहने के दौरान, ऐसे विवादों पर, नियोजक कर्मकारों पर लागू स्थायी आदेशों के अनुसार कार्यवाही कर सकता है :-

(क) ऐसे मामलों जो कि विवाद से सम्बन्धित न हों, में ऐसी कार्यवाही के प्रारम्भ के ठीक पूर्व किसी कर्मकार पर लागू, ऐसा शर्तों के अनुसार परिवर्तन, या

(ख) किसी ऐसे कदाचार जोकि विवाद से संबंधित न हो, के कारण कर्मकार को हटाना या दण्डित करना, चाहे बर्खास्तगी या अन्यथा :

परन्तु यह कि ऐसे कर्मकार को तब तक हटाया या बर्खास्त नहीं किया जाएगा जब तक उसे, उस माह का वेतन और नियोजक द्वारा एक आवेदन जिस सुलह अधिकारी जिसके समक्ष कार्यवाही लम्बित है, को नियोजक द्वारा की गयी कार्यवाही की स्वीकृति हेतु न दे दिया गया है।

(iii) उपरोक्त उपखण्ड (ii) में किसी बात के होते हुए भी किसी औद्योगिक विवाद के लंबित रहने के दौरान विवाद के संबंधित संरक्षित कर्मकार के विरुद्ध, नियोजक कोई कार्यवाही नहीं करेगा।

(क) किसी संरक्षित कर्मकार के प्रति ऐसी कार्यवाही प्रारम्भ होने से ठीक पूर्व उस पर लागू सेवा शर्तों में प्रतिकूल परिवर्तन द्वारा

(ख) ऐसे संरक्षित कर्मकार को बर्खास्त करना या अन्य कार्यवाही द्वारा हटाना या दण्डित करना। ऐसे प्राधिकारी जिसके समक्ष कार्यवाही लंबित है, की लिखित अनुमति को छोड़कर।

(iv) जहां नियोजक द्वारा उपरोक्त उपखण्ड (ii) के उपबंध के अन्तर्गत अधिकरण को उसके द्वारा पूर्व कार्यवाही की स्वीकृति हेतु आवेदन किया गया है, संबंधित प्राधिकारी ऐसे आवेदन पर बिना विलम्ब के सुनवाई करेगा और उस आवेदन प्राप्ति के तीस दिवसों के भीतर, जैसा उचित समझे, आदेश पारित करेगा।

(v) न्यायाधिकरण/अधिकरण के समक्ष कार्यवाही लंबित रहने के दौरान जहां नियोजक उपखण्ड (iii) के उपबंधों का उल्लंघन करता है, तो ऐसे उल्लंघन से

व्यथित कोई भी कर्मकार न्यायाधिकरण/अधिकरण को विहित रीति से लिखित शिकायत कर सकता है जैसी भी स्थिति हो और शिकायत प्राप्त होने पर न्यायाधिकरण/अधिकरण उसे सम्बन्धित विवाद या लंबित विवाद की संहिता के अनुसार न्याय/निर्णयन की कार्यवाही करेगा और संहिता के अन्तर्गत अधिनिर्णय राज्य सरकार को प्रेषित करेगा।

(3)(1)(i) जहां नियोजक से किसी कर्मकार को किसी समझौते या अधिनियम या न्याय निर्णायक द्वारा दिये गये अधिनिर्णय के अधीन या राज्य सरकार द्वारा संहिता के अन्तर्गत नियुक्त या गठित राज्य औद्योगिक न्यायाधिकरण/अधिकरण द्वारा दिये गये अधिनिर्णय के द्वारा धनराशि देय है, तो बिना किसी पूर्वाग्रह के वसूली हेतु एक आवेदन पत्र राज्य सरकार को देगा, और यदि राज्य सरकार को समाधान हो जाता है कि यह धनराशि देय है, तो वह उस धनराशि का वसूली प्रमाण पत्र कलेक्टर को जारी करेगी, जोकि उसे भू-राजस्व की भांति वसूली करने की कार्यवाही करेगा।

(ii) जहां कर्मकार नियोजक से कोई लाभ जोकि धनराशि के रूप में संगणनीय है, ऐसी धनराशि की गणना राज्य सरकार द्वारा विनिर्दिष्ट अधिकरण द्वारा अवधारित की जाएगी और यह अवधारित धनराशि उपरोक्त खण्ड (i) के अनुसार वसूल की जा सकेगी।

(iii) लाभ की धनराशि की गणना के प्रयोजन से न्यायाधिकरण/अधिकरण यदि उचित समझे, तो विहित रीति से किसी आयुक्त को नियुक्त कर सकेगा। जोकि ऐसे आवश्यक साक्ष्यों के आधार पर रिपोर्ट न्यायाधिकरण को देगा और न्यायाधिकरण आयुक्त की रिपोर्ट और वाद की अन्य परिस्थितियों पर विचार करने के उपरांत धनराशि अवधारित करेगा।

(2) कोई भी विवाद जो सुलह कार्यवाही के दौरान सुलझाया नहीं जाता है, तो, संबंधित पक्षकार में से कोई भी न्यायाधिकरण/अधिकरण के समक्ष प्रपत्र-ङ में या उपनियम (2) के अधीन रिपोर्ट की तारीख से 30 दिनों के भीतर रजिस्ट्रीकृत डाक के माध्यम से आवेदन कर सकता है।

(a) ऐसे औद्योगिक विवाद के मामले में, जिसे सुलह की कार्यवाही के दौरान सुलझाया नहीं गया है, अभिनिर्णय हेतु संबंधित पक्षकारों में से किसी एक पक्षकार द्वारा न्यायाधिकरण/अधिकरण के समक्ष एक आवेदन किया जा सकता है। न्यायाधिकरण/अधिकरण विवाद उठाने वाले पक्षकार को निर्देश देगा कि प्रासंगिक दस्तावेजों, सहायक दस्तावेजों की सूची तथा साक्ष्यों व जिस तारीख पर आवेदन दायर किया गया है, उससे तीस दिनों के भीतर पूरे विवरण के साथ दावे का विवरण दर्ज करे। विवाद में दोनों पक्षकारों में से प्रत्येक को ऐसे बयान की एक प्रति इलैक्ट्रौनिक या रजिस्ट्रीकृत डाक द्वारा भेजी जा सकती है।

(4) न्यायाधिकरण/अधिकरण यह सुनिश्चित करने के बाद कि दावे के विवरण की प्रतियां और अन्य संबंधित दस्तावेज विवाद उठाने वाले पक्ष द्वारा अन्य पक्ष को दे दिये गये हैं, न्यायाधिकरण/अधिकरण पहली सुनवाई की तारीख जल्द से जल्द तय करेगा और आवेदन प्राप्ति की दिनांक से एक माह के भीतर सुनवाई की पहली दिनांक सुनिश्चित करेगा। प्रतिवादी पक्षकार या पक्षकार अपने लिखित बयान को समर्थन के दस्तावेजों और उसकी सूची तथा साक्ष्यों की सूची, यदि कोई हो, सुनवाई की पहली तारीख से तीस दिनों की अवधि के भीतर दाखिल करेंगे और साथ साथ उसकी एक प्रति, प्रतिवादी पक्ष या पक्षों को अग्रेषित करेंगे।

(5) जहां न्यायाधिकरण/अधिकरण यह पाता है कि विवाद उठाने वाला पक्ष उसके निर्देशों के बावजूद, दावे के विवरण की एक प्रति और अन्य दस्तावेज प्रतिवादी पक्षकार या पक्षकारों को प्रेषित नहीं की गयी है, यदि न्यायाधिकरण/अधिकरण दावे के विवरण और अन्य दस्तावेज समयान्तर्गत दाखिल न किए जाने के पर्याप्त कारण पाता है, तो न्यायाधिकरण, संबंधित पक्षकार को विवरण की प्रति, पन्द्रह दिवसों के अन्दर प्रतिवादी पक्षकार या पक्षकारों को देने के निर्देश देगा।

(6) साक्ष्य या तो औद्योगिक न्यायाधिकरण में दर्ज किए जाएंगे या शपथपत्र पर दायर किए जा सकते हैं, किन्तु शपथपत्र के मामले में प्रतिवादी पक्ष को शपथपत्र दाखिल करने वाले प्रत्येक शपथकर्ता से प्रतिपरीक्षा करने का अधिकार होगा। जहां प्रत्येक साक्षी की मौखिक परीक्षा हो गयी हो वहां न्यायाधिकरण/

अधिकरण दिये गये साक्ष्य का सार का ज्ञापन बनाएगा। मौखिक साक्ष्य दर्ज करते समय न्यायाधिकरण, सिविल प्रक्रिया, 1908 (1908 का 5) के लिए पहली अनुसूची के आदेश XVIII के नियम 5 में निर्धारित प्रक्रिया का पालन करेगा।

समझौता रजिस्ट्रीकरण आवेदन हेतु के 42.

सुलह अधिकारी के समक्ष सुलह कार्यवाही से हुए समझौते के रजिस्ट्रीकरण हेतु आवेदन समझौते के पक्षकारों द्वारा या उनमें से किसी एक को समझौता होने की दिनांक से एक माह के भीतर, क्षेत्र के सम्बन्धित सुलह अधिकारी को पावती सहित रजिस्ट्रीकृत डाक से या दस्ती प्रेषित किया जाएगा। समझौते के ज्ञापन की एक प्रति समझौते के पक्षकारों द्वारा सम्बन्धित स्थापन के प्रवेश द्वार या द्वारों के निकट लगे नोटिस बोर्ड पर चस्पा की जाएगी और यह समझौते के रजिस्ट्रीकरण के आवेदन की दिनांक के पूर्व सात दिवसों की अवधि तक चस्पा रहेगा।

समझौते रजिस्ट्रीकरण प्रक्रिया के की 43.

समझौते के रजिस्ट्रीकरण के लिए आवेदन प्राप्त होने पर सुलह अधिकारी या राज्य सरकार द्वारा इस संबंध में अधिसूचित प्राधिकारी, यदि वह, यह आवश्यक समझता है, तो इसकी जांच करा सकता है। यदि जांच के बाद सुलह अधिकारी या संबंधित प्राधिकारी समझौते के रजिस्ट्रीकरण का निर्णय करता है, तो समझौता का पंजीयन प्रपत्र-च में दर्ज करेगा और समझौते के रजिस्ट्रीकरण का प्रमाण पत्र प्रपत्र-छ में समझौते के सभी पक्षकारों को, रजिस्ट्रीकरण के लिए आवेदन पत्र प्राप्त होने के तीस दिवसों के अन्दर निर्गत किया जाएगा। यदि रजिस्ट्रीकरण प्राधिकारी समझौते का रजिस्ट्रीकरण करने से इन्कार करता है, तो इस संबंध में रजिस्ट्रीकरण से इन्कार करने के कारणों सहित, समझौते के सभी पक्षकारों को रजिस्ट्रीकरण के आवेदन प्राप्ति की दिनांक के, जो तीस दिवस से अधिक न हो, के भीतर, एक सूचना दी जाएगी। समझौता रजिस्ट्रीकरण के लिए राज्य सरकार द्वारा अधिसूचित प्राधिकारी द्वारा समझौते के रजिस्ट्रीकरण या इन्कार किए जाने की सूचना, जैसा भी मामला हो, सम्बन्धित क्षेत्र के सुलह अधिकारी और श्रम आयुक्त, उत्तराखण्ड को रजिस्ट्रीकरण के सात दिवसों के अन्दर प्रेषित की जाएगी।

व्यक्तियों जिन पर अधिनिर्णय (एवार्ड) बाध्यकारी होगा

44. अधिनिर्णय (एवार्ड) प्रवर्तनीय होने पर निम्न पक्षों पर बाध्यकारी होगा–

(क) औद्योगिक विवाद से संबंधित सभी पक्षकारों पर,

(ख) जहां खण्ड (क) में उल्लिखित एक पक्ष नियोजक है, उसके वारिस, उत्तराधिकारी या उस स्थापन का समनुदेशिती जोकि औद्योगिक विवाद से संबंधित हो,

(ग) जहां खण्ड (क) में उल्लिखित पक्ष कर्मकारों से बना है, सभी व्यक्ति, जो स्थापन में या स्थापन के किसी भाग में नियोजित रहे हों, चाहे भी वर्तमान हो, जिनसे विवाद संबंधित है और सभी व्यक्ति जो बाद में स्थापन या किसी हिस्से में नियोजित हुए हों उन सभी पर।

अध्याय–9

हड़ताल और तालाबंदियां

धारा 62 की उपधारा (4) के अधीन हड़ताल का नोटिस देने की रीति

45. (1) धारा 62 की उपधारा (1) में निर्दिष्ट हड़ताल का संदर्भित नोटिस प्रपत्र–ब में औद्योगिक स्थापन के प्रमुख (प्लांट हेड) या प्रबंधक को दिया जाएगा, जो कि पंजीकृत व्यवसाय संघ के सचिव अथवा जहां पंजीकृत संघ न हो वहां स्थापन के एक सिहाई कर्मकारों द्वारा विधिवत् हस्ताक्षरित किया जाएगा और जिसकी प्रतियां संबंधित क्षेत्र के सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त, श्रम आयुक्त और राज्य सरकार को इलैक्ट्रॉनिक रूप से या अन्य ऐसे प्रकार से, जो राज्य सरकार निर्दिष्ट करे, दी जाएगी।

(2) यदि किसी औद्योगिक स्थापन के नियोजक उसके द्वारा नियोजित किसी व्यक्ति से धारा 62 की उपधारा (1) में निर्दिष्ट हड़ताल की कोई सूचना प्राप्त होती है, तो वह ऐसी सूचना प्राप्त होने के पंद्रह दिनों के भीतर इलैक्ट्रॉनिक रूप से सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त राज्य के श्रम आयुक्त और राज्य सरकार को इसकी सूचना देगा।

धारा 62 की उपधारा (5) के अधीन तालाबंदी की सूचना

46. (1) धारा 62 की उपधारा (2) में निर्दिष्ट तालाबंदी का नोटिस औद्योगिक स्थापन के नियोजक द्वारा प्रपत्र–द में प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ, के सचिव को, जो

देने की रीति व उपधारा (6) के अधीन प्राधिकरण

ऐसे औद्योगिक स्थापन से संबंधित हो, को दिया जाएगा जिसकी प्रति पृष्ठांकित करते हुए संबंधित सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त, श्रम आयुक्त और राज्य सरकार को इलैक्ट्रौनिक रूप से या अन्य माध्यम से भेजी जाएगी। यदि कोई रजिस्ट्रीकृत व्यवसाय संघ नहीं है, तो नियोजक द्वारा औद्योगिक स्थापन के मुख्य प्रवेश द्वार पर नोटिस बोर्ड या इलैक्ट्रौनिक बोर्ड पर नोटिस को स्पष्ट रूप से प्रदर्शित किया जाएगा और कार्य समिति के श्रमिक प्रतिनिधियों को भी इसकी सूचना दी जाएगी।

(2) यदि नियोजक अपने द्वारा नियोजित किसी व्यक्ति को तालाबंदी का नोटिस देता है, तो वह ऐसे नोटिस की दिनांक से पांच दिनों के भीतर, इलैक्ट्रौनिक रूप से या अन्य प्रकार से संबंधित सुलह अधिकारी और क्षेत्रीय उप श्रम आयुक्त को सूचित करेगा।

अध्याय–10

कामबंदी, छंटनी और बंदी

भारा 70 के खण्ड (च) के अधीन कर्मकार की छंटनी से पहले नोटिस देने की रीति

47. यदि कोई भी नियोजक अपने औद्योगिक स्थापन में नियोजित किसी कर्मकार को, जो निरन्तर एक वर्ष से अधिक उसके अधीन सेवा में रहा हो, की छंटनी करना चाहता है, तो ऐसा नियोजक प्रपत्र–ख में, इस तरह की छंटनी का नोटिस राज्य सरकार एवं ऐसे प्राधिकारी जोकि राज्य सरकार द्वारा अधिसूचना के माध्यम से नामित किया जाए, को प्रस्तावित छंटनी से कम से कम 15 दिवस पूर्व ईमेल और रजिस्ट्रीकृत डाक/स्पीड पोस्ट द्वारा भेजेगा।

धारा 72 के अधीन छंटनी किए गए कर्मचारी को पुनः रोजगार के अवसर देने की रीति

48. (1) नियोजक द्वारा उस विशेष श्रेणी के सभी कर्मकारों की सूची तैयार करेगा, जिसमें से छंटनी अपेक्षित है, तथा उन्हें उस श्रेणी में उनकी सेवा की वरिष्ठता के अनुसार व्यवस्थित करेगा और उसकी एक प्रति छंटनी की वास्तविक तिथि से कम से कम सात दिन पूर्व औद्योगिक प्रतिष्ठान के परिसर में किसी प्रमुख स्थान पर सूचना पट्ट पर चिपकाएगा।

(2) जब किसी औद्योगिक प्रतिष्ठान में कोई रिक्ति उत्पन्न होती है और ऐसी रिक्ति को भरने के प्रस्ताव से एक वर्ष पूर्व ऐसे औद्योगिक प्रतिष्ठान के कर्मकारों की छंटनी की गई हो, जो ऐसे प्रतिष्ठान का नियोजक, यदि ऐसे

कर्मकार भारत के नागरिक है और उन्होंने नियोजन के लिए इच्छा व्यक्त की है, तो उनकी सेवा वरिष्ठता के आधार पर उन्हें अन्य पर वरीयता देगा।

(3) नियोजक, औद्योगिक प्रतिष्ठान के परिसर में किसी प्रमुख स्थान पर लगे नोटिस बोर्ड पर रिक्तियों का विवरण, रिक्तियों को भरे जाने की तिथि से कम से कम पंद्रह दिन पूर्व प्रदर्शित करने की व्यवस्था करेगा तथा उन रिक्तियों की सूचना पंजीकृत डाक या स्पीड पोस्ट या ईमेल के माध्यम से सभी पात्र छंटनी किये गये कर्मकारों को उनके द्वारा छंटनी के समय या उसके बाद दिये गए नवीनतम पते या ईमेल पर रिक्तियों की सूचना देगा:

परन्तु जब ऐसी रिक्तियों की संख्या छंटनी किए गए कर्मकारों की संख्या से कम हो, तो यह पर्याप्त होगा कि यदि नियोजक द्वारा उपनियम (1) में निर्दिष्ट सूची में सबसे वरिष्ठ छंटनी किए गए कर्मकारों को व्यक्तिगत रूप से सूचना दी जाए और ऐसे वरिष्ठतम कर्मकारों की संख्या ऐसी रिक्तियों की संख्या से दोगुनी हो:

परन्तु यदि रिक्ति एक महीने से कम अवधि में भरी जानी हो, तो नियोजक पर ऐसी रिक्तियों की सूचना छंटनी किए गए कर्मकारों को व्यक्तिगत रूप से भेजने का कोई दायित्व नहीं होगा:

परन्तु यदि कोई छंटनी किया गया कर्मकारी, नियोजक को लिखित रूप से पर्याप्त कारण बताए बिना, इस उपनियम के तहत नियोजक द्वारा उसे भेजी गई सूचना में निर्दिष्ट तिथि या तिथियों पर पुनर्नियोजन के लिए स्वयं को प्रस्तुत नहीं करता है, तो नियोजक उसे किसी भी बाद के अवसर पर भरी जा सकने वाली रिक्तियों की सूचना नहीं दे सकता है।

(4) उपनियम (3) के प्रावधानों के अनुपालन करने के पश्चात, नियोजक, औद्योगिक प्रतिष्ठान से संबंद्ध कार्यकारी संघ या वार्ता परिषद् के घटक या व्यवसाय संघों को, रिक्तियों की संख्या और उन छंटनीकृत कर्मचारियों के नामों की भी सूचना देगा, जिन्हें उस उपनियम के अंतर्गत सूचना भेजी गई है।

धारा 74 की उपधारा (1) के अधीन नियोजक प्रतिष्ठान के बंदी का नोटिस देने की रीति

49. (1) यदि कोई नियोजक किसी औद्योगिक स्थापन को बंद करना चाहता है, तो वह धारा 74 की उपधारा (1) में निर्दिष्ट समय के भीतर प्रपत्र–घ में राज्य सरकार को इस तरह की बंदी का नोटिस देगा और उसकी प्रति संबंधित सुलह अधिकारी, क्षेत्रीय उप श्रम आयुक्त और राज्य के श्रम आयुक्त को ईमेल और रजिस्ट्रीकृत डाक द्वारा भेजी जायेगी।

जहां बंदी के ऐसे आवेदन के नोटिस को केवल रजिस्ट्रीकृत डाक से भेजा जाता है, तो राज्य सरकार को आवेदन प्राप्त होने की दिनांक, सूचना दिए जाने की दिनांक मानी जाएगी;

(2) किसी औद्योगिक स्थापन के उपक्रम बंद करने के पूर्व अनुमति के आवेदन की प्रति स्थापन में कार्यरत सभी रजिस्ट्रीकृत व्यवसाय संघों के अध्यक्षों या सचिवों को व्यक्तिगत रूप से हस्तगत करवायी जाएगी और जहां यह व्यवहारिक न हो, ई मेल द्वारा और रजिस्ट्रीकृत पावती डाक द्वारा प्रेषित की जाएगी;

(3) किसी औद्योगिक स्थापन के उपक्रम बंद करने के पूर्व अनुमति के आवेदन की प्रति सम्बन्धित स्थापन के मुख्य प्रवेश द्वार पर भी चस्पा की जाएगी।

अध्याय–11

कतिपय प्रतिष्ठानों में काम बंदी, छंटनी और बंदी से संबंधित विशेष प्रावधान

कामबंदी के लिए नियोजक द्वारा राज्य सरकार को आवेदन करने तथा कर्मकारों को ऐसे आवेदन की प्रति देने की रीति

50. धारा 78 की उपधारा (1) के अधीन अनुमति के लिए आवेदन नियोजक द्वारा प्रपत्र–च में स्पष्ट रूप से कामबंदी (ले–आफ) के बताए गए अभीष्ट कारणों सहित राज्य सरकार को दी जाएगी और साथ–साथ नियोजक द्वारा ऐसे आवेदन की एक प्रति संबंधित कर्मकार को इलैक्ट्रौनिक माध्यम से और पंजीकृत डाक द्वारा भी भेजी जाएगी। नियोजक द्वारा इस तरह के आवेदन को, औद्योगिक स्थापन के मुख्य प्रवेश द्वार पर स्थित सूचना बोर्ड या इलैक्ट्रौनिक बोर्ड पर अंग्रेजी और हिन्दी दोनों भाषाओं में स्पष्ट रूप से प्रदर्शित किया जाएगा।

धारा 78 की उपधारा (7) के अधीन पुनर्विलोकन के लिए समय–सीमा

51. (1) राज्य सरकार, स्वप्रेरणा से या नियोजक या किसी कर्मकार द्वारा किए गए आवेदन पर, धारा 78 की उपधारा (4) के अधीन अनुमति प्रदान करने या देने से इन्कार करने वाले अपने आदेश का पुनर्विलोकन कर सकेगी।

(2) नियोजक या संबंधित कोई कर्मकार, उपनियम (1) में निर्दिष्ट आदेश के साथ, आदेश जारी होने की दिनांक से तीस दिन के भीतर, आदेश के पुनर्विलोकन के लिए राज्य सरकार को आवेदन कर सकेगा और सरकार द्वारा आवेदन प्राप्त होने की दिनांक से दो महीने के भीतर, संबंधित पक्षों को सुनवाई का अवसर प्रदान करने के पश्चात, उसका निपटारा करेगी।

(3) जहाँ राज्य सरकार स्वप्रेरणा से उपधारा (1) में निर्दिष्ट आदेश की पुनर्विलोकन करने का निर्णय लेती है, वहाँ वह आदेश जारी होने की दिनांक से एक महीने के भीतर आवश्यक कदम उठा सकेगी और संबंधित पक्षकारों को सुनवाई का अवसर प्रदान करने के पश्चात, ऐसा निर्णय लिए जाने की दिनांक से दो महीने की अवधि के भीतर ऐसे पुनर्विलोकन का निपटारा कर सकेगी।

धारा 79 की उपधारा (2) के अधीन नियोजक द्वारा छंटनी के इरादे से राज्य सरकार को आवेदन करने की रीति तथा ऐसे आवेदन की प्रति कर्मकारों को देने की रीति

82. (1) यदि कोई नियोजक स्थापन में नियोजित किसी कर्मकार, जिसकी सम्बन्धित नियोजक के स्थापन में निरन्तर सेवा एक वर्ष से कम न हो, की छंटनी करना चाहता है, तो वह ऐसी छंटनी संबंधी सूचना राज्य सरकार को देगा।

(क) जहां नोटिस कर्मकार को दिया जाना है, नोटिस उसी दिन जिस दिन कर्मकार को दिया गया है, सम्बन्धित अधिकारी को भेजा जाएगा; और

(ख) जहां कर्मकार को कोई नोटिस नहीं दिया गया है और उसे नोटिस के बदले में एक माह के वेतन का भुगतान कर दिया गया है, कर्मकार की छंटनी सम्बन्धी नोटिस उसी दिन, जिस दिन वेतन का भुगतान कर्मकार को किया गया है, भेजा जाएगा।

(ग) जहां किसी समझौते के तहत छंटनी की जा रही है या की जानी है, जिसमें सेवा समाप्ति की दिनांक निर्दिष्ट है, वहां छंटनी की सूचना छंटनी की दिनांक से कम से कम एक महीने पहले दी जायेगी। यदि समझौते की तिथि से छंटनी की तिथि तक की अवधि एक महीने से कम है, तो छंटनी की सूचना उस दिनांक को भेजी जाएगी, जिस दिनांक को समझौता हुआ है।

(2) नियोजक द्वारा यदि किसी श्रेणी विशेष के कर्मकारों की छंटनी की जानी है, तो उस श्रेणी में सेवा की वरिष्ठता के अनुसार सूची तैयार करेगा और उसकी एक प्रति

छंटनी की दिनांक से कम से कम सात दिवस पूर्व औद्योगिक स्थापन के परिसर में लगे नोटिस बोर्ड पर चस्पा करेगा।

(3) नियोजक, कर्मकार की छंटनी किए जाने से पूर्व पुनः नियोजन हेतु सूचना देने के प्रयोजन से कर्मकार के द्वारा लिखित में दिए गए पते, जिसमें उस कर्मकार के हस्ताक्षर या अंगूठा निशानी लगी हो, दर्ज करेगा।

(4) धारा 79 की उपधारा (1) के अधीन अनुमति के लिए आवेदन नियोजक द्वारा प्रपत्र–ग में स्पष्ट रूप से छंटनी के सम्बन्ध में बताए गए अभीष्ट कारणों सहित किया जाएगा तथा ऐसे आवेदन की एक प्रति संबंधित कर्मकार को इलैक्ट्रॉनिक रूप से और रजिस्ट्रीकृत डाक से प्रेषित की जाएगी। तथा इस तरह के आवेदन को, औद्योगिक स्थापन के मुख्य प्रवेश द्वार के पास हिन्दी और अंग्रेजी भाषा में नोटिस बोर्ड पर चस्पा कर या इलैक्ट्रॉनिक बोर्ड में सहदृश्य रूप से प्रदर्शित किया जाएगा।

धारा 79 की उपधारा (5) के अधीन पुनर्विलोकन के लिए समय–सीमा

53. (1) राज्य सरकार, स्वप्रेरणा से या नियोजक या किसी कर्मकार द्वारा किए गए आवेदन पर, धारा 79 की उपधारा (3) के अधीन अनुमति प्रदान करने या देने से इन्कार करने वाले अपने आदेश की पुनर्विलोकन कर सकेगी।

(2) नियोजक या संबंधित कोई कर्मकार, उपनियम (1) में निर्दिष्ट आदेश के साथ, आदेश जारी होने की दिनांक से तीस दिन के भीतर, आदेश के पुनर्विलोकन के लिए राज्य सरकार को आवेदन कर सकेगा और सरकार द्वारा आवेदन प्राप्त होने की दिनांक से दो महीने के भीतर, संबंधित पक्षकारों को सुनवाई का अवसर प्रदान करने के पश्चात, उसका निपटारा करेगी।

(3) जहाँ राज्य सरकार स्वप्रेरणा से उपनियम (1) में निर्दिष्ट आदेश को पुनर्विलोकन करने का निर्णय लेती है, वहाँ वह आदेश जारी होने की दिनांक से एक महीने के भीतर आवश्यक कदम उठा सकेगी और संबंधित पक्षकारों को सुनवाई का अवसर प्रदान करने के पश्चात, ऐसा निर्णय लिए जाने की दिनांक से दो महीने की अवधि के भीतर ऐसे पुनर्विलोकन का निपटारा कर सकेगी।

धारा 80 के उपधारा (1) के अधीन किसी औद्योगिक स्थापन को बंद करने के लिए नियोजक द्वारा राज्य सरकार को आवेदन करने की रीति और कर्मकारों के प्रतिनिधियों को ऐसे आवेदन की प्रति देने की रीति

54. संहिता के अध्याय 10 के अन्तर्गत आने वाले किसी औद्योगिक स्थापन को बंद करने का इरादा रखने वाला नियोजक, प्रस्तावित बंद की तिथि से कम से कम नब्बे दिन पहले राज्य सरकार को प्रपत्र–न में पूर्व अनुमति के लिए इलैक्ट्रॉनिक रूप से आवेदन करेगा। आवेदन में प्रस्तावित बंद के कारणों का स्पष्ट उल्लेख होना चाहिए और साथ ही ऐसे आवेदन की प्रति इलैक्ट्रॉनिक रूप से और रजिस्ट्रीकृत डाक द्वारा कर्मकारों के प्रतिनिधियों को भी भेजी जाएगी। आवेदक द्वारा ऐसे आवेदन को औद्योगिक स्थापन के मुख्य द्वार पर हिन्दी तथा अंग्रेजी में लगे नोटिस बोर्ड पर तथा इलैक्ट्रॉनिक बोर्ड पर दर्शाया जायेगा।

धारा 80 की उपधारा (5) के अधीन पुनर्विलोकन के लिए समय– सीमा

55. (1) राज्य सरकार स्वप्रेरणा से अथवा नियोजक या किसी कर्मकार द्वारा आवेदन किये जाने पर, संहिता की धारा 80 की उपधारा (2) के अधीन दी गयी अनुमति या अनुमति से इन्कार किए जाने संबंधी आदेश का पुनर्विलोकन कर सकेगी।

(2) नियोजक या संबंधित कोई कर्मकार, उपनियम (1) में निर्दिष्ट आदेश के साथ, आदेश जारी होने की दिनांक से तीस दिन के भीतर, आदेश की पुनर्विलोकन के लिए राज्य सरकार को आवेदन कर सकेगा और सरकार आवेदन प्राप्त होने की दिनांक से दो महीने के भीतर, संबंधित पक्षों को सुनवाई का अवसर प्रदान करने के पश्चात, उसका निपटारा करेगी।

(3) जहाँ राज्य सरकार स्वप्रेरणा से उपनियम (1) में निर्दिष्ट आदेश की पुनर्विलोकन करने का निर्णय लेती है, वहाँ यह आदेश जारी होने की दिनांक से एक महीने के भीतर आवश्यक कदम उठा सकेगी और संबंधित पक्षों को सुनवाई का अवसर प्रदान करने के पश्चात, ऐसा निर्णय लिए जाने की तिथि से दो महीने की अवधि के भीतर ऐसे पुनर्विलोकन का निपटारा कर सकेगी।

अध्याय–12

कर्मकार पुनःकौशल निधि

कर्मकार पुनःकौशल निधि में अन्य स्रोतों से किया जाने वाला अनुदान

56. कर्मकार पुनःकौशल निधि में संहिता की धारा 83 (2) (क) में नियोजक से प्राप्त होने वाले योगदान के अतिरिक्त, किसी अधिष्ठान/कम्पनी द्वारा स्वेच्छा से कार्पोरेट सामाजिक उत्तरदायित्व (CSR) के अन्तर्गत किसी प्रकार का योगदान अथवा अन्य वैधानिक स्रोतों, जिनका राज्य सरकार द्वारा समय समय पर जारी सामान्य आदेश में उल्लेख हो, से धनराशि जमा की जाएगी।

कर्मकार पुनःकौशल निधि का उपयोग की रीति

57. (1) प्रत्येक नियोजक, जिसने संहिता के तहत अपने औद्योगिक प्रतिष्ठान में किसी कर्मकार या कर्मकारों की छंटनी की है, ऐसी छंटनी की तारीख से दस दिनों के भीतर, ऐसी छंटनी किए गए कर्मकार या कर्मकारों के अंतिम आहरित वेतन के पंद्रह दिनों के बराबर राशि को इलैक्ट्रौनिक रूप से संहिता की धारा 83 (1) में गठित निधि के खाते में स्थानांतरित करेगा।

(2) उपनियम (1) के तहत प्राप्त धनराशि को श्रम आयुक्त कार्यालय/उप श्रम आयुक्त कार्यालय/सहायक श्रम आयुक्त कार्यालय द्वारा छंटनी किए गए प्रत्येक कर्मकार के खाते या छंटनी किए गए श्रमिकों के खातों में जैसा भी मामला हो, छंटनी के पैंतालीस दिनों के भीतर इलैक्ट्रौनिक रूप से हस्तांतरित किया जाएगा ताकि वह उक्त राशि का उपयोग अपने पुनःकौशलीकरण के लिए कर सके।

(3) नियोजक को प्रत्येक छंटनी किए गए कर्मकारों का नाम, उसके द्वारा अंतिम बार प्राप्त किए गए पंद्रह दिनों के वेतन के बराबर राशि और उसके बैंक खाते का विवरण श्रम आयुक्त कार्यालय/उप श्रम आयुक्त कार्यालय/सहायक श्रम आयुक्त कार्यालय को प्रस्तुत करना होगा।

अध्याय—13

अपराध और दंड

धारा 89 की उपधारा (1) के अधीन निर्दिष्ट राजपत्रित अधिकारी द्वारा अपराध की संरचना की रीति और धारा 89 की उपधारा (4) के अधीन अपराध के उपशमन के लिए आवेदन करने की रीति

58. (1) धारा 89 की उपधारा (1) के अधीन अपराधों के शमन के लिए राज्य सरकार द्वारा अधिसूचित अधिकारी (जिसे इसके पश्चात् शमन अधिकारी कहा गया है), यदि उसकी यह राय है कि संहिता के अधीन कोई अपराध, जिसके लिए उक्त धारा के अधीन शमन अनुज्ञेय है और जिसमें अभियोजन संस्थित नहीं किया गया है, वह विभाग के पोर्टल या किसी अन्य माध्यम से तीन भागों में प्रपत्र–घ में अभियुक्त को नोटिस भेजेगा।

(2) प्रपत्र–घ में भाग– I में शमन अधिकारी, अन्य बातों के साथ–साथ निम्नलिखित निर्दिष्ट करेगा–

(क) अभियुक्त का नाम और उसके अन्य विवरण;

(ख) अपराध का विवरण और धारा जिसके अन्तर्गत अपराध किया गया है, और

(ग) ऐसे अपराध के शमन के लिए भुगतान की जाने वाली शमन राशि।

(3) प्रपत्र–ग के भाग–II में, शमन अधिकारी अपराध का शमन न किये जाने पर उसके परिणामों को निर्दिष्ट करेगा और उसका प्रपत्र के भाग–III में अभियुक्त के द्वारा यदि वह अपराध के शमन का इच्छुक है तो आवेदन पत्र को भरे जाने का उल्लेख किया जाएगा।

(4) उपनियम (1) में निर्दिष्ट प्रत्येक नोटिस की एक विशिष्ट क्रमांक संख्या होगी जिसमें अक्षर या संख्या और अन्य विवरण सहित जैसे नोटिस भेजने वाले अधिकारी, औद्योगिक स्थापन वर्ष, स्थान तथा आसान पहचान के प्रयोजन के लिए निरीक्षण का प्रकार के विवरण।

(5) जिन अभियुक्तों को उपनियम (1) में निर्दिष्ट नोटिस भेजा गया है, वे उसके द्वारा भरे गए फॉर्म के भाग–III को विधिवत् रूप से भरकर शमन अधिकारी को भेज सकते हैं और शमन राशि को इलैक्ट्रॉनिक या अन्य माध्यम से नोटिस प्राप्ति के पंद्रह दिनों के भीतर शमन अधिकारी द्वारा नोटिस में उल्लेख किए गए खाते में जमा कर सकते हैं।

(6) जहां अभियुक्त के विरुद्ध पहले से ही अभियोजन सक्षम न्यायालय में संस्थित किया जा चुका है, वह न्यायालय में उसके विरुद्ध अपराध के शमन के लिए आवेदन कर सकता है और न्यायालय, आवेदन पर विचार करने के उपरांत, धारा 89 के प्रावधानों के अन्तर्गत शमन अधिकारी द्वारा अपराध की शमन किये जाने की अनुमति दे सकता है।

(7) यदि अभियुक्त उपनियम (2) की अपेक्षा का अनुपालन करता है, तो शमन अधिकारी अभियुक्त द्वारा जमा की गई राशि से अपराध का शमन करेगा और–

(क) यदि अभियोजन से पूर्व शमन किया जाता है तब अभियोजन के लिए अभियुक्त के विरुद्ध अभियोजन का परिवाद संस्थित नहीं किया जाएगा, तथा

(ख) यदि न्यायालय की अनुमति से उपनियम (3) के अधीन अभियोजन दायर करने के उपरांत शमन किया जाता है, तो, शमन अधिकारी इस मामले को समाप्त मान लेगा जैसे कि कोई अभियोजन दायर ही नहीं किया गया था और

शमन की कार्यवाही खण्ड (क) के अनुसार करते हुए सक्षम न्यायालय, जहां अभियोजन लंबित है, को अपराध के शमन किए जाने की सूचना देगा और ऐसी सूचना प्राप्त होने पर न्यायालय अभियुक्त को मुक्त कर देगा और अभियोजन समाप्त कर देगा।

(ङ) शमन अधिकारी राज्य सरकार के निर्देश, नियंत्रण और पर्यवेक्षण के अधीन, इस नियम के अधीन अपराध को शमन करने के लिए शक्तियों का प्रयोग करेगा।

अध्याय–14

विविध

संरक्षित कर्मकार

59. (1) प्रत्येक रजिस्ट्रीकृत व्यवसाय संघ, जो औद्योगिक स्थापन से जुड़ा हो, और जिस पर संहिता लागू है, प्रत्येक वर्ष 30 अप्रैल से पहले ऐसे संघ के पदाधिकारियों के नाम जो स्थापन में नियोजित हैं और संघ की राय में उन्हें "संरक्षित कर्मकार" के रूप में मान्यता दी जानी हो, के संबंध में नियोजक को संसूचित करेगा।

(2) नियोजक , धारा 90 के उपधारा (3) और उपधारा (4) के अधीन ऐसे कर्मकारों को धारा 90 के प्रयोजनों के लिए "संरक्षित कर्मकारों" के रूप में मान्यता देगा और उपनियम (1) के अन्तर्गत नाम और पते की प्राप्ति के पंद्रह दिनों के भीतर, सूचना की दिनांक से बारह माह की अवधि के लिए मान्यता प्राप्त ऐसे 'संरक्षित कर्मकारों' की सूचना, संघ को देगा।

(3) जहां उपनियम (1) के अधीन नियोजक द्वारा प्राप्त नामों की कुल संख्या औद्योगिक स्थापन के लिए अनुमन्य संरक्षित कर्मकारों की संख्या से अधिक है, नियोजक धारा 90 की उपधारा (4) के अधीन, अधिकतम संख्या तक "संरक्षित कर्मकारों" को मान्यता देगा:

परन्तु जहां औद्योगिक स्थापन में एक से अधिक रजिस्ट्रीकृत व्यवसाय संघ हैं, वहां नियोजक द्वारा संघों द्वारा अधिकतम संख्या ऐसे वितरित की जाएगी कि प्रतिस्पर्धा संघों में मान्यता प्राप्त संरक्षित कर्मकारों की संख्या व्यावहारिक रूप से एक दूसरे संघ की सदस्यता की संख्या के समान अनुपात में हो। नियोजक, ऐसे मामले में लिखित में प्रत्येक सम्बन्धित संघ के अध्यक्ष या सचिव को संरक्षित कर्मकारों की संख्या के संबंध में सूचित करेगा :

परन्तु यह और कि जहां इस उपनियम के अन्तर्गत एक संघ को आवंटित संरक्षित कर्मकारों की संख्या सुरक्षा की मांग करने वाले संघ के पदाधिकारियों की संख्या से कम होती है। संघ को संरक्षित कर्मकारों के रूप में मान्यता प्राप्त पदाधिकारियों का चयन करने का अधिकार होगा। ऐसा चयन संघ द्वारा किया जाएगा और इस संबंध में नियोजक का पत्र प्राप्त होने के पांच दिनों के भीतर नियोजक को सूचित किया जाएगा।

(4) जब इस नियम के अन्तर्गत 'संरक्षित कर्मकारों' की मान्यता से जुड़े किसी भी मामले में एक नियोजक और किसी रजिस्ट्रीकृत व्यवसाय संघ के बीच विवाद उत्पन्न होता है, तो विवाद संबंधित क्षेत्र के किसी भी क्षेत्रीय उप श्रम आयुक्त या सहायक श्रम आयुक्त को सन्दर्भित किया जाएगा, जो इस विवाद को सुनेंगे व इस मामले का निर्णय करेंगे और जिसका निर्णय अंतिम होगा।

पीड़ित कर्मकार द्वारा शिकायत करने की रीति

60. (1) संहिता की धारा 91 के अधीन प्रत्येक शिकायत को प्रपत्र–फ में और शिकायत में जितने प्रतिवादी पक्षकार हों, उतनी प्रतियां संलग्न करते हुए इलैक्ट्रौनिक रूप से या रजिस्ट्रीकृत डाक या स्पीड पोस्ट द्वारा प्रेषित किया जाएगा।

(2) उपनियम (1) के अन्तर्गत प्रत्येक शिकायत को, शिकायत करने वाले कर्मकार या कर्मकार के अधिकृत प्रतिनिधि द्वारा, चाहे भी मामला हो, जो मामले से सम्बन्धित तथ्यों से भिज्ञ हो, सत्यापित कर सुलह अधिकारी, मध्यस्थम् या औद्योगिक न्यायाधिकरण /अधिकरण की संतुष्टि के लिए प्रस्तुत किया जाएगा।

धारा 94 की उपधारा 1(ग) के अधीन किसी भी कार्यवाही में प्रतिनिधित्व करने के लिए कर्मकार की ओर से अधिकृत किए जाने की रीति

61. जहां कर्मकार किसी भी व्यवसाय संघ का सदस्य नहीं है, वहां उस कर्मकार द्वारा किसी विवाद, जिसमें वह स्वयं एक पक्षकार है, में उस उद्योग, जिसमें स्वयं नियोजित है, से संबंधित किसी भी व्यवसाय संघ की कार्यकारिणी के किसी सदस्य या अन्य पदाधिकारी, या उस उद्योग में नियोजित किसी अन्य कर्मकार को विवाद से संबंधित कार्यवाही में अपना प्रतिनिधित्व करने के लिए प्रपत्र–ब में अधिकृत किया जा सकता है।

धारा 94 की उपधारा 2 (ग) के अधीन किसी कार्यवाही में नियोजक की ओर से प्रतिनिधि अधिकृत किए जाने की रीति

62. जहां नियोजक, नियोजक के संगम का सदस्य नहीं है, नियोजक के किसी संगम से जुड़ा हुआ पदाधिकारी या कोई अन्य नियोजक जिसे उद्यम में लगे नियोजक की ओर से संहिता के अंतर्गत किसी भी सम्बन्धित विवाद, जिसमें नियोजक पक्षकार है, को वह प्रपत्र–ढ में प्रतिनिधित्व दिया जा सकता है।

महानिदेशक, श्रम ब्यूरो को प्रेषित किए जाने वाले प्रपत्र

63. प्रपत्र–ख (हड़ताल की सूचना), प्रपत्र–द (तालाबंदी की सूचना), प्रपत्र–घ (राज्य सरकार को छंटनी या बंदी का नोटिस), प्रपत्र–ङ (ले–ऑफ या छंटनी या बंदी के लिए आवेदन), और प्रपत्र–च (अपरत्वों का सगत) इलैक्ट्रॉनिक रूप से आटोमेड से महानिदेशक, लेबर ब्यूरो को प्रेषित की जाएगी।

निरसन और व्यावृत्ति

64. (1) उत्तर प्रदेश औद्योगिक विवाद नियमावली 1957, उत्तर प्रदेश औद्योगिक नियोजन (स्थायी आदेश) नियमावली, 1946 उत्तर प्रदेश व्यवसाय संघ विनियम, 1927 तथा औद्योगिक न्यायाधिकरण तथा श्रम न्यायालय प्रक्रिया नियमावली, 1957, इस नियमावली के प्रवृत्त होने की दिनांक से निरसित हो जायेंगे।

(2) ऐसे निरसन के होते हुए भी, उक्त नियमावलियों/विनियमावलियों के अधीन की गयी कोई बात या कार्यवाई संहिता/नियमावली के तत्स्थानी उपबन्धों के अधीन की गई समझी जायेगी।

(3) उपनियम (2) के प्रावधानों पर प्रतिकूल प्रभाव डाले बिना साधारण खण्ड अधिनियम, 1904 की धारा 6 के प्रावधान ऐसे नियमावलियों/विनियमावलियों के निरसन पर लागू होंगे।

आज्ञा से,

डॉ० श्रीधर बाबू अद्दांकी,
सचिव।

प्रपत्र–क

(औद्योगिक संबंध समिति की धारा 2 तथा नियम 3 के अनुसार)

समझौते का प्रारूप

पक्षों के नाम एवं पते

_____ नियोजक का प्रतिनिधि

_____ कर्मकार का प्रतिनिधि

विवाद का संक्षिप्त विवरण

_____

_____

समझौते की शर्तें

_____

_____

पक्षों के हस्ताक्षर

नियोजक प्रतिनिधि_____

साक्षी (1)_____

(2)_____

कर्मकार/कर्मचारी प्रतिनिधि_____

साक्षी (1)_____

(2)_____

प्रतिलिपि : 1. क्षेत्र के मुख्य अधिकारी

2. श्रम आयुक्त, उत्तराखण्ड

प्रपत्र–ख

(नियम 9 देखें)

वर्ष_____ को देनदारियों एवं परिसम्पत्तियों का विवरण

(यदि संघ, आयोजन की दिनांक से एक वर्ष अन्य की अवधि में अस्तित्व में आया है, तो संघ के द्वारा गठित गया जाएगा)

देनदारियां	धनराशि रू० में	परिसम्पत्तियां	धनराशि रू० में
सामान्य निधि की धनराशि राजनीतिक निधि/ऋण की धनराशि ऋण...से अन्य देनदारियां (उल्लेख करें) कुल देनदारियां		नकद : कोषाध्यक्ष के पास बैंक में जमा डाकघर में जमा अचल परिसम्पत्तियां निम्न सूची के अनुसार ऋण की अदत्त किस्त अन्तर सम्पत्ति साधुर एवं फर्नीचर अन्य परिसम्पत्तियां (उल्लेख किया जाए) कुल परिसम्पत्तियां	

अचल परिसम्पत्तियों की सूची

विवरण	सांकेतिक	बाजार मूल्य	वर्तमान मूल्य

कोषाध्यक्ष

सामान्य निधि खाता

आय	धनराशि रू०	व्यय	धनराशि रू०
वर्ष के प्रारम्भ में अवशेष सदस्यों से प्राप्त चन्दा, जो सदस्यों द्वारा दान दिया गया पत्रिका और विज्ञापनों के विक्रय आदि		पत्रिकाओं के क्रय, भाड़े और अन्य व्यय, कार्यालय के किराए भाड़े और व्यय लेखा परीक्षक का शुल्क विविध व्यय	
विविध मदों (स्पष्ट उल्लेख किया जाए) से विनिमेक के माध्यम से प्राप्त आय		व्यावसायिक विवादों के प्रत्यक्ष व्यावसायिक विवादों के अधिकार के पुरस्कार के व्यय	
	अन्तर्हित, अधिक आयु, बीमारी, पेंशनभोगी के लाभ आदि, वैधिक, सामाजिक एवं धार्मिक लाभ गतिविधि के प्रकाशन का शुल्क		

	किराया वर्ष एवं का लेखन-सामग्री, छपाई और डाक-टिकट व्यय (स्पष्ट उल्लेख करना है) अन्य व्यय (स्पष्ट उल्लेख करना है) वर्ष की समाप्ति पर अवशेष		
योग		योग	

राजनीतिक निधि खाता

	रु०		रु०
वर्ष के प्रारम्भ में शेष		वस्तुओं पर किया गया भुगतान	
सदस्यों द्वारा प्रति सदस्य की दर से अंशदान		प्रबंधन के खर्च (उल्लेख किया जाए)	
		वर्ष के अन्त में शेष	
योग		योग	

कोषाध्यक्ष

लेखा परीक्षक की घोषणा

अधोहस्ताक्षरी द्वारा व्यवसाय संघ के सभी पुस्तकों एवं लेखों के पहुंच तथा पूर्वोक्ती विवरणी का परीक्षण किया गया तथा सत्यापन पर यह सभी सही पाये गये, इन सभी के बीजक बनाये गये और विधि के अनुसार, जिस से सम्बन्धित टिप्पणी, यदि कोई हो, इसके साथ संलग्न है।

लेखा-परीक्षक

वर्ष के दौरान पदाधिकारियों के निम्न परिवर्तन किये गये, पाये गये –

कार्यालय छोड़ने वाले पदाधिकारी

नाम	कार्यालय	छोड़ने की दिनांक

नियुक्त किए गये पदाधिकारी

नाम	आयु	कार्यालय	पता	व्यवसाय	नियुक्ति की दिनांक

सचिव

प्रपत्र–ग
व्यवसाय संघ के पंजीयन हेतु आवेदन

(औद्योगिक संबंध संहिता की धारा 6(1) सपठित नियम 12 के अन्तर्गत)

दिनांक_____वर्ष

1. हम एक व्यवसाय संघ की रजिस्ट्री के लिये प्रार्थना पत्र देते हैं जिसका नाम_____है।
2. संघ के प्रधान कार्यालय का पता_____है
3. संघ के प्रधान कार्यालय का ई.मेल _____है।
4. संघ तारीख_____माह_____सन्_____को स्थापित हुआ।
5. संघ ऐसे नियोजक/कर्मचारियों का संघ है जो_____के उद्योग/पेशे में नियोजित हैं।
6. नियम 10(1)(क) के अन्तर्गत वांछित विवरण, जैसा कि परिशिष्ट–1 में दिया गया है। (संलग्न है)
7. नियम 10(1)(ख) के अन्तर्गत वांछित विवरण, जैसा कि परिशिष्ट–2 में दिया गया है। (संलग्न है)
8. नियम 10(2) के अन्तर्गत वांछित विवरण, जैसा कि परिशिष्ट–3 में दिया गया है। (संलग्न है)
9. निम्नांकित हस्ताक्षरकर्ताओं को संघ की आम बैठक दिनांक_____के द्वारा पंजीकरण हेतु आवेदन करने को अधिकृत किया गया।

क्रमांक	नाम	नियोजन का स्थान	हस्ताक्षर
1			
2			
3			
4			
5			
6			
7			

अनुसूची–1
पदाधिकारियों की तालिका

पदनाम	नाम	आयु	पता	व्यवसाय

टिप्पणी–इस अनुसूची को कालम–1 में कार्यकारिणी के सदस्य के अतिरिक्त, कार्यकारिणी के सदस्यों के पदनाम (उदाहरणार्थ–अध्यक्ष, सचिव, कोषाध्यक्ष आदि) दर्ज किया जाये।

अनुसूची–2

नियम के नियमों का उल्लेख

नियमों में विभिन्न विषयों के लिये नियमों के विषय एवं संख्या का उल्लेख निम्नांकित कालम–1 एवं 2 में दिया गया है।

विषय	नियमों की सूचिकायें
संघ का नाम	
समस्त उद्देश्य जिनके लिये संघ स्थापित किया गया।	
समस्त उद्देश्य जो संघ की सामान्य निधि के लिये लागू होंगे।	
सदस्यों की सूची का रख–रखाव	
पदाधिकारियों की सूची के निरीक्षण के लिए सुविधायें	
साधारण सदस्यों का प्रवेश	
विशिष्ट अथवा अवैतनिक सदस्यों का प्रवेश	
शर्तें जिनके अन्तर्गत सदस्य नियमों के अन्तर्गत सुनिश्चित लाभों के अधिकारी होंगे	
शर्तें जिनके अनुसार चूकपत्र या अधिकार की दर समयों में या उनका परिवर्तन किया जा सकता है	
नियमों के संशोधन/परिवर्तन अथवा परित्याग की विधि	
कार्यकारिणी के सदस्यों अथवा पदाधिकारियों को नियुक्त करने अथवा हटाने की विधि	
कोष की सुरक्षा का समुचित प्रबंध	
वार्षिक लेखा परीक्षा	
पदाधिकारियों एवं सदस्यों द्वारा लेखा पंजिकाओं के निरीक्षण की सुविधा	
वह विधि जिसके अनुसार संघ को भंग किया जा सकता है।	

अनुसूची–3

कार्य वर्ष_____ को देनदारियों एवं परिसम्पत्तियों का विवरण

(यदि संघ, आवेदन की तिथांक से एक वर्ष कम की अवधि से अस्तित्व में आया है, तो संघ के द्वारा नहीं भरा जाएगा)

देनदारियां	धनराशि रू० में	परिसम्पत्तियां	धनराशि रू० में
सामान्य निधि की धनराशि राजनीतिक निधि/ऋण की धनराशि ऋण...से अन्य देनदारियां (उल्लेख करें) कुल देनदारियां		नकद : कोषाध्यक्ष के पास बचिव के पास बैंक में जमा प्रतिभूतियां निम्न सूची के अनुसार ऋण की अवशेष किस्त अचल सम्पत्ति वस्तुएं एवं जमीन अन्य परिसम्पत्तियां (उल्लेख किया जाए) कुल परिसम्पत्तियां	

प्रपत्र–4

व्यवसाय संघ के रजिस्ट्रीकरण का प्रमाण पत्र

(औद्योगिक संबंध संहिता की धारा 9(2) तथा नियम 13 के अन्तर्गत)

क्रमांक_____

इस प्रमाण पत्र द्वारा प्रमाणित किया जाता है कि_____(संघ का नाम) का आज_____

_____के माह_____वर्ष_____को औद्योगिक संबंध संहिता की धारा 9(2) के अन्तर्गत

पंजीकरण किया गया।

रजिस्ट्रार, ट्रेड यूनियन्स
भारतराष्ट्र

प्रपत्र–ङ

व्यवहार संघ हेतु पंजिका

(औद्योगिक संबंध संहिता की धारा 9(3) तथा नियम 14 के अन्तर्गत)

कम्पनी							
संघ का नाम प्रधान कार्यालय का पता रजिस्ट्रीकरण की दिनांक							
क्रमांक	कार्यालय में प्रवेश की दिनांक	नाम	प्रवेश के समय आयु	पद	हस्ताक्षर	कार्यालय छोड़ने की दिनांक	संघ कार्यालय से अतिरिक्त अन्य कार्यालय जहां पूर्व में कार्यरत रहे
1							
2							
3							
4							
5							
6							
7							

प्रपत्र–घ

(विवाद की सुनवाई के लिए आवेदन)

(औद्योगिक संबंध संहिता की धारा 22 व नियम 24 के अन्तर्गत)

मध्य

_____ प्रथम पक्ष

तथा

_____ द्वितीय पक्ष

निम्नलिखित विवाद को अधिनिर्णय के लिए आवेदन किया जा रहा है :

[यहां न्यायाधिकरण के नाम और पते का उल्लेख करें]

(i) विवाद एवं विवाद के पक्षों का नाम, पदनाम सहित विवरण

(ii) नियोजक प्रतिष्ठान या उपक्रम का नाम और पता

(iii) कर्मकार का नाम यदि वह स्वयं विवाद में शामिल हो या संघ, यदि कोई हो जो प्रभावित कर्मकार या कर्मकारों का प्रतिनिधित्व करता हो, का नाम

(iv) प्रभावित कुल कर्मकारों की संख्या।

प्रभावित पक्षों के नाम, पदनाम एवं हस्ताक्षर :

इसकी प्रति भेजें

(i) संबंधित न्यायाधिकरण

(ii) सचिव, श्रम, उत्तराखंड सरकार।

(iii) श्रम आयुक्त, उत्तराखंड।

प्रपत्र–छ

31 दिसम्बर 20____को समाप्त होने वाले वर्ष के लिए वार्षिक विवरणी

(औद्योगिक संबंध संहिता की धारा 26(1) और नियम 27(1) के अनुसरण में)

संघ का नाम
पंजीकृत प्रधान कार्यालय का पता
पंजीयन प्रमाण पत्र का क्रमांक

व्यवसाय संघों के फेडरेशन द्वारा विवरण दिया जाना है	वर्ष के प्रारम्भ में सम्बद्ध संघों की संख्या
	वर्ष के दौरान सम्मिलित होने वाले संघों की संख्या
व्यवसाय संघों के फेडरेशन द्वारा यह विवरण दिया जाना आवश्यक नहीं है	वर्ष के अंत में असम्बद्ध किये गये संघों की संख्या
	वर्ष के आरम्भ में बहियों में सदस्यों की संख्या
	वर्ष के दौरान शामिल हुए सदस्यों की संख्या (आवेदन में लेकिन स्वीकृत)
	वर्ष के दौरान छोड़ने वाले सदस्यों की संख्या (त्यागपत्र आदि)
	वर्ष के अन्त में बहियों में शुल्क सदस्यों की संख्या
	पुरुष
	महिलाएं
	राजनैतिक निधि में अंशदान देने वाले सदस्यों की संख्या

व्यवसाय संघ के नियमों की एक प्रति, जो इस रिटर्न के प्रेषण की दिनांक तक सही है, संलग्न है।

दिनांक_____वर्ष_____

प्रपत्र–ब

(औद्योगिक संबंध संहिता की धारा 34 तथा नियम 33 के अन्तर्गत)

प्रस्तावित स्थाई आदेशों हेतु पंजिका

क्र० सं०	आवेदक का नाम	स्थाई आदेश को संचालित करने वाले औद्योगिक प्रतिष्ठान का नाम	अनुसूचित का नाम व पता	उद्योग की श्रेणी	औद्योगिक प्रतिष्ठान में कर्मकारों की संख्या	ट्रेड यूनियन अथवा कर्मकारों के प्रतिनिधियों का नाम व पता	औद्योगिक प्रतिष्ठान से सम्बन्ध रखने वाली ट्रेड यूनियन के सदस्यों की संख्या	अनुसूची के कागजों	प्रस्तावों प्राप्त की दिनांक	आवेदन की दिनांक	टिप्पणी
1	2	3	4	5	6	7	8	9	10	11	12

संशोधन

संशोधन–1			संशोधन–2			संशोधन–3			संशोधन–4		
आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)	आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)	आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)	आवेदन की दिनांक	स्वीकृति की दिनांक	किये गये संशोधन (संक्षिप्त रूप में)
13	14	15	16	17	18	19	20	21	22	23	24

प्रपत्र-ङ

स्थाई आदेशों में संशोधन हेतु आवेदन

(औद्योगिक संबंध संहिता की धारा 35(2) तथा नियम 38 के अन्तर्गत)

नियोजकों की संस्था का नाम अथवा कर्मचारी का नाम :
पता :

सेवा में,

प्रमाणन अधिकारी (स्थाई आदेश)
औद्योगिक संबंध संहिता, 2020
पता :_____

महोदय,

औद्योगिक संबंध संहिता, 2020 की धारा 35 के प्रावधानों के अनुसार, मैं आपको सूचित करना चाहता हूं कि निम्नलिखित औद्योगिक स्थापन में अपनाये गये स्थाई आदेश संख्या....20.....में संशोधन किए जाने का इच्छुक हूं :

2. मैं यह घोषणा करता हूं – स्थाई आदेशों को अधिनियम में आए या उनमें अंतिम संशोधन हुए छह माह व्यतीत हो चुके हैं।

संशोधन प्रस्तावित करने वाले नियोजक व कर्मचारी के मध्य एक समझौता हो चुका है, जिसकी प्रति यहां संलग्न है।

3. प्रस्तावित संशोधन/संशोधनों को इंगित करने वाले स्थाई आदेशों की पांच प्रतियां संलग्न है।

4. कर्मचारी के बारे तथा व्यवसाय संघ के नाम व पतों के संबंध में कोई परिवर्तन, जोकि उनके द्वारा अंतिम बार प्रस्तुत किया गया था, की संलग्न शीट में इंगित है।

औद्योगिक स्थापनों की सूची

क्रमांक	औद्योगिक स्थापन का नाम	नियोजक का नाम व पदनाम	स्थापन की श्रेणी	पता (तहसील सहित)	वह दिनांक जिस पर स्थाई आदेश का अन्तिम संशोधन अधिसूचित हुये थे	प्रस्तावित संशोधन	टिप्पणी

भवदीय

(नाम एवं पदनाम)

प्रपत्र–अ

(औद्योगिक संबंध संहिता की धारा 40 तथा नियम 37 के अन्तर्गत)

(नियोजक द्वारा प्रस्तावित सेवा शर्तों के परिवर्तन की सूचना)

नियोजक का नाम_____

पता_____

दिनांक_____दिन_____20_____

औद्योगिक संबंध संहिता की धारा 40 (1) के अनुसरण में/हम सभी सम्बन्धित को सूचित करता हूं/करते हैं कि मैं/हम इस संहिता की तीसरी अनुसूची में निर्दिष्ट किए गए मामले के संबंध में कर्मकारों पर सेवा शर्तों में_____ _____से अनुसूची में परिवर्तन/परिवर्तनों को लागू करना चाहता हूं/चाहते हैं।

हस्ताक्षर_____

पद_____

अनुलग्नक

(प्रस्तावित होने के प्रयोजनार्थ प्रस्तावित परिवर्तन)

इस प्रतिलिपि को अग्रेषित करें:

1. पंजीकृत व्यवसाय संघ के सचिव, यदि कोई हो।
2. सम्बन्धित उप श्रम आयुक्त।
3. श्रम आयुक्त।

प्रपत्र–ए

(स्वैच्छिक मध्यस्थता के लिए सामग्रीतः)
(औद्योगिक संबंध संहिता की धारा 42(3) के नियम 38 के अन्तर्गत)

मध्य

_____ नियोजक का प्रतिनिधित्व करने वाले पक्षों के नाम

तथा

_____ कर्मकार का प्रतिनिधित्व करने वाले पक्षों का नाम

निम्नलिखित विवाद को मध्यस्थता के लिए संदर्भित करने के लिए पक्षों के बीच यह सहमति बनी है_____

[यहां मध्यस्थम के नाम और पते का उल्लेख करें]

(i) विवाद में विनिर्दिष्ट मामले।

(ii) शामिल प्रतिष्ठान या उपक्रम का नाम और पता सहित विवाद के पक्षों का विवरण

(iii) कर्मकार का नाम यदि वह स्वयं विवाद में शामिल हो या संघ, यदि कोई हो जो प्रभावित कर्मकार या कर्मकारों का प्रतिनिधित्व करता हो, का नाम

(iv) प्रभावित उपक्रम में कार्यरत कुल कर्मकारों की संख्या।

(v) विवाद से प्रभावित या प्रभावित होने वाले कर्मकारों की अनुमानित संख्या।

"हम मध्यस्थगों के बहुमत के फैसले से सहमत हैं) मध्यस्थम को अपना समान रूप से विचारित किया जाता है तो वे अपनी राय में एक अन्य व्यक्ति को अंपायर नियुक्त करेंगे जिसका निर्णय हमारे लिए मध्यस्थी होगा। मध्यस्थ एक निर्दिष्ट अवधि_____ अपना निर्णय देंगे। (यहां पार्टियों द्वारा सहमत अवधि निर्दिष्ट करें). केंद्र सरकार द्वारा आधिकारिक राजपत्र में या इस संबंध के भविष्य के प्रकाशनों में इस सामग्रीतः के प्रकाशन के दिनांक को लिखित रूप से हमारे बीच आपसी सामग्रीतः द्वारा बढ़ाया गया है। यदि मामले में निर्णय उल्लेखित अवधि के भीतर नहीं दिया गया, तो मध्यस्थम का संदर्भ स्वतः रूप से रद्द हो जाएगा और इस नए मध्यस्थम को शुरू करने के लिए स्वतंत्र होंगे।

पक्षों के हस्ताक्षर नियोजक और अधिकारी का प्रतिनिधित्व करते हुए

गवाह

1._____

2._____

इसकी प्रति भेजें:

(i) मुख्य अधिकारी [संबंधित क्षेत्र के लिए मुख्य अधिकारी के कार्यालय का पता दर्ज करें]।

(ii) सचिव, श्रम, उत्तराखंड सरकार।

(iii) श्रम आयुक्त, उत्तराखंड।

कर्मकार/कर्मकारों का प्रतिनिधित्व करने वाले

प्रपत्र–ख

(नियम 40, 61 देखें)

(संहिता के अधीन एक कार्यवाही, कार्यकर्ता के समूह, नियोजक, नियोजक के समूह द्वारा प्राधिकारी के समक्ष एक कार्यवाही में प्रतिनिधित्व किया जाएगा)।

प्राधिकारी के समक्ष

(यहां संबंधित अधिकारी का उल्लेख करें)

(कार्यवाही के नाम का उल्लेख करें)

_____कार्यकर्ता विपक्षी_____नियोजक

मैं /हम श्री/सर्वश्री 1._____ 2._____ 3._____ को अपना नेतृत्व करने के लिए अधिकृत करते हैं।

दिनांक _____दिन _____20_____

प्रतिनिधि को मनोनीत करने वाले व्यक्ति के हस्ताक्षर

पता स्वीकार किया गया

प्रपत्र–ङ

(दाण्डिक संहिता की धारा 83 तथा नियम 41(2) के अन्तर्गत)

(सुलह अधिकारी द्वारा मामले का निपटारा न होने पर न्यायाधिकरण को आवेदन पत्र)

_____के समक्ष पेशी (यहाँ पर अधिकार क्षेत्र के न्यायाधिकरण का नाम उल्लिखित करें)

_____के मामले में आवेदक का पता_____विपक्ष का पता_____

उपर्युक्त आवेदक को बताना होगा: –

(यहां प्रासंगिक तथ्यों और मामले की परिस्थितियों को निर्धारित करें) –

आवेदक की प्रार्थना है कि विवादों को तत्काल स्थगित किया जाए ताकि जल्द–से–जल्द उचित निर्णय लिया जा सके।

दिनांक___

स्थान___

प्रपत्र–घ
समझौते का पंजीयन
(नियम 43 देखें)

पंजीयन संख्या	पक्षों का नाम व पता	समझौते की शर्तें	समझौते की दिनांक	पंजीकरण की दिनांक	पंजीयन अधिकारी के हस्ताक्षर	टिप्पणी, यदि कोई हो
1	2	3	4	5	6	7

प्रपत्र–ङ
पंजिकृतीकरण प्रमाण पत्र
(नियम 43 देखें)

एतद्द्वारा यह प्रमाणित किया जाता है कि समझौते का ज्ञापन दिनांक_____ अंकित_____ _____के मध्य, जिसकी प्रति संलग्न है, औद्योगिक संबंध संहिता, 2020 के अंतर्गत आज_____ दिनांक_____ माह_____ वर्ष _____को पंजिकृतीकृत किया गया है।

सहायक अधिकारी एवं प्रमाणन अधिकारी,
उत्तराखण्ड

प्रपत्र-VI

(नियम 45 देखें)

(अधिकों और उनके समूहों (के मामले) द्वारा सूचिपत्र को हड़ताल के लिए सूचना पत्र)

अधिकों द्वारा चुने हुए 5 प्रतिनिधियों के नाम.....

दिनांक.....माह.....20.....

(नियोजक का नाम)

आदरणीय महोदय,

सविनय निवेदन यह है कि मैं/हम औद्योगिक सम्बंध संहिता की धारा 62 की उपधारा (1) में निहित प्रावधानों के अनुसार अनुलग्नक में उल्लिखित मांगों से दिनांक.....20..... हड़ताल का आह्वान करते हैं/प्रस्ताव रखते हैं

धन्यवाद।

(सूचिपत्र सहित)

(दिनांक).....को हुई बैठक में अधिकों के विधिवत चुने गये पांच प्रतिनिधि, संलग्न प्रस्ताव द्वारा]

अनुलग्नक

मामले का कथन/विवरण

प्रतिलिपि भेजी:

1) सचिव श्रम उत्तराखंड सरकार ।

2) श्रम आयुक्त, उत्तराखंड।

3) क्षेत्र के संबंधित उप श्रम आयुक्त।

प्रपत्र–द

(औद्योगिक संबंध संहिता की धारा 62 तथा नियम 46 के अनुसार)

(एक औद्योगिक प्रतिष्ठान के नियोजक द्वारा दी जाने वाली लॉक–आउट की सूचना)

नियोजक का नाम_____

पता_____

दिनांक__दिन__20__

इस संहिता की धारा 62 खंड (1) के प्रावधानों के अनुसार मैं/हम आपको सूचित करते हैं कि लाकआउट के प्रभाव के कारण_____ संस्थाओं के विरुद्ध, अनुभाग__ अनुलग्न में वर्णित कारणों के चलते बंद हो जाएंगे।

हस्ताक्षर_____

पद_____

अनुलग्न

कारणों का कथन

प्रतिलिपि भेजें:

(1) पंजिकृत संघ के सचिव। यदि कोई हो तो?

(2) पुलिस अधिकारी_____(यहाँ पर सहायक श्रम आयुक्त/उप श्रम आयुक्त के कार्यालय का पता लिखें

(3) श्रम सचिव उत्तराखंड सरकार

(4) श्रम आयुक्त उत्तराखंड।

(5) महानिदेशक श्रम व्यूरो अधिकारी।

प्रपत्र–VI

(औद्योगिक संबंध संहिता की धारा 70, 74 तथा नियम 47, 49 के अन्तर्गत)

औद्योगिक संबंध संहिता, 2020 के अध्याय IX और उसके अधीन बनाए गए नियमों के प्रावधान से अधीन किसी नियोजक द्वारा राज्य सरकार को दी जाने वाली छंटनी/बंद की जाने वाली सूचना

(ऑनलाइन जमा की जानी है। ऑफलाइन मोड के अभाव में नीचे दिये गये प्रारूप को नकल करके ऑफलाइन मोड से भी भेज सकते हैं ()

औद्योगिक प्रतिष्ठान/उपक्रम/नियोजक का नाम_____

कर्मचारी पहचान संख्या_____

दिनांक_____

(नोट करें: समुचित सरकार को छंटनी/छंटनी के लिए सूचना कम-से-कम 60 दिन और बंदी/छंटनी के आरम्भ होने से 30 दिन पहले दी जानी चाहिए)

सेवा में,

(i) सचिव श्रम उत्तराखंड सरकार।

(ii) श्रम आयुक्त उत्तराखंड।

(iii) क्षेत्रीय उप श्रम आयुक्त।

1. (छंटनी) (क) इस संहिता की धारा 70 (1) के अनुसार आपको सूचित किया जाता है कि मैंने/ हमने दिनांक_____ कुल____में से_____ कर्मचारों की छंटनी करने का निर्णय लिया है।

या

बंदी (ख) इस संहिता के अंतर्गत धारा 74 (1) के अनुसार मैं/हम यहां आपको सूचित करते हैं कि मैं/हमने_____ _____(औद्योगिक स्थापन या उपक्रम का नाम) को दिनांक____से (तारीख/महीना/वर्ष) बंद करने का निर्णय लिया है। उन कर्मचारों की संख्या जिनकी सेवाओं को उपक्रम के बंद होने के कारण समाप्त किया जाएगा_____ ____(कर्मचारों की संख्या) है।

2. छंटनी– उपक्रम बंद करने के कारण_____ _____

_____

_____

3. इस संहिता के अनुसार धारा 70 (1) 76 (1) के अंतर्गत निकाले जाने वाले कर्मचारों को ___ (तारीख /महीना / साल) एक महीने का वेतन दे दिया गया है।

4. " मैं " हम " घोषणा करते हैं कि संबंधित कार्यकर्ता " का जो भी बकाया है / होगा " उसमें पात्री बकाये का भुगतान मुआवजे के साथ धारा 70 * / धारा 76 * के अधीन इस संहिता के अनुसार नोटिस की अवधि से पहले या समाप्ति पर कर दिया जाएगा।

या

'चूंकि वर्तमान में उक्त औद्योगिक स्थापन के संबंध में विचाराधीन कार्यवाही चल रही है तो अतस्थापन्न / उपक्रम / नियोजक इसी लिए इस ' संबंधित कानूनों के तहत मुआवजे के साथ सभी देय राशि का भुगतान कर देंगे।

5. (अंटेनी) मैं / हम 'घोषित करते हैं कि संबंधित कार्यकर्ता की इस संहिता की धारा 71 और धारा 72 के अनुसार ' छंटनी होगी।

6. मैं ' / हम ' घोषणा करते हैं कि इसका कोई भी मामला किसी भी अदालत में लंबित नहीं है। और यदि हुआ भी तो उसका विवरण संलग्न किया गया है।

7. मैं ' / हम ' घोषित करते हैं कि इस नोटिस में मेरे / हमारे द्वारा दी गयी उपरोक्त जानकारी और अनुलग्नक सत्य है हमारी जानकारी के लिए ' हम / ' ' / ' पूरी तरह से जिम्मेदार हैं और किसी भी मामले में कोई भी तथ्य / सामग्री छिपाई नहीं गयी है।

(नियोजक का नाम /*** सील के साथ अधिकृत प्रतिनिधि)

(* हड़ताल जो लागू नहीं है।)

(** आंकड़े और शब्दों दोनों में संकेत संख्या उल्लिखित करें)

(नियोजक द्वारा जारी प्राधिकरण पत्र को *** कोषी संलग्न की जाएगी)

प्रतिलिपि भेजें:

(1) डीजी लेबर मुख्यो, श्रम और रोजगार मंत्रालय के कार्यालय के लिए, (केवल राष्ट्रिकलीय उद्देश्य के लिए।)

(2) श्रम आयुक्त, उत्तराखंड।

(3) सचिव, श्रम, उत्तराखंड सरकार।

(4) संबंधित क्षेत्र के उप श्रम आयुक्त।

(5) प्रतिष्ठानों या उपक्रमों में काम करने वाले श्रमिकों के पंजीकृत संघों /अधिकृत प्रतिनिधियों की सूची।

प्रपत्र–ग

(नियम 50, 52, 54 देखें)

[औद्योगिक संबंध संहिता, 2020 के अध्याय X के प्रावधानों के अधीन नियोजक /औद्योगिक प्रतिष्ठान में छंटनी की निरंतरता की अनुमति के लिए राज्य सरकार को अंडरटेकिंग देने के संबंध आवेदन]

(ऑनलाइन जमा किया जाना है। ऑनलाइन मोड के अभाव में नीचे दिये गये प्रारूप की नकल करते हुए आवेदन ऑफलाइन मोड से भी भेजा जा सकता है।)

औद्योगिक प्रतिष्ठान का उपक्रम या नियोजक का नाम.....

फर्म/कंपनी पहचान संख्या.....

दिनांक.....

(टिप्पणी: केंद्र सरकार को आवेदन नीचे दिए गए प्रारूप के अनुसार दिया जाएगा:

ले–ऑफ: इच्छित ले–ऑफ से कम से कम 15 दिन पहले

पहले ले–ऑफ की समाप्ति से कम से कम 15 दिन पहले ले–ऑफ की निरंतरता

छंटनी– छंटनी की इच्छित दिनांक से कम से कम 60 दिन पहले

बंद करने का इरादा बंद होने के कम से कम 90 दिन पहले)

आवेदन भेजें:

श्रमिक सचिव उत्तराखंड सरकार

1. (ले–ऑफ) (ए) । औद्योगिक संबंध संहिता, 2020 की धारा 78 (2) के अधीन मैं * / हम * "ले–ऑफ करने की अनुमति के लिए आवेदन करते हैं ... . ऐसा करने वाले ** कुल नियोजन" ... – फर्म/कंपनी ** मेरे ' / हमारे ' प्रतिष्ठान (अनुबंध–I में दिए जाने वाले विवरण) को .....। (दिनांक/ माह / वर्ष) के प्रभाव से नियोजित किया गया है।

या

' (ले–ऑफ की निरंतरता) (बी) औद्योगिक संबंध संहिता, 2020 की धारा 78 (3) के अधीन मैं * / हम * ले–ऑफ जारी रखने की अनुमति के लिए आवेदन करते हैं। कुल श्रमिकों... में से...

श्रमिकों ** को मेरे * / हमारे * प्रतिष्ठान (अनुबंध– I में दिए जाने वाले विवरण)..... (दिनांक / माह / वर्ष) के प्रभाव में नियोजित किया गया है।

या

* (औद्योगिक संबंध संहिता, 2020 की धारा 78 (3) के अधीन (ख) की निरंतरता (बी), मैं * / हम * इसके अधीन ले–ऑफ जारी रखने की अनुमति के लिए आवेदन करते हैं ..... कुल श्रमिकों में से..... मेरे (* एनेक्स– I में दिए जाने वाले विवरण) को... *.... .. (दिनांक / माह / वर्ष) के प्रभाव में श्रमिकों को रखा गया।

या

* (छंटनी) (ब) औद्योगिक संबंध संहिता, 2020 की धारा 79 (2) के अधीन मैं * / हम * विवरण के अनुबंधित की अनुमति के लिए आवेदन करते हैं _____ मेरे प्रस्ताव में वर्णित कुल कर्मचारियों में से * / हमारे * प्रतिष्ठान (एनेक्सर- I में दिए जाने वाले विवरण) के प्रभाव से_____ (दिनांक / माह / वर्ष)

या

* (बंद) (क) औद्योगिक संबंध संहिता, 2020 की धारा 80 (1) के तहत मैं / हम * आपको सूचित करते हैं कि मैं * / हम * उपक्रम को बंद करने का इरादा रखते हैं_____ (औद्योगिक प्रतिष्ठान या उपक्रम या नियोजक का नाम) (विवरण अनुलग्नक- I में दिया जाएगा) _____ (दिनांक / माह / वर्ष) के प्रभाव से।

श्रमिकों की संख्या जिनकी सेवाओं को उपक्रम के बंद होने के कारण समाप्त कर दिया जाएगा _____। (श्रमिकों की संख्या)

2. (संबंधित (से-अधिक / निरंतरता जारी रखने के लिए) संबंधित कार्यकर्ता को दिए गए थे _____(दिनांक / माह / वर्ष) लिखित रूप में नोटिस के अधीन धारा 79 (2) * / धारा 76 (3) * इस संहिता का उपबंधन हुआ है।

या

* (छंटनी/ बंद) संबंधित कार्यकर्ता (ओं) को _____। (दिनांक / माह / वर्ष) को इस संहिता की धारा / 9 * / धारा * के अधीन आवश्यक एक महीने का नोटिस दिया गया था।

या

* (छंटनी / बंद) करने संबंधित कार्यकर्ता को _____। (दिनांक / माह / वर्ष) को इस संहिता की धारा /9 * / धारा * के अधीन आवश्यक एक महीने का नोटिस दिया गया था।

या

* (छंटनी /बंद) करने से संबंधित कार्यकर्ता को। _____। (दिनांक / माह / वर्ष) पर इस संहिता की धारा 79 * / धारा 80 * के अधीन आवश्यक सूचना के औसत में एक महीने का वेतन दिया जाता है।

3. प्रभावित कार्यकर्ता का विवरण अनुबंध II में है।

4. (छंटनी) मैं * / हम * घोषित करते हैं कि संबंधित कर्मचारी इस संहिता की धारा 71 और धारा 72 के अनुपालन में पीछे हट जाएंगे।

5. "मैं / हम * इस बात की घोषणा करते हैं कि संबंधित कर्मचारियों को धारा* 87 / के अधीन धारा 87 (10) * / धारा 79 * / धारा 80 * के साथ पढ़े गए सभी देय और मुआवजों का भुगतान नोटिस की अवधि से पहले या उसके समाप्त होने तक कर दिया जाएगा।

तथा

* मैं / हम * यह जानकारी दे रहे हैं कि वर्तमान में उक्त औद्योगिक प्रतिष्ठान / उपक्रम/ नियोजक के संबंध में दिवालिया कार्यवाही चल रही है, और मैं * हम * संबंधित कानूनों के अनुसार मुआवजे के साथ सभी बकाया राशि का भुगतान कर देंगे।

6. मैं / हम / इस बात की घोषणा करते हैं कि हमारा कोई भी मामला किसी भी न्यायालय में लंबित नहीं है, और यदि हुआ भी तो उसका विवरण संलग्न है।

7. मैं / हम घोषित करते हैं कि मेरे/ हमारे द्वारा दी गई उपरोक्त जानकारी /सत्य है / सत्य है, मैं /हम / इसकी सत्यनिष्ठा के लिए पूरी तरह से जिम्मेदार हैं और किसी भी मामले में कोई भी तथ्य /जानकारी को छिपाया नहीं है।

हस्ताक्षर

(नियोजक का नाम / *** सील के साथ अधिकृत प्रतिनिधि)

(* हड़ताल जो लागू नहीं है)

(** आंकड़ों और शब्द दोनों में संकेत संख्या उल्लिखित करें)

(*** नियोजक द्वारा जारी प्राधिकरण पत्र की प्रति संलग्न होगी)

अनुलग्नक–I

(कृपया प्रत्येक बिन्दु के विरुद्ध उत्तर दें)

1 पूर्ण डाक पते, ईमेल, मोबाइल और लैंड लाइन के साथ उपक्रम का नाम।

2 उपक्रम करने की स्थिति–

(i) जहां केंद्रीय सार्वजनिक क्षेत्र / राज्य सार्वजनिक क्षेत्र / आदि,

(ii) जहां एक निजी लिमिटेड कंपनी /साझेदारी फर्म

(iii) क्या उपक्रम साइसेंसधारी / पंजीकृत है और यदि ऐसा है तो साइसेंसिंग/ पंजीकरण प्राधिकरण और लाइसेंस /पंजीकरण प्रमाण पत्र संख्या का नाम।

3 (i) एक्सीए संख्या

(ii) जीएसटीएन नंबर

पिछले तीन वर्षों में किए गए छंटनी / छंटनी का विवरण जिसमें इस तरह के छंटनी / छंटनी की अवधि शामिल है, प्रत्येक छंटनी / छंटनी /छंटनी की निरंतरता में शामिल कर्मचारियों की संख्या

4 कोई भी अन्य प्रासंगिक विवरण, जो छंटनी / बंद होने की निरंतरता पर असर डालते हैं।

अनुलग्नक–II

(प्रभावित कर्मकारों का विवरण)

एक्सचई।

कोई UAN/ CMPFO का नाम

कार्यकारी श्रेणी

(अत्यधिक कुशल /कुशल /अर्ध–कुशल / अकुशल

प्रपत्र–घ

(नियम 28(1) देखें)

इस संहिता के अधीन पहली बार अपराध करने वाले कर्मचारी को धारा 89 की उपधारा (1) के अधीन चूकने के लिए नोटिस

औद्योगिक संबंध संहिता की धारा 89 की उपधारा 1 के अधीन अधिकारी और शमन अधिकारी, इसके द्वारा यह सूचित किया जाता है कि नीचे दिए गए विवरण के अनुसार इस संहिता के विभिन्न प्रावधान के उल्लंघन के लिए आप पर आरोप लगाया गया है –

खंड–1

1. अपराधी कर्मचारी का नाम और पता– _____ चलती)

2. अवस्थापना का पता _____

3. अपराध के विवरण _____

4. संहिता की धारा जिसके अधीन अपराध किया गया है _ _ _ _____

5. अपराध की शिथिलता के लिए भुगतान की जाने वाली अपेक्षित राशि _____

खंड–2

आपको इस नोटिस के जारी होने की तारीख से पंद्रह दिनों के भीतर उपर्युक्त राशि जमा करने की सलाह दी जाती है क्योंकि औद्योगिक संबंध संहिता, 2020 की धारा 89 (1) के अनुसार अपराध को कम करने के लिए, इस के भाग–III में भरे गए आवेदन के साथ नोटिस स्वीकार्य नहीं है। ।

यदि आप निर्दिष्ट समय के भीतर उक्त राशि जमा करने में विफल रहते हैं तो आगे कोई अवसर नहीं दिया जाएगा और धारा ———— के तहत अभियोजन के लिए आवश्यक निर्देश जारी किया जाएगा।

(शमन अधिकारी के हस्ताक्षर

खंड–3

अपराध की शमन के लिए धारा 89 की उपधारा (1) के अधीन आवेदन

1. आवेदक का नाम (नियोजक का नाम जिसका उल्लेख होना है। जिसने औद्योगिक संबंध संहिता 2020 के अधीन अपराध किया है) _____। _____

2. आवेदक का पता _____।

3. अपराध के विवरण _____ _____

4. संहिता की धारा जिसके तहत अपराध किया गया है _____

5. जमा की गई राशि का विवरण (संलग्न किए जाने के लिए इलेक्ट्रॉनिक रूप से प्राप्त रसीद)

_____ _____

6. उपर्युक्त अपराधों के उल्लंघन के लिए दायर अभियोजन का विवरण दिया जा सकता है _____

7. क्या यह आवेदक का पहला अपराध है या फिर उसने इस अपराध से पहले भी कोई अन्य अपराध किया था? यदि प्रतिबद्ध है तो अपराध का पूरा विवरण _____ _____।

_____ _____। _____

8. कोई अन्य जानकारी जो आवेदक प्रदान करना चाहता है _____।

प्रपत्र–फ

(औद्योगिक संबंध संहिता, की धारा 61 तथा नियम 60 के तहत शिकायत)

सुलह अधिकारी/मध्यस्थम्/न्यायाधिकरण या श्रम न्यायाधिकरण_____के समक्ष

इस विषय में_____संदर्भ संख्या_____

का_____शिकायतकर्ता

बनाम

का_____प्रतिवादी पक्ष

पक्ष:

याचिकाकर्ता ने शिकायत करने के लिए मांग की कि विपक्षी पार्टी (_____)

औद्योगिक सम्बन्ध की धारा 30 के प्रावधानों के उल्लंघन का दोषी है जैसा कि नीचे दिखाया गया है:

(यहां कथित तौर पर उल्लिखित तरीके को दिखाया गया है जिसमें कथित रूप से उल्लंघन हुआ है और प्रबंधन के आदेश या कार्य को चुनौती दी गई है।)

शिकायतकर्ता तदनुसार प्रार्थना करता है कि सुलह अधिकारी /पंचायत / औद्योगिक न्यायाधिकरण या श्रम ट्रिब्यूनल ऊपर उल्लिखित शिकायत को सच करने और आदेश पारित करने की कृपा करें क्योंकि यह उचित है।

औद्योगिक संबंध संहिता के नियम 61 के अधीन प्रपत्र शिकायत की प्रतियों की संख्या और इसके अनुलग्नक को इसके साथ प्रस्तुत किया जाता है।

यह दिनांक _____ का दिन _____ 20 _____ है। शिकायतकर्ता के हस्ताक्षर

सत्यापन

मैं पूरी सच्चाई से घोषणा करता हूं कि पैराग्राफ में कथन सच है _____ यह सच है

ज्ञान और जो पैराग्राफ में बताया गया है _____ मेरे को प्राप्त जानकारी पर कहा गया है और मेरे द्वारा विश्वास किया जाता है कि यह सच है।

इस सत्यापन पर मेरे द्वारा हस्ताक्षर किए गए हैं ..

हस्ताक्षर या सत्यापन करने वाले व्यक्ति के अंगूठे का निशान

आज्ञा से,

डॉ० श्रीधर बाबू अद्दांकी,

सचिव।

In pursuance of the provision of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Notification No. 1117/VIII-1/2026-39(Labour)/2018, Dehradun dated August 25, 2026 for general information.

No. 1117/VIII-1/2026-39(Labour)/2018
Dated Dehradun, August 25, 2026

NOTIFICATION

Whereas, under section 99 of the Industrial Relation Code, 2020 (No. 35 of 2020), the appropriate Government (State Government) is empowered to make rules by notification in the Official Gazette and subject to the condition of pre-publication under sub-section (1) of Section 99 of the said Code, for carrying out the provision of the said Code;

And whereas the proposed draft of the Uttarakhand Industrial Relation Rules, 2026 was pre-published by the notification no. 511/VIII-1/2026-39(Labour)/2018, dated 30 April, 2026 of Labour Section, Uttarakhand Government, as required by sub-section (1) of Section 99 of the said Code;

And whereas the representations and objections of the general public and beneficiaries on the said draft have been considered by State Government;

Now, therefore, in exercise of the powers conferred by section 99 of the Industrial Relation Code, 2020, the Governor is pleased to allow to make the following rules, namely:-

The Uttarakhand Industrial Relation Rules, 2026

CHAPTER-I

PRELIMINARY

Short title, extent and commencement

1. (1) These rules may be called the Uttarakhand Industrial Relation Rules, 2026.

(2) It shall extend to the whole of Uttarakhand State

(3) It shall come into force on the date of their publication in the Official Gazette.

Definition

2. (1) In these rules, unless there is anything repugnant to the subject or context-

(a) "Code" means the Industrial Relations code, 2020"

(b) **"Section"** means the section of the Industrial Relations code 2020,'

(c) **"electronically"** means any information submitted by email or uploading on the designated portal or digital payment in any mode for the purpose of code;

(d) **'Form'** means the form appended to the rules;

(e) **"State Government"** means the Government of Uttarakhand

(2) The words and expressions used herein and not defined but defined in the Industrial Relations Code, 2020 shall have the same meanings respectively assigned to them in the Code.

Chapter-2

SETTLEMENT

Memorandum of settlement

3. (1) The settlement arrived at in the course of conciliation proceedings or a written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding shall be in Form A.

(2) The settlement shall be signed by the following –

(a) by the employer or by his authorized agent, or where the employer is an incorporated company or other body corporate, by the representative, manager or other principal officer of such company or such other body corporate; and

(b) on behalf of workers, by any of the following office bearers of Trade Union, namely: –

(i) President; or

(ii) Vice-President; or

(iii) Secretary (including the General Secretary); or

(iv) Joint Secretary; or

(v) any other office bearer of the Trade Union authorized in this behalf by the President and Secretary of the Union; or

(vi) five representatives of workers duly authorized in this behalf at the meeting of the workers held for the purpose.

(3) In case of an industrial dispute between any worker and employer, the settlement shall be signed by the employer and the worker concerned.

(4) Where the settlement is arrived at in the course of conciliation proceedings, the conciliation officer shall send a report thereof to the State Government together with a copy of the memorandum of settlement signed by the parties to the dispute.

(5) Where a settlement is arrived at between an employer and his worker otherwise than in the course of conciliation proceedings, the parties to the settlement shall jointly send a copy thereof electronically or by speed post or by registered post, to the Labour Commissioner and to the conciliation officer.

(6) The conciliation officer shall file all settlements effected under the Code in respect of industrial disputes in the area within his jurisdiction in the register maintained electronically or otherwise.

(7) The register referred to in sub-rule (6) shall contain the details including serial number, name of the industry, parties to the settlement, date of settlement, remarks and whether settlement was arrived at after the intervention of conciliation officer or by mutual negotiation:

Provided that signature of conciliation officer on the agreement shall not be necessary where the agreement for settlement is arrived at outside conciliation:

Provided further that nothing in this rule shall prohibit a settlement between a worker or workers or Trade Union and an employer on mutually agreed terms and such settlement may be in a

format other than Form A. A copy of the settlement reached outside the conciliation process shall be compulsorily sent to the conciliation officer.

Chapter-3

BI-PARTITE FORUMS

Works Committee, its constitution and matters related thereto

4. (1) Every employer to whom an order made by the State Government under sub-section (1) of section 3 relates, shall forthwith proceed to constitute a Works Committee (hereinafter in this rule referred to as the Committee) to promote measures for securing and preserving amity and good relations between the employer and workers and, to that end, to comment upon matters of common interest or concern, in the manner specified in these rules.

(2) **Number of Members**

(i) The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and class of workers engaged in, and to the sections or departments of the industrial establishment.

(ii) The total number of members of the Committee shall not exceed twenty.

(iii) The number of representatives of the workers in the Committee shall not be less than the number of representatives of the employer therein:

Provided that the industrial establishment in which women workers are employed shall have adequate representation of women workers in Works Committee and such representation shall not be less than the proportion of women workers to the total workers employed in the industrial establishment.

(3) **Representation of Employer** Subject to the provisions of this rule, the representatives of the employer in the Committee shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with, or associated with, the working of the industrial establishment.

(4) **Consultation with Trade Union** Where the workers of the industrial establishment are members of a registered Trade Union or Trade Unions, the employer shall ask such registered Trade Union or Trade Unions to inform him in writing as to—

(a) number of the workers who are members of such registered Trade Union or Trade Unions; and

(b) if the employer has reason to believe that the information furnished to him by the registered Trade Union or Trade Unions is false, he may, after informing such registered Trade Union or Trade Unions, refer the matter to Deputy/Joint/Additional Registrar, who shall, after hearing the parties, shall send a report to Labour Commissioner/registrar who shall decide the matter and whose decision shall be final.

(5) **Selection of Worker's representative's** On receipt of the information called for under sub-rule (4), the employer shall provide for the choosing of worker's representative of the Committee in the following manner, namely:—

(a) in the case of a negotiating union under sub-section (2) or sub-section (3) of section 14, such negotiating union shall nominate the worker's representatives of the Committee;

(b) in the case of the negotiating council under sub-section (4) of section 14, the nomination shall be in such manner that every registered Trade Union representing in the negotiating council shall be represented in the Committee in proportion to the number of workers of the industrial establishment who are members of such Trade Union;

(c) where there is no recognised negotiating union or negotiating council referred to in clauses (a) and (b), the workers of the industrial establishment shall elect amongst themselves the worker's representatives of the Committee:

Provided that the employer may, deploy an electronic platform for conducting the election process over an information technology application, online platform or such other platform to enable as to how the representatives of workers shall be elected for the Committee under this clause:

Provided further that where a registered Trade Union fails to furnish the information called for under sub-rule (4) within one month of the date on which it is so called for, then, such Trade Union shall for the purpose of this rule be treated as if it did not exist:

Provided also that where any reference has been made by the employer under sub-rule (4), the process of choosing the worker's representative relating thereto shall be held on receipt of the decision of the Labour Commissioner .

(6) **Electoral Constituencies** — The employer may, if he thinks fit, direct that the workers shall vote in either by groups, sections, shops or departments.

(7) **Qualification of Candidates for election** — Any worker, of not less than nineteen years of age and with a service of not less than one

year in the industrial establishment may, if nominated as provided in this rule, be a candidate for election as a worker's representative of the Committee:

Provided that such service qualification shall not apply to the first election in an industrial establishment which has been in existence for less than a year.

Explanation. — For the purposes of this sub-rule, a worker who has put in continuous service for not less than one year in two or more industrial establishments belonging to the same employer shall be deemed to have completed the service qualification specified therein.

(8) **Qualification for voters**

All workers who are not less than eighteen years of age and who have put in not less than six months' continuous service in the industrial establishment shall be entitled to vote in the election of worker's representative of the Committee.

Explanation.— For the purposes of this sub-rule, a worker who has put in continuous service of not less than six months in two or more industrial establishments belonging to the same employer shall be deemed to have completed the service qualification specified therein.

(9) **Fixation of schedule for Election**

(i) The employer shall give a minimum time period of at least three working days for filing of nomination along with other requisite details while fixing a date as the closing date for receiving nominations from candidates for election as worker's representatives of the Committee.

(ii) The date fixed by the employer for holding the election referred to in clause (i) shall not be earlier than three days and later than fifteen days after the closing date for receiving nominations.

(iii) The date of election fixed under clause (i) shall be notified at least seven days in advance to the workers concerned and such notice, which shall specify the number of seats to be elected, shall be affixed on the notice board or electronic notice board of the industrial establishment and given adequate publicity amongst the workers

(10) **Nomination of Candidates for election:**

(i) Every nomination for election as worker's representative of the Committee shall be made on a nomination paper to be provided by employer and the copies thereof shall be supplied by the employer to the workers requiring them.

(ii) Each nomination paper referred to in clause (i) shall be signed by the candidate to whom it relates and attested by at least two other voters belonging to the group, section, shop or department, which the candidate seeking election shall represent, and shall be delivered to the employer.

(11) **Scrutiny of Nomination papers:**

(i) On the day following the last day fixed for filing nomination papers, the nomination

papers shall be scrutinized by the employer in the presence of the candidates and the attesting persons and those nominations which are not valid shall be rejected.

(ii) A nomination paper shall be held to be not valid under this sub-rule, if—

(a) the candidate nominated is ineligible for being a candidate under sub-rule (7); or

(b) the requirements of sub-rule (10) have not been complied with:

Provided that where a candidate or an attesting person is unable to be present at the time of scrutiny, he may send a duly authorized nominee for the purpose.

(12) **Withdrawal of Candidates** Any candidate whose nomination for election has been accepted may withdraw his candidature within forty-eight hours of the completion of scrutiny of the nomination papers.

(13) **Voting in Election**

(i) If the number of candidates who have been validly nominated for election as worker's representative of the Committee is equal to the number of seats, the candidates as such shall be forthwith declared as duly elected.

(ii) Where, in any industrial establishment, the number of candidates validly nominated for election as worker's representative of the Committee is more than the number of seats allotted to it, voting shall take place on the day fixed for election

(14) **Officers of the Committee:**

(i) The Committee shall have among its office-bearers a Chair person, a Vice-Chairperson, a Secretary and a Joint-Secretary.

(ii) The Chairperson of the Committee shall be nominated by the employer from amongst the employer's representatives of the Committee and he shall, as far as possible, be the head of the industrial establishment.

(iii) The Vice-Chairperson shall be elected by the members of the Committee representing the workers, from amongst themselves:

Provided that in the event of equality of votes in the election of the Vice-Chairperson, the matter shall be decided by a lottery.

(iv) The Secretary and the Joint-Secretary of the Committee shall be elected every year.

(v) The Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from amongst the representatives of the employers, the Joint Secretary shall be elected from amongst the representatives of the workers and *vice versa*:

Provided that the post of the Secretary or the Joint Secretary, as the case may be, shall not be held by a representative of the either the employer or the workers for three consecutive years:

Provided further that the employer's representatives shall not take part in the election of the Secretary or Joint Secretary, as the case may be, and only the representatives of the workers shall be entitled to vote in elections for the post of Secretary or Joint Secretary:

Provided also that in the event of equality of votes in an election under this sub-rule, the matter shall be decided by a lottery.

(15) **Term of Office:**

(i) The term of office of the members of the Committee other than a member chosen to fill a casual vacancy shall be three years.

(ii) Every member chosen to fill a casual vacancy shall hold office for the remaining period of the term of his predecessor.

(iii) The membership of any member, who fails to attend three consecutive meetings of the Committee without obtaining leave from the Committee, shall stand ceased.

(16) **Vacancies** — In the event of worker's representative ceasing to be a member under clause (iii) of sub-rule (15) or ceasing to be employed in the industrial establishment or in the event of his resignation, death or otherwise, his successor shall be chosen in accordance with the provisions of this rule for the remaining period of the Committee from the same group to which the member vacating the seat belonged.

(17) **Power to Co-Opt:** — The Committee shall have the right to co-opt persons employed in the industrial establishment having particular or special knowledge of a matter under discussion in a consultative capacity and such co-opted member shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee.

(18) **Meetings**

(i) The Committee may meet as often as necessary but not less often than once in three months.

(ii) The Committee shall at its first meeting regulate its own procedure.

(19) **Facilities for meetings, etc.**

(i) The employer shall provide meeting place for holding meetings of the Committee and shall also provide all necessary facilities to the Committee and to its members for carrying out the work of the Committee.

(ii) The Committee shall ordinarily meet during working hours of the industrial establishment concerned on any working day and the representatives of the workers shall be deemed to be on duty while attending the meeting.

(iii) The Secretary of the Committee may with the prior concurrence of the Chairperson, put up notice regarding the functions of the Committee on the notice board of the industrial establishment.

(20) **Annual Return** — The employer shall submit the details of the constitution and the functioning of the Committee as a part of unified annual return provided in the rules made in this behalf under the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020).

(21) **Dissolution of Works Committee** — The State Government, or the officer authorised in its behalf, may after making such inquiry as it or he may deem fit, dissolve any Committee at any time, by an order for reasons to be recorded in writing, on being satisfied that the Committee has not been constituted in accordance with the provisions of this rule or

that not less than two-third of the number of representatives of the workers have without any reasonable justification failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to function:

Provided that where the Committee is dissolved under this sub-rule, the employer, may, and if so required by the State Government or, as the case may be, by such officer, shall take steps to re-constitute the Committee in accordance with this rule.

Choosing members from the employers and the workers for Grievance Redressal committee under sub-section (2) of section 4.

5. (1) The Grievance Redressal Committee (hereinafter in this rule referred to as the Grievance Committee) in an industrial establishment employing twenty or more workers, shall consist of equal number of members representing the employer and workers, which shall not exceed ten.

(2) The representatives of the employer for the Grievance Committee shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with or associated with the working of the industrial establishment, preferably the heads of major department of the industrial establishment.

(3) The worker's representative of the Grievance Committee shall be chosen in the following manner, namely: —

(a) where there is a negotiating union under sub-section (2) or sub-section (3) of section 14, such negotiating union or negotiating council, as the case may be, shall nominate the worker's representatives of the Grievance Committee;

(b) in the case of a negotiating council under sub-section (4) of section 14, the nomination shall be in such manner that every registered Trade Union representing in the negotiating council shall be represented in the Grievance Committee in proportion to the number of workers of the industrial establishment who are members of such Trade Union;

(c) where there is no recognized negotiating union or negotiating council referred to the clauses (a) and (b), the workers of the industrial establishment shall choose amongst themselves the worker's representatives of the Grievance Committee:

Provided that the employer may, deploy an electronic platform for choosing worker's representatives under this clause, over an information technology application, online platform or such other like platform:

Provided further that there shall be adequate representation of women workers in the Grievance Committee and such representation shall not be less than the proportion of women workers to the total workers employed in the industrial establishment.

(4) The tenure of the members of the Grievance Committee shall be three years.

(5) Where there is no recognized negotiating union or negotiating council and if any dispute arises regarding choosing of the worker's representative to the Grievance Committee, the matter may be referred to the Labour Commissioner, who shall, after hearing the parties, decide the matter, whose decision shall be final.

Application before the Grievance Redressal Committee under sub-section (5) of section 4

6. (1) Any aggrieved worker/employee may file an application stating his dispute therein before the Grievance Redressal committee giving his name, designation, employee Code, Department where posted, length of service in years, category of

worker, address for correspondence, contact number, details of grievances and relief sought.

(2) The application referred to in sub-rule (1) may be sent electronically or otherwise.

(3) The application referred to in sub-rule (1) shall be filed within one year from the date on which the cause of action of such dispute arose.

Manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to conciliation officer under sub-section (8) of section 4

7. Any Worker/Employee who is aggrieved by the decision of the Grievance Redressal Committee or whose grievance is not resolved by the said committee within thirty days of receipt of the application, may file an application by registered post or speed post or electronically within a period of sixty days from the date of the decision of the Grievance Redressal Committee or from the date on which the period specified in sub-section (6) of section 4 expires, as the case may be, to the conciliation officer of the area concerned through the Trade Union of which he is a member or in person;

Provided that in case of manual receipt of such application or through registered post or speed post, the conciliation officer shall get the same digitized and enter the particulars of the application in the online mechanism and intimate to the concerned worker.

CHAPTER-4

TRADE UNIONS

Subscription fees under clause (f) of section 7

8. The subscription fees of the members of the Trade Union shall be as follows :

(i)Rs. 200 per annum for the workers of the unorganized sector.

(ii) Rs. 300 per annum for the workers of the organized sector.

(iii) The amount of subscription may be amended by the State Government as and when required by a general order.

(iv) In addition to members, annual donations of up to ₹5,000 may be accepted from outsiders through electronic/digital means. A receipt for this purpose will be provided to the individual by the president of the respective association or other authorized official within one week of the date of the donation.

Manner of annual Audit under clause (j) of section 7

9. (1) In addition to the provisions contained in sub-rule (2), the annual audit of the Trade Union shall be conducted by an auditor qualified under sub-section (1) of section 141 of the Indian Companies Act, 2013.

(2) Where the membership of a Trade Union did not any time being during the Financial Year exceed 2500, the annual audit of the account may be conducted-

(a) by a local auditor in Government service.

(b) by any person who has served in the State Audit & Account Service;

(c) by any auditor appointed to audit accounts of a co-operative society;

(d) by Registrar of a co-operative society or any state co-operative organization recognized for this purpose.

(3) Notwithstanding anything contained in sub-rule (1), no person, who, at anytime during the year was entrusted with any part of the funds or securities belonging to the Trade Union shall be eligible to audit the accounts of that Union

(4) The auditor or auditors appointed in accordance with the rules shall be given access to all the books of the Trade Union and shall verify the annual return with the accounts and vouchers relating thereto and shall there after sign the auditors declaration appended to **Form-B**, indicating separately on that form under his signature or their signatures a statement showing in what respect he

or they find the return to be incorrect, unvouched or not in accordance with the code The particulars given in this statement shall indicate-

(a) every payment which appears to be unauthorized by the rules of the Trade Union or contrary to the provisions of the code;

(b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person;

(c) the amount of any sum which ought to have been but not brought to account by any person.

Audit of political funds

10. The audit of the political funds of a registered Trade Union shall be carried out along with the audit of the general account of the Trade Union and by the same auditor or auditors.

Inspection

11. (1) The register of Trade Unions being maintained shall be open to inspection by any Person on payment of a fee Rs. Fifty.

(2) Any documents in the possession of the Registrar received from a registered Trade Union may be inspected by any member of that Union on payment of a fee of Rs. fifty for each document inspected.

(3) Documents shall be open to inspection every day on which the office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) The Registrar may supply a Certified copy of any such document to a registered Trade Union or a member thereof on payment of ₹ Rs. 2.00 per page of the document.

Format for registration application under subsection (1) of section 9

12. (1) Every application for registration of a Trade Union shall be in **Form-C** made to the Registrar electronically or otherwise and be accompanied by following-

(a) a declaration to be made by an affidavit. The titles, names, ages, address and occupation of the office bearers as per schedule-I of Form C.

(b) copy of the rules of the Trade Union together with a copy of the resolution by the members of the Trade Union adopting such rules. The number of rule making provision for several matter shall be as per schedule-II of Form C.

(c) a copy of the resolution adopted by the members of the Trade Union authorizing the applicants to make an application for registration;

(d) The fee payable for the registration of a Trade Union shall be Rs. 2000or such revised fee as may be issued by the State Government from time to time by general order;

(e) in the case of a Trade Union, being a federation or a central organization of Trade Unions, a copy of the resolution adopted by the members of each of the member Trade Unions, meeting separately, agreeing to constitute a federation or a central organization of Trade Unions.

Explanation- For the purposes of this clause, resolution adopted by the members of the Trade Union means, in the case of a Trade Union, being a federation or a central organization of Trade Unions, the resolution adopted by the members of each of the member Trade Unions, meeting separately.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in schedule-II of Form C.

(3) The Registrar may call for additional information for the purpose of satisfying himself that the

application complies with the provisions of this Code and the Trade Union is entitled for registration under this Code, and may refuse to register the Trade Union until such information is furnished.

Provided that the Registrar shall, within a period of 120 days from the receipt of the application, make his decision final regarding doing registration or not of the Trade union.

Provided further that any officer authorized to examine about the particular of the proposed Trade union shall submit his report to the Registrar within a period of 60 days from the date of being so authorized.

(4) If the name under which the Trade Union is proposed to be registered is identical with that of an existing registered Trade Union or in the opinion of the Registrar so nearly resembles the name of an existing Trade Union that such name is likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for altering the name of the Trade Union and shall refuse to register the Trade Union until such alteration has been made.

Certificate of Registration under sub section (2) of section 9

13. (1) Where the Registrar makes an order for registration of a Trade Union, he shall issue a certificate of registration to the applicant Trade Union, in **Form-D**, which shall be the conclusive evidence that the Trade Union has been registered under this Code.

(2) If the Registrar has issued a certificate of registration to a Trade Union, he shall enter the name and other particulars of the Trade Union in a register maintained in this behalf in **Form-E**.

(3) Every Trade Union registered under the Trade Union Act, 1926 (16 of 1926) having valid registration immediately before the commencement of this Code shall be deemed to have been registered under the Code:

Provided that such Trade Union shall file with the Registrar a statement that the constitution of the executive of the Trade Union is in accordance with this Code along with the rules of the Trade Union updated in accordance with section 7, and the Registrar shall amend his records accordingly.

Registration of Trade Union under sub-section (3) of section 9

14. The registrar, on being satisfied that the Trade Union has complied with necessary requirements for registration under this chapter shall register the Trade Union by entering the details in **Form-E** related to the union as provided with the application.

Cancellation or Withdrawal of Registration under sub-section (5) of section 9

15. The certificate of registration of a trade union may be withdrawn or cancelled by the Registrar within 45 days of receipt of the application/intimation:-

(a) after getting an enquiry conducted by Deputy/Joint/ Additional Registrar or

(b) on the information received regarding the contravention by the Trade Union of the provisions of this Code or the rules made there under or its constitution or rules; or

(c) if he is satisfied that the members in a Trade Union falls below ten percent of total workers or one hundred workers, whichever is less:

Provided that not less than sixty days previous notice in writing specifying the grounds on which it is proposed to cancel the certificate of registration of a Trade Union shall be given by the Registrar to the Trade Union before the certificate of registration is cancelled otherwise than on the application of the Trade Union.

Period for filing appeal under sub-section (1) of section 10

16. Any person aggrieved by the refusal of the Registrar to grant registration to a Trade Union under section 9 or by cancellation of a certificate of registration under sub-section (5) of the said section, may within Forty-five

days of such decision/refusal, prefer an appeal to the Tribunal having jurisdiction;

Provided that the Tribunal may entertain the appeal after the limitation prescribed for preferring the appeal under this sub-rule, if the appellant satisfies the Tribunal that such delay has been caused due to sufficient reason or unavoidable circumstances.

Communication and Notices under section 11

17. (1) All communications and notices to a registered Trade Union shall be sent electronically or by registered post to the address of the head office of the Trade Union as entered in the register maintained by the Registrar.

(2) The Trade Union shall inform the Registrar if the members of such Trade Union falls below ten percent of total workers or one hundred workers, whichever is less electronically or by registered post within 21 days of such change facts emerging.

(3) The Trade Union shall inform the Registrar of any change in the particulars given by it in its application for registration and in its constitution or rules electronically or through registered post within Forty-five days of such changes being affected.

Matters relating to negotiations between the negotiating union or negotiating council and the employer in an industrial establishment

18. Under sub-section (1) of section 14, negotiations shall be conducted by the employer of an industrial establishment through a negotiation union or a negotiation council on the following matters relating to workmen:-

(i) classification of grades and categories of workers;

(ii) order passed by an employer under the standing orders applicable in the industrial establishment;

(iii) wages of the workers including their wage period, dearness allowance, bonus, increment, customary concession or privileges, compensatory and other allowances;

(iv) hours of work of the workers, rest days, number of working days in a week, rest intervals, working of shifts;

(v) leave with wages and holidays;

(vi) promotion and transfer policy and disciplinary procedures;

(vii) quarter allotment policy for workers;

(viii) safety, health and working conditions and related standards;

(ix) such matters pertaining to conditions of service and terms of employment of the workers which are not covered in the foregoing clauses; and

(x) any other matter which is agreed between employer of the industrial establishment and negotiating union or negotiating council, as the case may be.

Criteria for recognizing a single registered Trade Union of workers as sole negotiating union of workers under sub-section (2) of section 14

19. Where there is only one registered Trade Union operating in an industrial establishment having its membership not less than 30 percent of the total workers employed in the industrial establishment, then the employer of such industrial establishment shall recognize such Trade Union as sole negotiating union of the workers

Manner of verification of membership of Trade Unions in an industrial establishment under sub-sections (3) and (4) of section 14.

20. (1) (a) The State Government shall appoint a verification officer (hereinafter in this rule, referred to as verification officer) for the purpose of verification of membership of the Trade Unions in the industrial establishment who shall not have any interest with any of the Trade Unions in the industrial establishment, whose membership verification is to be carried out by him:

Provided that the process for recognition of the negotiating union or the negotiating council, as the case may be, shall commence three months before the expiry of the tenure of the existing recognition period of the negotiating union or the negotiating council, as the case may be, recognized by the employer under the Code.

(b) The verification officer may utilize the services of other officers to assist him depending upon the quantum of work of membership verification

(c) The verification officer shall carry out the work of membership verification in the industrial establishment within the time as determined by the State Government.

(2) The employer of the industrial establishment shall bear all expenses and make arrangements in connection with the verification of membership of trade unions under sub rule (1).

(3) (a) The Trade Unions which satisfy the following conditions may submit an application to the employer of the industrial establishment to accord status of negotiating union or the representatives of negotiating council of the workers, as the case may be, namely such Trade Union has a valid registration under the Trade Unions Act, 1926 (16 of 1926) and continuing as such or has the registration under the Industrial Relations Code, 2020 (35 of 2020), as the case may be; and

(b) The application for recognition made by Trade Union shall be accompanied with a copy of the registration certificate, a copy of list of members, details of the membership subscription and a copy of latest annual return of the trade union submitted to the Registrar of Trade Unions.

(4) In case the negotiating union or negotiating council, as the case may be, has been constituted under the Code, the employer of the industrial establishment shall initiate action before expiry of the tenure of negotiating union or negotiating council, as the case may be, sufficiently in

advance but not later than three months before the expiry of the tenure of negotiating union or negotiating council, as the case may be;

(5) The date of reckoning shall be fixed by the verification officer for the industrial establishment for the purpose of verification of membership of the trade unions.

(6) The employer of the establishment shall forward the documents and records submitted by trade unions, to the verification officer.

(7) On receipt of the documents and records, the verification officer shall scrutinize the records and documents submitted by the trade union to ascertain the status of registration of trade unions and related matters;

(8) The verification officer shall hold meeting with representatives of employer of industrial establishment and all participating Trade Unions to decide about the process of verification of the membership of Trade Unions through secret ballot.

(9) The employer may, in consultation with the verification officer deploy an electronic process for conducting the election over an information technology application, online platform or like other platform.

(10) Verification of membership of Trade Unions through secret ballot.-

(i) The verification officer shall convene meeting of representatives of all registered Trade Unions functioning in the industrial establishment at least sixty days before the date of actual voting, to decide -

(a) publication of voters list;
(b) date, time, mode of voting, place of voting;

(c) date, time and place of counting; and

(d) other modalities relating to secret ballot.

(ii) The verification officer shall cause the minutes of the meeting to be prepared and signed by all participating Trade Unions. All participating Trade Unions shall be allotted symbols in the same meeting. If no decision could be taken regarding date, time, mode of voting, place of voting, allotment of symbols, date, time and place of counting and like other matters in the meeting, then, the decision of the verification officer shall be final and he shall publish the schedule, program and procedure of such secret ballot election.

(iii) All workers whose names are borne on the muster roll of the industrial establishment on the date of reckoning shall be eligible to cast their vote.

(iv) The employer of the industrial establishment shall prepare a voter list based on the names of workers recorded in the muster roll referred to in clause (iii). This voter list shall include the worker's name, father's name, designation, worker serial number/identity card number issued by the employer, and the name of the workplace. After receiving the approval of the Verification Officer, the final voter list will be published by the employer and displayed on the notice board at the main entrance of the industrial establishment and on the website (if any). A copy of such voter list will also be sent to the participating trade associations by hand, by registered post, or by electronic means.

(v) The verification officer shall display the list of the name of the participating Trade Unions with the symbol allotted to them on the notice board at the main entrance and website, if any, of the industrial establishment within two days of finalization of the list.

(vi) The voting and counting of votes shall be held on the date, time and place fixed by the verification officer under the supervision of the verification officer and during the counting, agents of all participating Trade Unions shall be allowed to remain present

(vii) After final counting of votes, the result shall be declared by the verification officer. The result sheet shall contain the name of all Trade Unions participated in election, total number of votes polled and the number of votes cast in favour of each of the trade unions which participated in the election.

(11) **Submission of verification report to the employer.-** The verification officer shall submit verification report along with the result sheet to the employer of industrial establishment.

Recognition of Trade Union as negotiating union or constituents of negotiating council

21. (1) On the basis of verification report submitted by verification officer, the employer of the industrial establishment shall grant recognition to a Trade Union as a negotiating union or a constituent of negotiating council as per provisions of subsection (3) or sub-section (4) of section 14 of the Code, as the case may be.

(2) Any recognition either as negotiating union or the negotiating council shall be valid for three years from the date of recognition or constitution or such further period not exceeding five years, in total, as may be mutually decided by the employer and the Trade Union, as the case may be:

Facilities to be provided by industrial establishment to a negotiating union or negotiating council under subsection (7) of section 14

22. In an industrial establishment, where there is a negotiating union or negotiating council, as the case may be, the employer of such industrial establishment shall provide the following facilities to the negotiating union or negotiating council, as the case may be, namely:

(i) notice board for the purpose of displaying information relating to activities; of negotiating union or negotiating council, as the case may be;

(ii) venue and necessary facilities for holding discussions by the negotiating union or negotiating council, as the case may be, as per list and agenda to be settled between employer of the industrial establishment and the negotiating union or negotiating council, as the case may be;

(iii) venue and necessary facilities for holding discussions amongst the members of the negotiating union or constituents of negotiating council, as the case may be;

(iv) facility for entrance of the office bearers of the negotiating union or negotiating council, as the case may be, in the industrial establishment for the purposes of ascertaining the matters which are relating to working conditions of the workers;

(v) employer of the industrial establishment shall deduct subscription of the members of the Trade Union on the basis of the written consent of the worker;

(vi) when the office bearers of the negotiating union or negotiating council shall be holding meetings with the employer as per agreed schedule between employer and such employed office bearers shall be treated as on duty; and

(vii) employer of an industrial establishment, having three hundred or more workers, shall provide suitable office accommodation with necessary facilities to the negotiating union or negotiating council, as the case may be.

Objects and uses of the General Fund under Section 15

23. (1) The general funds of a registered Trade Union shall not be spent on any objects other than such objects as mentioned in the By-laws of the Registered Trade Union verified by the Deputy Registrar of trade union of the concerned area.

(2) A registered Trade Union may constitute a separate fund, from contribution separately levied for or made to that fund, from which payments

may be made, for the promotion of the civic and political interests of its members, in furtherance of such objects as mentioned in the By-laws of the Registered Trade Union verified by the Deputy/ Joint/Additional Registrar of the concerned area.

Manner of filing application before a Tribunal under sub section (1) of Section 22

24. (1) In case of Registered Trade Union Where a dispute-

(a) arises between one Trade Union and another trade union; or

(b) arises between one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office-bearers of the Trade Union; or

(c) arises between one or more workers who refused admission as members and the Trade Union; or

(d) Where a dispute relates to a trade union being a federation of trade unions and between the authorities authorized by the trade union in this behalf

In all such cases, the party/parties affected by the dispute may file an application in **Form-F** along with the details of the dispute before the Tribunal having jurisdiction within a maximum period of one month from the date of occurrence of the dispute.

(2) No civil court other than the Tribunal shall have power to entertain any suit or other proceedings in relation to any dispute referred to in sub-rule(1).

Change of Name and Amalgamation under section 24

25. (1) Any registered Trade Union may, with the consent of not less than two-third of the total number of its members and subject to the provisions of sub-rule (3), change its name.

(2) Any two or more registered Trade Unions may be amalgamated.

(3) Every notice of name change or merger shall be given in writing. In the case of a name change, it shall be signed by the secretary and seven members of the trade union changing the name, and in the case of a merger, by the secretary and seven members of each trade union involved. This notice shall be sent to the Registrar by registered mail or email. If the headquarters of the merged trade union is located in another state, the information will be sent to the Registrar of that state. Also, details of all the members who signed the decision taken regarding name change or merger will also be sent. This information will be sent within one month of the decision being finalized and signed by the concerned members.

(4) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(5) Save as provided in sub-rule (4), the Registrar shall, if he is satisfied that the provisions of this Code/rules in respect of change of name have been complied with, he shall register the change of name in the register referred to in sub-section (3) of section 9, and the change of name shall have effect from the date of such registration.

(6) If the Registrar of the State in which the head office of the amalgamated Trade Union is situated is satisfied that the provisions of this Code/rules in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 9, shall register the Trade Union and the amalgamation shall have effect from the date of such registration.

(7) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal

proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(8) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them.

Distribution of Funds after Dissolution under sub section (2) of section 25

26. (1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members of the Trade Union in proportion to the amounts contributed by the members by way of subscription during the membership

Annual Return under sub section (1) of section 26

27. (1) Every registered Trade Union shall-

(a) forward annual report to the Registrar, on or before 31st January of the succeeding year, in **Form-G**, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year ending on the 31st day of December and of the assets and liabilities of the Trade Union existing on such 31st day of December;

(b) along with the general statement referred to in clause (a), forward to the Registrar a

statement showing changes of office-bearers made by the Trade Union during the year to which such general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar.

(2) On receipt of a copy of an application for alteration of the rules of a Trade Union under Section 99 of the Industrial Relations Code, 2020, the Registrar, unless he has reason to believe that the alteration has not been made in the manner provided by these Rules, shall register the alteration in a register to be maintained for this purpose and shall notify the fact that he has done so to the secretary of the Trade Union. The fee payable for registration of alteration of rules shall be Rs. 200 for each set of alteration made simultaneously.

(3) For the purpose of examining the documents referred to in clauses (a) and (b) of sub-rule (1), and sub-rule (2), the Registrar or any officer authorized by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office.

Chapter-5

STANDING ORDERS

Manner of forwarding information to certifying officer under sub-section (3) of section 30

28. (1) If the employer adopts the model standing order of the Central Government referred to in section 29 with respect to matters relevant to his industrial establishment or undertaking, then, he shall intimate the concerned certifying officer electronically and by registered post the specific date from which the provisions of the model standing order which are relevant to his establishment have been adopted.

(2) On receipt of information in sub-rule (1) the certifying officer within a period of thirty days from such receipt may give his observation that the employer is required to include certain provisions which are relevant to his establishment and indicate those relevant provisions of the model standing orders which have not been adopted and shall also direct the employer to amend the standing order so adopted, by way of addition, deletion or modification within a period of thirty days from the date of the receipt of such direction and ask for compliance report only in respect of provisions which the certifying officer seeks to get so amended and such report shall be sent electronically or by registered post by the employer.

(3) If no observation is made by certifying officer within a period of thirty days of the receipt of the information as specified in sub-rule (1) and (2), then, the standing order shall be deemed to have been adopted by the employer.

Manner of choosing representatives of workers of the industrial establishment or undertaking for issuing notice by certifying officer where there is no Trade Union operating, under clause (ii) of sub-section (5) of section 30

29. Where there is no such Trade Union as is referred to in clause (i) of sub-section (5) of section 30, then, the certifying officer shall direct the inspector-cum-facilitator to provide the names of four representatives as per the written choice of the workers of the establishment to whom he shall, upon their being chosen, forward a copy of the standing order requiring objections, if any, which the workers may desire to make to the draft standing order to be submitted within fifteen days from the receipt of the notice.

Manner of authentication of certified standing orders.

30. Standing orders or modification in the standing orders, certified in pursuance of sub-section (8) of section 30 or the copies of the order of the appellate authority under sub-section (1) of section 33 shall be authenticated by the certifying officer or the appellate authority, as the case may be, and shall be sent electronically and registered/speed post within a week

to all concerned, but there shall not be any requirement of certification in cases of deemed certification under sub-section (3) of section 30 and in cases where the employer has certified adoption of model standing orders.

Statement to be accompanied with draft standing orders under sub-section (9) of section 30.

31. (1) Draft standing order shall contain, the particulars such as name of the industrial establishment or undertaking concerned, address, e-mail address, contact number and strength and details of workers employed therein including particulars of Trade union to which such workers belong; and

(2) Draft modification in the existing standing orders, shall contain the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provision of standing order in force and proposed modification therein and reasons thereof and such statement shall be signed by a person authorized by the industrial establishment or undertaking.

Conditions for submission of draft standing order in similar establishment under sub-section (10) of section 30.

32. In cases of group of employer engaged in similar industrial establishment may submit a joint draft standing order under section 30 and for the purpose of proceedings specified in sub-sections (1), (5), (6), (8) and (9) thereof after consultation with the concerned Trade union or the representatives of workers if there is no Unions.

Manner of disposal of appeal by appellate authority under section 32

33. (1) An employer or Trade Union or workers desirous of preferring an appeal against the order of the certifying officer given under sub-section (5)of section 30 shall within sixty days of the receipt of such order shall draw up a memorandum of appeal in tabular form stating therein the provisions of the standing orders which are required to be altered or modified or deleted or added and reasons thereof and shall be filed electronically and sent by Registered Post to the appellate authority.

(2) The appellate authority shall fix a date for the hearing of the appeal and direct notice thereof to be given-

(a) Where the appeal is filed by the employer or a worker, to Trade Union of the workers of the industrial establishment or to the representative body of the workers concerned to the employer, as the case may be;

(b) where the appeal is filed by a Trade Union, to the employer and all other Trade Unions of the workers of the industrial establishment; and

(c) where the appeal is filed by the representative of the workers, to the employer and any other worker whom the appellate authority joins as a party to the appeal,

(3) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal,

(4) The appellate authority may at any stage of the proceeding call for any evidence, if it considers necessary for the disposal of the appeal.

(5) On the date fixed under sub-rule (2) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called or consider to be relevant if produced and after hearing the parties pass an order within sixty days of receiving an appeal.

(6) The appellate authority shall, within seven days of its order under sub-rule (5) send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the worker, accompanied,

(7) For the purpose of this chapter certifying officer and appellate officer shall be nominated by the State Government through notification.

The language and the manner of maintaining standing order under section 33

34. (1) The standing order finally certified by certifying officer shall be sent electronically and registered post except in the case of deemed certification under section 30.

(2) The text of the standing order as finally certified or deemed to have been certified or adopted model standing order under this chapter shall be maintained by the employer in Hindi and in English and shall be provided to any worker of the establishment on receipt of any such application within one week of receiving such application and or payment of two rupees per page of Standing Order.

Fee for providing the Register and certified copy of the final certified copy of the standing order under section 34

35. (1) The certifying officer shall maintain electronically or manually in **Form-H** a register of all standing order certified or deemed to have been certified or adopted model standing orders of all the concerned industrial establishments, inter-alia, containing the details of –

(a) the unique number assigned to each standing order;
(b) name of industrial establishment;
(c) nature of industrial establishment;
(d) date of certification or deemed certification or date of adoption of model standing order by each establishment or undertaking ;
(e) the areas of the operation of the industrial establishment; and
(f) such other details as may be relevant and helpful in retrieving the standing orders and create a data base of such of all standing order.

(2) The certifying officer shall furnish a copy of the certified standing orders or deemed certifying orders to any person applying there of on payment of two rupees per page of the certified standing orders or deemed certified standing orders, as the case may. The payment for such purpose can also be made through electronic mode.

Application for modification of standing order under section 35

36. (1) An application for modification of an existing standing order under sub-section (2) of section 35 shall be made in **Form-I** and submitted electronically or registered post and contain the particulars of such standing orders which are proposed to be modified along with a tabular

statement containing details of each of the relevant provisions of standing order in force, and proposed modification therein, reasons thereof and the details of registered Trade union operating therein, and such statement shall be signed by a person authorized by the industrial establishment or undertaking The Certifying Officer shall pass order in the application for modification of standing order within sixty days of receipt of such application.

(2) Where such an application for the modification is received from a worker the Certifying Officer shall where more than one trade union exists among the worker of the industrial establishment, take one representative each from the registered trade union. If there is no trade union, the procedure given in rule 37 shall be followed to elect the representative of worker.

(3) The application for modification received from a worker shall thereafter be sent to the representative union or elected representatives, as the case may be, to elicit opinion.

(4) Proceeding to certify the modification sought for shall be undertaken only to the extent these modification are approved by the representative trade union or elected representative, as the case may be, and such trade union or representative shall be representing the applicant worker during the proceeding for certification.

(5) All notices, notifications and orders under this Code and the Rules shall be served on the parties concerned by registered acknowledgement due letter or by special messenger. In the latter case, an acknowledgement in writing by or on behalf of the other party concerned shall be obtained in respect of such delivery.

Chapter-6

NOTICE OF CHANGE

The manner of giving of notice for change proposed to be effected under clause (i) of section 40.

37. (1) Any employer intending to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule to the Code, shall give notice in Form-J to such worker affected by such change:

Provided that before giving notice of the proposed change, the employer shall call at least one meeting with the workers affected by it, in which the proposed change shall be explained to them in detail.

(2) The notice referred in sub- rule (1) shall be displayed conspicuously by the employer on the notice board in Hindi and English at the main entrance of the industrial establishment and the office of the concerned Manager of the industrial establishment.

Provided that where there is a registered Trade Union or registered Trade Unions relating to the industrial establishment a copy of such notice shall also be served on the Secretary of such Trade Union or each of the Secretaries of such Unions, as the case may be.

Chapter -7

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

Form of arbitration agreement and the manner thereof under sub-section (3) of section 42

38. (1) Where the employer and workers agree to refer the dispute to arbitration, the Arbitration Agreement shall be in Form-K and shall be signed by the parties to the agreement. The agreement shall be accompanied by the consent either in writing or electronically of arbitrator or arbitrators.

(2) The Arbitration Agreement referred to in sub-rule (1) shall be signed.-

(i) In case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other officer of the corporation authorized for such purposes;

(ii) In the case of the workers by the officer of the registered Trade Union authorized in this behalf or by three representatives of the workers duly authorized in this behalf at a meeting of the concerned workers held for such purpose;

(iii) In the case of an individual worker, an individual worker by the worker himself or by an officer of registered Trade Union of which the worker is a member:

Explanation.- In this rule 'officer' means any of the following officers, namely:-

(a) the President;
(b) Vice-President;
(c) the Secretary (including the General Secretary);
(d) a Joint Secretary; and
(e) any other officer of the Trade Union authorized in this behalf by the President and Secretary of the union.

Manner of issue of notification under sub-section (5) of section 42

39. Where an industrial dispute has been referred to arbitration and the State Government is satisfied that the persons making the reference represent the majority of each party, it shall publish a notification in this behalf in the Official Gazette for the information of the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute and they may apply before the arbitrators appointed for such purpose within a period of 45 days from the date of notification through electronic mail/ registered/speed post

Manner of choosing representatives of workers where there is no Trade Union.

40. Where there is no Trade Union, the representative of workers to present their case before the arbitrator or arbitrators in pursuance of clause (c) of the sub-section (5) of section 42, shall be chosen by a resolution passed by the majority of concerned workers in **Form-L** authorizing therein to represent the case. Such workers shall be bound by the acts of representative who have been authorized to represent before the arbitrator or arbitrators, as the case may be.

Chapter -8

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

The manner of holding of conciliation proceedings under sub-section (1) of section 53, full report under sub-section (4), and application and the manner of deciding such application under sub-section (6)

41. (1) (i) Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer shall, within a period of 15 days of receipt of such application shall examine the application and if he finds fit will issue notice to the parties concerned declaring his intention to commence conciliation proceedings.

(2) The employer or the workers representative in the first meeting shall submit their respective statement in the matter of said dispute.

(3) The conciliation officer shall hold conciliation proceedings for the purpose of bringing about a settlement of the dispute and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement.

(4) (i) During the pendency of any conciliation proceeding before a Conciliation Officer or any proceeding before a Tribunal in respect of and Industrial Disputes, no employer shall –

(a) in regard to any matter connected with the dispute, alter to the prejudice of the workmen concerned in such dispute,

the conditions of service applicable to them immediately before the commencement of such proceeding, or

(b) for any misconduct with the dispute, discharge or punish, whether by dismissal or otherwise any worker concerned in such dispute save with the express permission in writing of the authority before which the proceeding is pending.

(ii) During the pendency of any such proceeding in respect of an industrial disputes, the employers may, in accordance with the standing orders applicable to a worker concerned in such disputes-

(a) alter, in regard to any matter not connected with the disputes the conditions of service applicable to that worker immediately before the commencement of such proceeding, or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that worker:

Provided that no such worker shall be discharged or dismissed, unless he has been given wages for the month and an application has been made by employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(iii) Notwithstanding anything contained in said sub-clause(ii) no employer shall during the pendency of any such proceeding in respect of and industrial dispute, take any action against any protected worker concerned in such dispute-

(a) by altering, to the prejudice of such protected worker, the conditions of service applicable to him immediately before the commencement of such proceeding, or

(b) by discharging or punishing, whether by dismissal or otherwise such protected worker, save with the express permission in writing of the authority before which the proceeding is pending.

(iv) Where an employer makes an application to Tribunal under the provision to sub clause (ii) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass such order within thirty days of receiving of application in relation thereto as it deems fit.

(v) Where an employer contravenes the provisions of sub-clause (iii) during the pendency of proceedings before Tribunal, any worker aggrieved by such contravention may make a complaint in writing in the prescribed manner, to the Tribunal as the case may be, and on receipt of such complaint the Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with this Code and shall submit its award to the State Government.

(5)(1)(I) Where any money is due to a worker from an employer under a settlement or award, or under an award given by an adjudicator or the State Industrial Tribunal appointed or constituted under this Code worker may, without prejudice to any other mode of recovery, made 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 of that

amount to the Collector who shall proceed to recover the same as if it were a arrear of land-revenue.

(ii) Where any worker is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may be determined by such Tribunal as may be specified in this behalf by the State Government, and the amount so determined may be recovered as provided in sub-clause (i)

(iii) For the purposes of computing the money value of a benefit, the Tribunal may, if it so thinks fit, appoint a Commissioner in the prescribed manner who shall, after taking such evidence as may be necessary, submit a report to the Tribunal and the Tribunal shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(2) Any dispute which is not settled during the conciliation proceedings, then, either of the concerned party may make an application in **Form-M** before the Tribunal or through registered post within 30 days from the date of the report under sub-rule (2).

(3) In case of an industrial dispute which has not been settled during the conciliation proceedings an application may be made before the Tribunal by either of the parties concerned for adjudication, the Tribunal shall direct the party raising the dispute to file a statement of claim with complete details along with relevant documents, list of supporting documents and witnesses within thirty days from the date on which application is filed. A copy of such statement may be sent electronically or by registered post each of the opposite parties in the dispute.

(4) The Tribunal after ascertaining that the copies of statement of claim and other related document are furnished to the other side by the party raising the dispute, the Tribunal shall fix the first date of hearing as soon as possible and within a period of one month from the date of receipt of the application. The opposite party or parties shall file their written statement together with supporting documents and the list thereof and list of witnesses, if any, within a period of thirty days from the date of first hearing and simultaneously forward a copy thereof to the opposite party or parties for service.

(5) Where the Tribunal finds that the party raising the dispute, despite its direction, did not forward the copy of the statement of claim and other documents to the opposite party or parties, it shall give directions to the concerned party to furnish the copy of the statement to the opposite party or parties, granting extension of fifteen days for filing the statement, if the Tribunal finds sufficient cause for not filing the statement of claim and other documents within time.

(6) Evidence shall be recorded either in Industrial Tribunal or may be filed on affidavit but in the case of affidavit the opposite party shall have the right to cross-examine each of the deponents filing the affidavit. Where the oral examination of each witness proceeds, the Tribunal shall make a memorandum of the substance of what is being deposed. While recoeding the oral evidence the Tribunal shall follow the procedure laid down in rule 5 of order XVIII of the First Schedule to the code of Civil Procedure, 1908 (5 of 1908).

Application for registration of settlement.

42. An application for registration of settlement, arrived at through conciliation proceedings before a Conciliation Officer shall be sent by the parties to the settlement or any one of them, within one month of the date of settlement, to the Conciliation Officer of the area concerned by registered post acknowledgement due, or by personal delivery. A copy of the memorandum of

settlement shall be affixed by the parties to the settlement to a notice-board at or near the entrance or entrances of the establishment concerned, and shall remain so affixed for a period of 07 days before making the application for registration.

Procedure for registration of settlement.

43. On receipt of an application for registration of settlement, the Conciliation Officer or the authority notified by the Government in this behalf may make an enquiry if he/it considers necessary. If after enquiry, the Conciliation Officer or the authority concerned decides to register a settlement, the agreement shall be register in **Form-O** and a certificate of registration shall be issued to all the parties to the settlement in **Form-P** within thirty days of receipt of the application for registration. If the registering authority refuses to register the settlement, an intimation to this effect, together with reasons for refusal to register, shall be given to all the parties to the agreement not later than thirty days of receiving the application for registration. The authority notified by the State Government for registering a settlement shall also give intimation of registration of settlement, or of the refusal thereof, as the case may be, to the Conciliation Officer of the area concerned and to the Labour Commissioner, Uttarakhand within seven days of the registration of settlement.

Persons on whom awards are binding.

44. An award which has become enforceable, shall be binding on,

(a) all parties to the industrial dispute;

(b) where a party referred to in clause (a) is an employer, his heirs, successors or assign in respect of the establishment to which the dispute relates;

(c) where a party referred to in clause (a) is composed of worker, all persons, who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates, on the date of dispute and all persons who subsequently become employed in the establishment or part.

Chapter-9

STRIKES AND LOCK-OUTS

manner of giving notice of strike under sub section (4) of section 62

45. (1) The notice of strike referred to in sub-section (1) of section 62 shall be given to the plant head or manager of the industrial establishment in **Form-Q**, duly signed by the secretary of the registered trade union or where there is no registered union, by one-third of the workers of the establishment and copies of which shall be given to the Conciliation Officer of the concerned area, the Regional Deputy Labour Commissioner, the Labour Commissioner and the State Government electronically or in such other manner as the State Government may specify.

(2) If the employer of an industrial establishment receives from any person employed by him any notice of strike as referred to in sub-section (1) of section 62 then he shall within fifteen days from the date of receiving of such notice, intimate the same electronically to the conciliation officer and Regional Deputy Labour Commissioner, the Labour Commissioner of the state and the State Government.

Manner of giving notice of lock-out under subsection (5) and authority under sub-section (6) of section 62.

46. (1) The notice of lock-out referred to in sub-section (2) of section 62 shall be given by the employer of an industrial establishment in **Form-R** to the Secretary of every registered Trade Union relating of such industrial establishment endorsing the copy thereof to the concerned conciliation officer, Regional Deputy Labour Commissioner, Labour Commissioner and the State Government electronically or otherwise. If there is no registered trade union, the employer shall prominently display the notice on the notice board or electronic board at the main entrance of the industrial establishment and shall also inform the workers' representatives on the works committee.

(2) If the employer gives to any person employed by him a notice of lock-out, then he shall within five days from the date of such notice, intimate electronically or otherwise the same to the concerned conciliation officer and the Regional Deputy Labour Commissioner.

Chapter-10

LAY-OFF, RETRENCHMENT AND CLOSURE

Manner of serving notice before retrenchment of the worker under clause (c) of section 70.

47. If any employer desires to retrench any worker employed in his industrial establishment, who has been in continuous service for not less than one year under him then, such employer shall give notice of such retrenchment, in Form-S to the State Government and such authority as may be designated by the State Government by notification, by email and registered post/speed post at least 15 days before the proposed retrenchment.

Manner of giving an opportunity for re-employment to the retrenched worker under Section 72.

48. (1) The employer shall prepare a list of all workers in the particular category from which retrenchment is contemplated, arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

(2) When any vacancy occurs in an industrial establishment and there are workers of such industrial establishment retrenched within one year prior to the proposal for filling such vacancies, then, the employer of such industrial establishment shall, if such workers are citizens of India and have given their willingness for employment, give them preference over other on the basis of their service seniority.

(3) The employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment the details of vacancies at least fifteen days before the date on which such vacancies are to be filled and shall also give intimation of those vacancies by registered post or speed post or through e-mail to every one of all the retrenched workers eligible to be considered therefor, to the latest address or e-mail, given by each of them at the time of retrenchment or at any time thereafter:

Provided that when the number of such vacancies is less than the number of retrenched workers, it shall be sufficient if the intimation is given by the employer individually to the senior most retrenched workers in the list referred to in sub-rule (1) and the number of such senior-most workers being double the number of such vacancies:

Provided further that where the vacancy is of duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workers:

Provided also that if a retrenched worker, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.

(4) Immediately after complying with the provisions of sub-rule (3), the employer shall also inform the negotiating union or the constituent of negotiating council or Trade Unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workers to whom intimation has been sent under that sub-rule.

Manner of serving notice by the employer for intended closure under sub-section (1) of section 74.

49. (1) If an employer intends to close down an industrial establishment, he shall give notice within the time as specified in sub-section (1) of section 74 of such closure in **Form-S** to the State Government and a copy thereof to the concerned Conciliation Officer, Regional Deputy Labour Commissioner, and the Labour Commissioner of the State by e-mail or registered post or speed post.

Where the application is sent by only registered post the date on which the same is delivered to the State Government shall be deemed to be the date on which the application was made

(2) A copy of application for prior permission to close down an undertaking of an industrial establishment shall be served on the Presidents or Secretaries of all the registered trade unions working in the establishment through personal service, and where it is not practicable, through registered post acknowledgement due;

(3) A copy of application for prior permission to close down an undertaking of an industrial establishment shall also be pasted on the main entrance of the concerned establishment.

Chapter -11

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

Manner of making application to the State Government by the employer for the intended lay-off and the manner of serving copy of such application to workers

50. An application for permission under sub-section (1) of Section 78 shall be made by the employer to the State Government in **Form-T** clearly stating the reasons for the lay-off. A copy of such application shall also be sent by the employer to the concerned worker through electronic means and by registered post. The employer shall prominently display such application in both English and Hindi on the notice board or electronic board located at the main entrance of the industrial establishment.

Time- limit for review under sub-section (7) of section 78.

51. (1) The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (4) of the section 78

(2) The employer or any worker concerned, along with the order referred to in sub-rule (1), may make an application, within thirty days from the date on which the order is made, to the State Government for reviewing the order and that Government shall, within two months from the date on which the application is made, dispose of the same after providing the concerned parties an opportunity of being heard.

(3) Where the State Government decides to review the order referred to in sub-section (1) on its own motion, it may take necessary steps within one month from the date on which the order is made and after providing the concerned parties an opportunity of being heard, dispose of such review within a period of two months from the date on which such decision is taken.

Manner of making application to the State Government by the employer for the intended retrenchment and manner of serving copy of such application to workers under sub-section (2) of section 79

52. (1) If any employer desires to retrench any worker, employed in establishment who has been in continuous service under him for not less than one year, he shall give notice of such retrenchment to the State Government.

(a) Where a notice is given to the worker, notice of retrenchment shall be sent to concerned office on the same day on which notice is given to the worker;

(b) Where no notice is given to the worker, and he is paid one month's wages in lieu by notice, notice of retrenchment shall be sent on the same date on which wages are paid to the worker; and

(c) Where retrenchment is or is intended to be carried out under an agreement, which specifies

the date of termination of service, notice of retrenchment shall be sent at least one month prior to the date of the retrenchment. If the period from the date of the agreement to the date of the retrenchment is less than one month, the notice of retrenchment shall be sent on the date of the agreement.

(2) The employer shall prepare a list of the worker in the particular category from which retrenchment is contemplated, arranged according to the seniority of their service in that category, and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the date of retrenchment.

(3) Before retrenchment of a worker, the employer shall, for the purposes of sending intimation on the worker for re-employment, obtain the address of the worker in writing from the worker duly signed, or thumb impression affixed by the said worker.

(4) An application for permission referred to in sub-section (1) of section 79 shall be made by the employer in **Form-T** stating clearly therein the reasons for the intended retrenchment and a copy of such application shall also be sent to workers electronically and by registered post. Such application shall also be displayed conspicuously by the employer on a notice board or on electronic board in Hindi and English at the main entrance to the industrial establishment.

Time-limit for review under sub-section (6) of section 79.

53. (1) (1) The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (3) of section 79.

(2) The employer or any worker concerned, along with the order referred to in sub-rule (1), may make an application within thirty days from the date on which such order is made, to the State

Government for reviewing that order and the Government shall within a period of two months from the date on which such application is made, dispose of the application after providing the concerned parties an opportunity of being heard.

(3) Where the State Government decides to review the order referred to in sub-rule (1), on its own motion, it may take necessary steps within one month from the date on which such order is made and after providing the concerned parties an opportunity of being heard, dispose of such review within a period of two months from the date on which such decision is taken.

Manner of making application to the State Government by the employer for intended closing down of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (1) of section 80.

54. An employer intending to close down an industrial establishment falling under Chapter X of the Code shall, at least ninety days before the date of proposed closure, apply electronically to the State Government for prior permission in Form-T. The application must clearly state the reasons for the proposed closure, and a copy of the application shall be sent electronically and by registered post to the workers' representatives. The applicant shall display the application in Hindi and English on the notice board at the main entrance of the industrial establishment and on the electronic board.

Time-limit for review under sub-section (5) of section 80.

55. (1) The State Government may, either on its own motion or on an application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (2) of section 80.

(2) The employer or any worker concerned may make an application along with the order referred to in sub-rule (1), within thirty days from the date on which such order is made, to the State Government for reviewing that order and Government shall, within two months from the date on which such application is made, dispose of the application after providing the concerned parties an opportunity of being heard.

(3) Where the State Government decides to review the order referred to in sub-rule (1) on its own motion, it may take necessary steps within one month from the date on which the order is made, and after providing the concerned parties an opportunity of being heard, dispose of such review within a period of two months from the date on which such decision is taken

Chapter-12

WORKER RE-SKILLING FUND

Grants to the Worker Reskilling Fund from Other Sources

56. There shall be deposited in the worker reskilling fund besides the contribution received from the employer under section 83(2)(a) of the Code, other amounts such as any voluntary contribution by an establishment/ company under Corporate Social Responsibility or other legal sources mentioned in general orders issued by the State Government, from time to time.

Manner of utilization of the Worker Reskilling Fund

57. (1) Every employer who has retrenched a worker or workers in his industrial establishment under the Code, shall, within ten days from the date of such retrenchment, electronically transfer an amount equivalent to fifteen days of last drawn wages of such retrenched worker or workers into the accounts of the Fund constituted under section 83(1) of the Code.

(2) The amount received under sub-rule (1) shall be transferred by the Office of the Labour Commissioner/ Office of the Deputy Labour Commissioner/Office of the Assistant Labour Commissioner electronically to each of the retrenched worker account or retrenched workers' accounts, as the case may be, within forty-five days of retrenchment to enable him utilise that amount for his re-skilling

(3) The employer shall also submit the list containing the name of each retrenched worker, the amount equivalent to fifteen days of wages last drawn by such retrenched worker along with his bank

account details, Office of the Labour Commissioner /Office of the Deputy Labour Commissioner /Office of the Assistant Labour Commissioner.

Chapter 13

OFFENCES AND PENALTIES

Manner of composition of offence by a Gazetted Officer specified under sub-section (1) of section 89 and the manner of making application for the compounding of an offence specified under sub-section (4) of section 89.

58. (1) The officer notified by the State Government for the purpose of compounding of offences under sub-section (1) of section 89 (hereinafter refered to as the compounding officer), shall in the offences in which prosecution is not instituted, of the compounding officer is of the opinion that any offence under the Code for which the compounding is permissible under said section, he shall send a notice through department Portal or any other mode, to the accused in **Form-U** consisting of three parts.

(2) In Part I of **Form-U**, the compounding officer shall, *inter alia*, specify—

(a) the name of the accused and his other particulars;

(b) the details of the offence and the section under which the offence has been committed; and

(c) the compounding amount required to be paid towards the composition of such offence.

(3) In Part II of the **Form-U**, the compounding officer shall specify the consequences if the offence is not compounded, and in Part III of the said Form shall contain the application to be filed by the accused, if he desires to compound the offence.

(4) Each notice referred to in sub-rule (1) shall have a unique number containing alphabets or numerical and other details such as compounding officer concerned, industrial establishment, year, place and type of inspection for the purpose of easy identification.

(5) The accused to whom the notice referred to in sub-rule (1) is served, may send the part III of the Form duly filled by him to the compounding officer electronically and deposit the compounding amount electronically or otherwise, within fifteen days of the receipt of the notice, in the account specified by the compounding officer in the notice.

(6) Where the prosecution has already been instituted against the accused in the competent Court, he may make an application to the Court to compound the offence against him and the Court, after considering the application, may allow composition of the offence by the compounding officer in accordance with provisions of section 89.

(7) If the accused complies with the requirement of sub-rule (2), the compounding officer shall compound the offence for the amount of money deposited by the accused and-

(a) if the offence is compounded before the prosecution, then no complaint for prosecution shall be instituted against the accused; and

(b) if the offence is compounded after institution of prosecution under sub-rule (3) with the permission of the Court, then ,the compounding officer shall treat the case as closed as if no prosecution had been launched and will proceed in accordance with compounding in a under clause (a) and intimate the compound of offence to the competent Court in which the prosecution is pending and after receiving such intimation, the Court shall discharge the accused and close the prosecution .

(8) The compounding officer shall exercise the powers to compound the offence under this rule, subject to the direction, control and supervision of the State Government

Chapter 14

MISCELLANEOUS

Protected workers

59. (1) Every registered Trade Union connected with an industrial establishment, to which the Code applies, shall communicate to the employer before the 30th April every year, the names and addresses of such of the officers of the Union who are employed in that establishment and who, in the opinion of the Union should be recognized as "protected workers".

(2) The employer shall, subject to sub-section (3) and sub-section (4) of section 90, recognize such workers to be "protected workers" for the purposes of section 90 and communicate to the Union, in within, within fifteen days of the receipt of the names and addresses under sub-rule (1), the list of workers recognized as protected workers for the period of twelve months from the date of such communication

(3) Where the total number of names received by the employer under sub-rule (1) exceeds the maximum number of protected workers, admissible for the industrial establishment, under sub-section (4) of section 90, the employer shall recognize as protected workers only such maximum number of workers.

Provided that where there is more than one registered Trade Union in the industrial establishment, the maximum number shall be so distributed by the employer among the unions that the numbers of recognized protected workers in individual unions bear practicably by the same proportion to one another as the membership figures of the unions. The employer shall in that case intimate in writing to the President or the Secretary of the each concerned union the number of protected workers allotted to it:

Provided further that where the number of protected workers allotted to a union under this

sub-rule falls short of number of officers of the union seeking protection. The union shall be entitled to select the officers to be recognized as protected workers. Such selection shall be made by the union and communicated to the employer within five days of the receipt of the employers letter in this regard.

(4) When a dispute arises between an employer and any registered trade union in any matter connected with the recognition of 'protected workers' under this rule, the dispute shall be referred to any Regional Deputy Labour commissioner or Assistant Labour Commissioner of the area concerned, who shall hear the dispute and send a report to the Labour Commissioner who shall decide the matter and whose decision shall be final.

Manner of making complaint by an aggrieved worker under section 91

60. (1) Every complaint under section 91 of the code shall be made electronically and by registered post or speed post in **Form-V** and shall be accompanied by as many copies as there are opposite parties mentioned in the complaint.

(2) Every complaint under sub-rule (1) shall be verified by the worker making the complaint or by authorized representative of the worker proved to the satisfaction of the conciliation officer, arbitrator or Industrial Tribunal, as the case may be, to be acquainted with the facts of the case.

Manner of authorization of worker for representing in any proceeding under sub-section (1)(c) of section 94.

61. Where a worker is not a member of any trade union, any dispute to which he is a party, any member of the executive or other office- bearer of any Trade Union connected with or by any other worker employed in the industry in which the worker is employed can authorized in **Form-L** to represent him in the proceedings relating to the dispute.

Manner of authorization of employer for representing in any proceeding under sub-section (2)(C) of section 94.

62. Where the employer, is not a member of any association of employers, may authorize in **Form-L** an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged to represent him in any proceeding under the Code relating to a dispute in which the employer is a party.

Submission of a copy of the form to the office of Director General, Labour Bureau

63. A copy each of Form Q (notice of strike), Form R (notice of lockout), Form S (notice for intimation of retrenchment or closure to the State Government), Form T (Application for permission of lay-off or retrenchment or closure), and Form U (compounding of offences), shall be shared electronically with Director General, Labour Bureau in auto-mode.

Repeal and Savings

64. (1) The U. P. Industrial Dispute Rules, 1957. The U.P. Industrial Employment (Standing Order) Rules, 1946, the U.P. Trade Union Regulations, 1927 and the Industrial Tribunal and Labour Court's Rules of Procedure, 1967 shall stand repealed with effect from the date on which these Rules come in force.

(2) Notwithstanding such repeal anything done or any action taken under the said rules/regulations, shall be deemed to be done or taken under the corresponding provisions of these rules/Code.

(3) Without prejudice to the provisions of sub-rule (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such rules/regulations.

By Order,

DR. SRIDHAR BABU ADDANKI,
Secretary

Form-A

(Under Section 2, Rule 3 of the Industrial Relations Code)

Memorandum of settlement

Names and address of Parties:

.....Representing employer(s)

.....Representing worker;

Short recital of the case

.....

Terms of settlement

.....

Signature of the parties

Representing employer_____

Witnesses: (1)_____

(2)_____

Representing worker_____

Witnesses: (1)_____

(2)_____

Copy :

1. Conciliation officer of the concerned area
2. Labour Commissioner Uttarakhand

Form -B

(See Rule 9)

STATEMENT OF LIABILITIES AND ASSETS ON THE YEAR _____

Liabilities	Rs. P.	Assets	Rs. P.
Amount of general fund Amount of political fund Loans from Debts due to Other liabilities (to be specified)		Cash- In hands of Treasurer In hands of Secretary In hands of – In the Bank In the Bank Securities as per list below Unpaid subscriptions due Loans to Immovable property Goods and furniture Others assets (to be specified)	
Total Liabilities		Total Assets	

LIST OF SECURITIES

Particulars	Nominal value	Market – value at date on which accounts have been made up	In hands of

Treasurer

GENERAL FUND ACCOUNT

Income	Rs. P.	Expenditure	Rs. P.
Balance at beginning of year Contributions from members as per members Donations Sale of periodicals, rules, etc.		Salaries, allowances and expenses of officers Salaries, allowances and expenses of establishment Auditor's fee Legal expenses	
Interest on investments Income from miscellaneous sources (to be specified)		Expenses in conducting trade disputes Compensation paid to members for loss arising out of trade disputes	
	Funeral, old age, sickness, unemployment benefits, etc. Educational, social and religious benefits Cost of publishing periodical Rents, rates and taxes Stationary, printing and postage Expenses incurred (to be specified) Other expenses (to be specified) Balance at the end of year		
Total		Total	

POLITICAL FUND ACCOUNT

	Rs. P.		Rs. P.

Balance at beginning of year		Payments made on objects specified in section 16(2) of the Indian Trade Unions Act, 1926 (to be specified)	
Contribution from members as per member		Expenses of managements (to be specified)	
		Balance at the end of year	
Total		Total	

Treasurer

AUDITOR'S DECLARATION

The undersigned, having had access to all the books and accounts to the trade union and having examined the foregoing statements and verified the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto.

Auditor

The following changes of officers have been made during the year-

OFFICERS RELINQUISHING OFFICE

Name	Office	Date of relinquishing

OFFICERS APPOINTED

Name	Age	Office	Address	Occupation	Date of appointment

Secretary

FORM C

APPLICATION FOR REGISTRATION OF TRADE UNION

[Under Section 9(1) of the Industrial Relations Code and Rule 12]

Date the..... day of..... 20.....

1. We hereby apply for the registration of a Trade Union under the name of.....
2. The address of the head office of the Union is.....
3. The E-mail of the Head Office of the Union is.....
4. The Union came into existence on the.....day of..... 20.....
5. The Union is a Union of employers/workers engaged in the in duty(or profession).
6. The particulars required under section 10(1)(a) are given in Schedule I. (Annexed)
7. The particulars required under section 10(1)(b) are given in Schedule II. (Annexed)
8. The particulars required under section 10(2) are given in Schedule III. (Annexed)
9. We the under signed have been duly authorized by the General Meeting held on..... to make this application.

Signature	Occupation	Address	Signed
1			
2			
3			
4			
5			
6			
7			

SCHEDULE I-LIST OF OFFICERS

Title	Name	Age	Address	Occupation

Note.-Enter in this Schedule the names of all members of the executive of showing in column 1 the names of any posts held by them (e.g., President, Secretary, Treasurer, etc.) in addition to their offices as members of the executive.

SCHEDULE II-
REFERENCE TO RULES

The numbers of the rules making provision for the several matters detailed in column1 are given in column 2 below:

Matter	Number of rules
The Name of the union	
The whole of the objects for which the union has been established'	
The whole of the purposes for which the general funds of the union shall be applicable.	
The maintenance of a list of members.	
The facilities provided for the inspection of the list of members by officers and members.	
The admission of ordinary members.	
The admission of honorary or temporary members'	
The conditions under which members are entitled to benefit assured by the rules.	
The conditions trader which fines or forfeitures can be imposed or varied.	
The manner in which the rule shall be amended, varied or rescinded	
The manner in which the members of the executive and the other officers of the union shall be appointed and removed.	
The safe custody of the funds.	
The annual audit of the accounts.	
The facilities for the inspection of the account books by officers and members.	
The manner in which the union may be dissolved.	

SCHEDULE III

STATEMENT OF LIABILITIES AND ASSETS ON THE YEAR_____

(This need not be filled in if the Union came into existence less than one year before the date of application for registration)

Liabilities	Rs. P.	Assets	Rs. P
Amount of General fund		Cash-	
		In hands of Treasurer	
Amount of political fund Loans ... from		In hands of Secretary	
		In hands of-	
Other liabilities (to be specified)		In the Bank	
		In the form	
		Securities as per list below	
Total Liabilities		Unpaid subscription due	
		Loans to-	
		Immovable property	
		Goods and furniture	
		Other assets (to be specified)	
		Total Assets	

FORM-D

CERTIFICATE OF REGISTRATION OF TRADE UNION

(Under Section 9(2) of the Industrial Relations Code and Rule 13)

No.

It is hereby certified that the_____has been registered under section 9(2) of the Industrial Relation Code read with Rule 11(1) of the Industrial Relation Rules, 2025.

FORM-E

REGISTER OF TRADE UNIONS

(Under Section 9(2) of the Industrial Relations Code and Rule 14)

Serial No.	Officers
Name of Union Address of Head Office Date of Registration.	

Number of application from List of members applying for registration	Year of entering in office	Name	Age of entry	Address	Occupation	Year of relinquishing office	Other offices held in addition to membership of executive with date
1 2 3 4 5 6 7							

FORM-F

Application for hearing of the dispute
(Under Section 22 of the Industrial Relations Code and Rule 24)
Between

_____First party

And

_____Second party

The following dispute is being submitted for adjudication.
(mention the Tribunal name and address here)

(i) Details of the dispute and the parties involved in the dispute, including their names and designations.
(ii) Name and address of the employer's establishment or enterprise
(iii) The name of the worker if he is directly involved in the dispute, or the name of the union, if any, that represents the worker or workers in question.
(iv) Total number of affected workers

Names, designations, and signatures of the affected parties
Copy send to :
(i) Concerned Tribunal
(ii) Secretary, Labour, Govt. of Uttarakhand
(iii) Labour Commissioner, Uttarakhand

FORM-G

Annual Return for the Year Ending on 31st December, 20_____
(Under Section 26(1) of the Industrial Relations Code and Rule 2(1))

Name of Union.
Registered Head Office
Number of certificate of registration

Return to be made by federations of trade unions	Number of unions affiliated at the beginning of year
	Number of unions joining during the year.
This return need not be made by federations of trade unions.	Number of unions disaffiliated at the end of year.
	Number of members on books at the beginning of year.
	Number of members admitted during the year (add) together.
	Number of members who left during the year (deduct).

	Total number of members on books at the end of the year.
	Males
	Females
	Number of members contributing to political fund.

A copy of the rules of the trade union, corrected up to the date of dispatch of this return, is appended.
Dated the _____ day of _____ 20_____

FORM-H

[Under Section 34 of the Industrial Relations Code and Rule 35]

Form of Register of Certification of Standing Orders

Serial No.	Name of Applicant	Name and address of the industrial establishment adapting the Standing Orders	Name and address of the occupier	Classification of industry	Number of workmen in the industrial establishment	Name and address of the Trade Union or the representative of workmen	Number of members of the trade Union belonging to the Industrial establishment	Matters of the Schedule applicable (give only serial No.)	Date of certification	Date of application	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

Subsequent Modification

Modifications I			Modification II			Modification III			Modification IV		
Date of application	Date of Sanction	Modification made (in brief)	Date of application	Date of Sanction	Modification made (in brief)	Date of application	Date of Sanction	Modification made (in brief)	Date of application	Date of Sanction	Modification made (in brief)
13	14	15	16	17	18	19	20	21	22	23	24

Form-I

Application for modification of existing standing order
(Under Section 33(3) of the Industrial Relations Code and Rule 36)

Name of association of employers workmen or the name of the worker :
Address :

To,

The Certifying Officer
Industrial Relation Code, 2020
Address.....

Dear Sir,

In accordance with the provisions of Section 33 of Industrial Relation Code, 2020, I beg to inform you that it is desired to effect modification in the Standing Orders No. of 20.....adopted in the following industrial establishment

2- I declare that-six months have passed since the standing orders or last modification thereof came into operation there has been an agreement, copy of which is enclosed herewith, between the employer and the worker for making modification

3- The copies of the standing orders indicating the modification desired are submitted herewith. modifications

Changes regarding particulars of workmen and the names and other particulars of the trade union, since they were submitted last, are also indicated herewith in the enclosed sheet.

List of the industrial Establishments

Serial No.	Name of the Industrial Establishment	Name and designation of the employer	Classification of industries	Address(Registered Office)	Date on which the standing order or last modification came into operation	Modification desired	Remarks

Yours faithfully
(Name and Designation)

Form-J

(Under Section 40 of the Industrial Relations Code and Rule 37)
(Notice of change of service conditions proposed by an employer)

Name of Employer.....
Address.....
Dated the .....day of .....20.....

In accordance with section 40 (1) of Industrial Relation code I/We hereby give notice to all concerned that it is my/our intention to effect the change/changes specified in the annexure, with effect from ..... in the conditions of service applicable to workers in respect of the matters specified in the Third Schedule to this code

Signature.....
Designation.....

ANNEXURE

[Here specify the change/changes intended to be effected]

Copy forwarded to:

1. The Secretary of registered Trade Union, if any.
2. Concerned Deputy Labour Commissioner.
3. Labour Commissioner.

FORM-K

[Agreement for voluntary arbitration]
[Under Section 62(1) of the Industrial Relations Code and Rule 38]

BETWEEN.....Name of the parties representing employer (s) And .....Representing worker It is hereby agreed between the parties to refer the following dispute to the arbitration of ..... [here specify the name(s) and address(es) of the arbitrator (s).

(i)Specific matters in dispute.

(ii)Details of the parties to the dispute including the name and address of the establishment or undertaking involved.

(iii)Name of the worker in case he himself is involved in the dispute or the name of the union, if any, representing the worker or workers in question.

(iv)Total number of workers employed in the undertaking affected.

(v)Estimated number of workers affected or likely to be affected by the dispute.

"We further agree that the majority decision of the arbitrator(s) shall be binding on us in case the arbitrator(s) are equally divided in their opinion they shall appoint another person as umpire whose award shall be binding on us.

The arbitrator (s) shall make his (their) award within a period of ..... (here specify the period agreed upon by the parties) from the date of publication of this agreement in the Official Gazette by the central Government or within such further time as is extended by mutual agreement between us in writing. In case, the award is not made within the period afore mentioned, the reference to the arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitrator.

Signature of the parties Representing employer]

Representing worker workers.

Witnesses:

1. .....
2. .....

Copy to

(i) The Conciliation Officer [here enter office address of the Conciliation Officer for the area concerned] .

(ii) The Secretary to the State Government.

FORM-L

(See Rule 40, 61)

(Authorization by a worker, group of workers, employer, group of employer to be represented in a proceeding before the authority.)

Before the Authority

(Here mention the authority concerned)

(mention the name of the proceeding)

In the matter of.....

.....worker

Versus

I/We hereby authorize shri/sarvashri (if representatives ae more than one)1.....2.....3.....to Represent me/us in the above matter.
Dated this.....day of.....20.....
Signature of person (s) nominating the representative(s)
Address accepted

FORM-M

(Under Section 53 of the Industrial Relations Code and Rule 41(7))
(Application to be submitted before the Tribunal in the matter not settled
By the Conciliation Officer)

Before .....(here mention the name of the Tribunal having jurisdiction over the area)
In the matter of : .....Applicant Address .....

Versus

Address .....
The above mentioned applicant begs to state as follows:-
(Here set out the relevant facts and circumstances of the case):-
The applicant prays that the instant dispute may please be admitted for adjudication and request to pass appropriate Award.

Date.....
Place.....

Form-O

Registration of settlement
(see rule 43)

Registration No.	Name and address of the parties to settlement	Terms of settlement	Date of settlement	Date of registration	Signature of the registering authority	Remarks, if any
1	2	3	4	5	6	7

Form-P

Certificate of registration
(see rule 43)

It is hereby certified that the memorandum of settlement, dated.....arrived at between.....as per copy enclosed has been registered under the Industrial Relation Code, 2020, this.....day of.....month of.....year.....

Conciliation Officer, Uttarakhand and the
Certifying Authority

FORM-Q

(See Rule 45)

(Notice of Strike to be given by Union/some of Union's/Group of Workers)

Name of the five elected representatives of workers.....

Date the .....day of .....20.....

(The name of the employer).

Dear sir /Sirs,

In accordance with the provisions contained in sub-section (1) of section 62 of the Industrial Relation code I/We hereby give you notice that I propose to call a strike /we propose to go on strike on.....20.....

For the reasons explained in the annexure.

Yours faithfully.

(secretary of the Union)

Five representatives of the workers duly elected at a meeting held on .....(date), vide resolution attached.]

ANNEXURE

Statement of the Case.

Copy to;

1) Deputy Labour Commissioner , of the concerned area.
2) Labour Commissioner Uttarakhand.

Secretary, Labour Government of Uttarakhand.

FORM-R

(Under Section 62 of the Industrial Relations Code and Rule 45)

(Notice of Lock-out to be given by an employer of an industrial establishment)

Name of employer.....

Address.....

Dated the .....day of.....20.....

In accordance with the provisions of 62(1) of this code, I/we hereby give notice to all concerned that it is my/our intention to with effect lock out in.....department(s), section (s) of my/our establishment with effect from.....for the reasons explained in the annexure.

Signature.....

Designation.....

ANNEXURE

1.	Statement of reasons

Copy forwarded to:

(1) The Secretary of the registered Union, if any

(2) Conciliation officer .....[Here enter officer address of the Assistant Labour Commissioner/Deputy Labour Commissioner.

(3) Secretary, Labour, Government of Uttarakhand.

(4) Labour Commissioner, Uttarakhand.

(5) To the officer of DG Labour Bureau.

Form-S

(Under Section 70, 74 of the Industrial Relations Code and Rule 47, 48)

Notice of intimation of Retrenchment/ Closure to be given by an employer to the State Government under the provision of Chapter IX of the Industrial Relations Code, 2020 and rules made there under)
(To be submitted online .In case of exigencies, on paper in the prescribed format below)
Name of Industrial Establishment /undertaking/Employer.....
Labour Identification number.....

DATED .....(Note: The intimation for Closure/Retrenchment to the appropriate government shall be served 60 days and 90 days before commencement of closure/Retrenchment respectively)
To,
(i) The Secretary, Labour Government of Uttarakhand.
(ii) Labour Commissioner Uttarakhand.
(iii) Regional Deputy Labour Commissioner.

1. (Retrenchment) (a) Under Section 70(C)of this Code,we*hereby intimate you that I*/we* have decided to retrench.....workers** out of a total of.....Workers** with effect form .....(DD/MM/YYYY)

Or

[Closure](b)Under Section 74(1)of this Code,I/we hereby intimate you the I* /we* have decided to close down,.....(name of the industrial establishment or undertaking) with effect from.....(DD/MM/YYYY).The number of workers whose services would be terminated on account of the closure of the undertaking is .....(number of workers)

2. The reasons for Retrenchment / closure is.....

.....

3. *The worker (s)* concerned were given on the .....(DD/MM/YYYY) one month's notice in writing as required under section 70(a)*/section 75(1)*of this Code.

Or

The worker (s) concerned have been given on the .....(DD/MM/YYYY) one month's pay in Lieu of the notice as required under section 70(a)/section 75(1)*of this Code.

4. *I/*we* hereby declare that the worker(s) concerned have been */will be* paid all their dues along with the compensation due to them under section 70*/ section 75* of this code before or on the expiry of the notice period.

or

I/we hereby state that currently insolvency proceedings are on in respect of the said industrial establishment/Undertaking/Employer, and that I**/we* will pay all the dues along with the compensation due to them under concerned laws.

5. (Retrenchment) I/we* hereby declare that the worker(s) concerned have been*/ will be* retrenched in compliance to the section 70 and section 72 of this code.

6. I*/we* hereby declare that no court case is pending before any court in the matter, and if yes, the details thereof have been annexed.

7. I*/we* hereby declare that the above information given by me*/us* in this notice and the Annexures is true . I*/we* am*/are* solely responsible for its accuracy and no facts/ materials has been suppressed in the matter.

Yours faithfully,

(Name of Employer/***Authorised Representative with seal)

(*Strike off which is not applicable.)
(**Indicate number in figures and words both)
(***copy of authorisation letter issued by the employer shall be enclosed)

Copy to:
(1) To the office of DG Labour Bureau, Ministry of Labour and Employment, (Only for statistical purpose.)
(2) Labour commissioner, Uttarakhand.
(3) Secretary, Labour, Government of Uttarakhand.
(4) Deputy Labour Commissioner of the concerned area.
(5) To the registered unions/authorized representatives of workers operating in the establishments or undertaking.

FORM-T

[see rule 50, 52, 54]

[Application for permission of lay-off/ continuation of lay-off/Retrenchment/ Closure to be given by an employer / Industrial establishment /Undertaking to the State Government under the provisions of chapter X of the Industrial Relations code, 2020 and rules made there under]

(To be submitted online. In case of exigencies on paper in the prescribed format below)

Name of Industrial Establishment or Undertaking or Employer.....

Labour Identification number.....

Dated.....

(note: the application to the central government shall be served as indicated below:

Lay-off : at least 15 days before the intended lay-off

Continuation of lay-off –at least 15 days before the expiry of earlier lay-off

Retrenchment: at least 60 days before the intended date of retrenchment

Closure –at least 90 days before the intended date of closure)

To,

The Secretary Labour Government of Uttarakhand.

1. *[lay-off] (a) under section 79(2) of the Industrial relations code, 2020, I*/we* hereby apply for *permission to lay-off .....workers** out of total of.....workers** employed in my*/our* establishment. (details to be given in Annexe) with effect from.....(DD/MM/YYYY).

Or

[continuation of lay-off] (b) under section 79(3) of the industrial relations code, 2020, I/we* hereby apply for permission to continue the lay-off .....workers out of total of .....laid off workers** in my*/our* establishment (details to be given in annex-I)with effect from.....(DD/MM/YYYY).

Or

[Retrenchment] (c) under section 79(2) of the industrial relations code,2020, I/we* hereby apply for permission for intended retrenchment of details to .....workers out of total of employed in my*/our* establishment (detail to be given in annex-I)with effect from.....(DD/MM/YYYY).

Or

[closure] (d) Under section 80(1) of the industrial relations code, 2020, I/we hereby inform you that I*/we* intended to close down the undertaking .....(name of the industrial establishment or undertaking or employer) (details to be given in annex-I)with effect from.....(DD/MM/YYYY). the number of workers whose services would be terminated on account of the closure of the undertaking is.....(number of workers)

2. *[lay-off/continuation of lay-off] the worker(s) concerned were given on.....(DD/MM/YYYY) notice in writing as required under section 79(2)*/section 79(3)* of this code.

Or

[Retrenchment / Closure] The worker(s) concerned were given on.....(DD/MM/YYYY) one month's notice as required under section 79/section 80* of this code.

or

[Retrenchment / Closure] The worker(s) have been given on.....(DD/MM/YYYY) one month's pay in lieu of notice as required under section 79/section 80* of this code.

3. The details of affected worker(s) is at Annexure II.

4. [Retrenchment] I*/we* hereby declare that the workers concerned will be retrenched in compliance to the Section 71 and section 72 of this Code.

5. *I/we* hereby declare that the workers concerned have been*/will be paid all the dues and compensation due to them under section 87, read with section 79(10)*/ section 79*/section 80* of this Code before or on the expiry of the notice period.

Or

I/We hereby state that currently insolvency proceedings are on in respect of the said Industrial Establishment/ Undertaking/ Employer, and that I*/we* will pay all the dues along with the compensation due to them under concerned laws.

6. I/we* hereby declare that no court case in pending before any Court in the matter , and if yes , the details thereof have been Annexed.

7. I/we hereby declare that the above information given by me/ us* in this notice and enclosures is/ are* true, I/we am/ are solely responsible for its accuracy and no facts/ materials had been suppressed in the matter.

The permission sought for may please be granted.

Yours faithfully,

(Name of Employer/***Authorised Representative with seal)

(* Strike off which is not applicable)

(** Indicate number in figures and word both)
(*** Copy of Authorization letter issued by the employer shall be enclosed)

ANNEXURE I

(Please give replies against each item)

1	Name of the undertaking with complete postal address, email, mobile and land line.	
2	Status of undertaking— Where Central public sector/State public sector/etc, Where a private limited company/ partnership firm/ partnership firm Whether the undertaking is Licensed/registered and if so, name of licensing/ registration authority and licence/registration certificate number.	
3	(a) MCA Number (b) GSTN Number	
4	Annual production, item wise for preceding three years Production figures, month wise, for the preceding twelve months.	
5	Audit report of establishment/ undertaking including Balance sheets, profit and loss accounts for the last three years.	To be annexed
6	Name of the inter-connected companies or companies under the same management.	
7	Details of lay-off/ Retrenchment reported to in the last three years including the periods of such lay-offs/ Retrenchment the number of workmen involved in each such lay-off/ Retrenchment / continuation of lay-off	
8	Any other relevant details which have bearing on lay-off / continuation of lay off/ retrenchment / closure.	

(Details of affected workers)

Sl. No	UAN/ CMPFO	Name of the Worker	Category (Highly Skilled/ skilled /Semi-skilled / unskilled)	Date from which in service in/with the said establishment/ Undertaking/ Employer	Wages as on date of Application	Remark

FORM-U

(See Rule 58(1))

Notice to the Employer who committed an offence for the first time under this code, for compounding of offence under sub-section (4) of section 89.

The undersigned and the Compounding Officer under sub-section 1 of section 89 of the Industrial Relation Code, 2020 hereby intimates that the allegation has been made against you for committing offence for the violation of various provision of this Code as per the details given below;—

PART-I

1. Name and address of the offender Employer.....
2. Address of the Establishment.....
3. Particulars of the offence.....
4. Section of the Code under which the offence is committed.....
5. Compounding amount required to be paid towards composition of the offence.....

PART-II

You are advised to deposit the above mentioned amount within fifteen days from the date of issue of this notice for compounding the offence as per section 89 (1) of the Industrial Relation Code, 2020, along with an application duly filled in part-III of this notice.

In case you fail to deposit the said amount within the specified time, no further opportunity shall be given and necessary direction for filing of prosecution under section—— shall be issued.

(Signature of the Compounding Officer)

Date:
Place:

PART-III

Application under sub-section (4) of section 83 for compounding of offence

1. Name of applicant (name of the employer who committed the offence under the Industrial Relation Code2020 to be mentioned).....
2. Address of the applicant.....
3. Particulars of the offence .....
4. Section of the Code under which the offence has been committed.....
5. Details of the compounding amount deposited (electronically generated receipt to be attached) .....
6. Details of the prosecution, if filed for the violation of above mentioned offences may be given .....
7. Whether the offences is first offence or the applicant had committed any other offence prior to this offence, if committed, then, full details of the offence .....
8. Any other information which the applicant desires to provide .....

Applicant
(Name and signature)

Dated:
Place:

FORM-V

(Complaint under Section 91 of the Industrial Relation Code,2020 and Rule 60)

Before the Conciliation officer / Arbitrator/ Tribunal or, State Tribunal———,

In the matter of :..... Reference No.....

A..... Complainant(s);

Versus

B..... Opposite party(ies).

Address:

The petitioner(s) begs/beg to complain that the Opposite Party(ies) has/have been guilty of a contravention of the provisions of section 90 of the Industrial Relation code, as shown below:

(Here set out briefly the particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the management is challenged.)

The complainant(s) accordingly prays/pray that the Conciliation officer/ Arbitrator/ Industrial Tribunal or State Tribunal may be pleased to decide the complaint set out above and pass such order or orders thereon as its may deem fit and proper.

The number of copies of the complaint and its annexure required under rule 91 of the Industrial Relation Code are submitted herewith.

Dated this .....day of.....20..... Signature of the Complainant(s)

Verification

I do solemnly declare that what is stated in paragraph.....above is true to my knowledge and that what is stated in paragraphs.....above is stated upon information received and believed by me to be true. This verification is signed by me at .....on .....day of .....20.....

Signature

Or thumb impression of the person verifying

By Order,

DR. SRIDHAR BABU ADDANKI,
Secretary.

पीएसएमयू (आरएलई) 12/ श्रम/ 388–2020–100+100 प्रतियां (कम्प्यूटर/ पीजियो)।