

UT Administration of Dadra Nagar Havel and Daman & Diu
Department of Labour & Employment,
Daman – 396210

No. DDD/SS Regulation-2025/158

Dated: - 17-06-2025

PUBLIC NOTICE

The Union Territory of Dadra and Nagar Haveli and Daman and Diu has been an industrially progressive Territory and become an industrial hub. The Administration has taken various measures for labour reforms, ease of compliance of laws as per the guidelines issued by the Government of India and a substantial progress has been made in various labour and employment issues.

With the changing industrial scenario, there is a need felt to have a Regulation based on the Code on Social Security, 2020 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.

A copy of draft of "the Dadra and Nagar Haveli and Daman and Diu Social Security Regulation, 2025" is published herewith for inviting comments from all stakeholders. If there is any comment / view / suggestion, the same may be forwarded to the Commissioner-cum-Secretary (Labour), Dadra & Nagar Haveli & Daman & Diu, Secretariat, Vidyut Bhawan, Kachigam, Nani Daman within 30 days of issue of this notice.

(Priyanshu Singh)

Deputy Director-cum-Deputy Secretary (Labour)
DNH & DD

Encl : As Above

To,

- (1) The Director (IT), DNH & DD with request to please upload this notice along with draft Regulation on the Official Website UT of Dadra & Nagar Haveli and Daman & Diu.
- (2) The Joint Director (Printing Press), Daman with request to publish this notice along with draft Regulation in the Official Gazette.

THE DADRA AND NAGAR HAVELI AND DAMAN AND DIU
SOCIAL SECURITY REGULATION, 2025

NO. OF 2025

A Regulation 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 organized or unorganised or any other sectors and for matters connected therewith or incidental thereto.

To be promulgated by the President in the Seventy-Sixth Year of the
Republic of India

CHAPTER I

PRELIMINARY

(DRAFT REGULATION)

1. (1) This Regulation may be called the Dadra and Nagar Haveli and Daman and Diu Social Security Regulation 2025

Short title,
extent,
commencement
and application.

(2) It extends to the whole of Union Territory of Dadra and Nagar Haveli and Daman and Diu.

Provided that the provisions of this Regulation shall not be applicable 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.

(3) It shall come into force on such date as the Administrator of Dadra and Nagar Haveli and Daman and Diu may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Regulation and any reference in any such provision to the commencement of this Regulation 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 Regulation, be such as is specified in corresponding entry in column (3) of that Schedule.

(5) 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 Regulation to any establishment employing not less than such number of persons as may be specified in the notification.

(6) 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.

2. In this Regulation, unless the context otherwise requires,—

Definitions.

(1) "agent" when used in relation to an establishment, means every person, whether appointed as such or not, who Regulationing or purporting to Regulation 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— the Administrator of Dadra and Nagar Haveli and Daman and Diu :

Provided that the Central Government shall continue to be the appropriate Government in respect of the establishments owned, controlled by the Central Government or any other establishments as prescribed by the Central Government under any Central Acts or Regulations.

(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) "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, aquaducts, 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;

(6) "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;

(7) "Building Workers' Welfare Board" means the Union Territory Building and other Construction Workers' Welfare Board constituted under sub-section (1) of section 6;

(8) "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;

(9) "child", for the purposes of Chapter IV, includes a stillborn child;

(10) "Commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;

18 of 2013

(11) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;

(12) "compensation" means compensation as provided under Chapter V;

(13) "competent authority" means any authority appointed under section 17 for the purposes of Chapter III or notified for the purposes of Chapter IV or appointed under section 50 for the purposes of Chapter V, as the case may be, as competent authority by the appropriate Government or the Administrator of Dadra and Nagar Union Territory of Dadra and Nagar Haveli and Daman and Diu, as the case may be;

(14) "completed year of service" means continuous service for twelve months;

(15) "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;

(16) "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;

(17) "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 manufacturer 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;

(18) "contribution" means the sum of money payable by the employer, under this Regulation, 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 Regulation;

(19) "Corporation" means the Employees' State Insurance Corporation constituted under section 5;

(20) "delivery" means the birth of a child;

(21) "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:

(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; 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;

52 of 1961.

(22) "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, 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 V, 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 Administrator of Dadra and Nagar Haveli and Daman and Diu may add to the said Schedule, by notification, for the purposes of that Government;

(23) "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 any department of the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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;

(24) "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 V, whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India;

(25) "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, audiovisual production, building and other construction work or plantation; or
- (c) a mine, port or vicinity of port where dock work is carried out

(26) "executive officer" means such officer of the appropriate Government as may be notified by that Government for the purposes of Chapter XI or an officer authorised in writing by such executive officer to discharge his duties under that Chapter;

(27) "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,
- (c) 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;

(28) "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;

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 ;

(29) "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;

(30) "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;

(31) "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;

(32) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under section 81;

(33) "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;

(34) "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;

(35) "maternity benefit", in respect of Chapter IV, means the payment referred to in sub-section (1) of section 19;

(36) "medical practitioner" means a person registered under any law for the time being in force, or, any person declared by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, by notification, to be qualified as medical practitioner for the purposes of this Regulation:

34 of
1971.
35 of
1952.

(37) "medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of the Medical Termination of Pregnancy Act, 1971;

(38) "mine" shall have the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952;

(39) "minor" means a person who has not attained the age of eighteen years;

45 of
1860.

(40) "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, the causing of which is punishable under the Indian Penal Code;

(41) "National Social Security Board" means the National Social Security Board for Unorganised Workers constituted under sub-section (1) of section 5;

(42) "notification" means a notification published in the Gazette of India or the Official Gazette of the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(43) "occupational disease" means a disease specified in the Third Schedule as a disease peculiar to the employment of the employee;

(44) "occupier" in respect of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

18 of
2013.

- (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 Act, 2013;
- (c) in the case of a factory owned or controlled by Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu or any local authority, the person or persons appointed to

manage the affairs of the factory by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 of
1948.

(45) "oilfield" shall have the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948;

(46) "organised sector" means an enterprise which is not an unorganised sector;

(47) "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;

(48) "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.;

(49) "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 Union Territory Administration of Dadra and Nagar Haveli and

Daman and Diu, 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Regulation; 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;

(50) "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;

(51) "platform worker" means a person engaged in or undertaking platform work;

(52) "port" shall have the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908;

(53) "prescribed" means prescribed by rules made under this Regulation;

(54) "Recovery Officer" means any officer of the Central Government, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, the Central Board or the Corporation, who may be authorised by the Central Government or the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be, by notification, to discharge the functions and to exercise the powers of a Recovery Officer under this Regulation;

(55) "Regulations" means Regulations made by the Corporation under this Regulation;

(56) "retirement" means termination of the service of an employee otherwise than on superannuation;

15 of
1908.

(57) "sales promotion employees" means the sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976;

(58) "Schedule" means a Schedule to this Regulation;

(59) "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;

(60) "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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu;

(61) "shop", means a shop as defined in any law for the time being in force dealing with the shop in the Union Territory of Dadra and Nagar Haveli and Daman and Diu;

(62) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical ground;

(63) "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 Regulation;

(64) "Social Security Organisation" means any of the following organisations established under this Regulation, 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 5;
- (d) the State Unorganised Workers' Social Security Board constituted under section 5;
- (e) the State Building and other Construction Workers' Welfare Boards constituted under section 6; and
- (f) any other organisation or special purpose vehicle declared to

be the social security organisation by the Central Government;

(g) "State Government" includes—

i. in relation to a Union territory with legislature, the Government of the Union territory; and

in relation to a Union territory without legislature, the administrator appointed under article 239 of the Constitution as an administrator thereof;

(65) "State Unorganised Workers' Board" means the Union Territory Unorganised Workers' Social Security Board constituted under subsection (2) of section 5;

(66) "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:

(67) "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;

14 of 1947. (68) "Tribunal" means the Industrial Tribunal constituted by the appropriate Government under section 7A of the Industrial Disputes Act, 1947;

(69) "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;

14 of 1947. (70) "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 Regulation;

(71) "vacancy", for the purposes of Chapter XI, 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;

(72) "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;

(73) "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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be;

(74) "woman" means a woman employed, whether directly or through any contractor, for wages in any establishment:

3. (1) Every establishment to which this Regulation applies shall be electronically or otherwise, registered within such time and in such manner as may be prescribed by the appropriate Government.

Registration
and
cancellation of
an
establishment.

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 Regulation and such registration shall be deemed to be registration for the purposes of this Regulation:

(2) 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 appropriate Government.

CHAPTER II

SOCIAL SECURITY ORGANISATIONS

4. (1) Constitution of Board of Trustees of Employees' Provident Fund shall be as prescribed by the Central Government under the Central Act.

Constitution of
Board of
trustees of
employees
provident fund

5. (1) The constitution of the National Social Security Board and its functions shall be as prescribed by the Central Government under the corresponding Central Act.

National Social
security board
and state
unorganized
workers board

(2) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall, by notification, constitute a Union Territory Board to be known as Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Social Security Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Regulation, in such manner as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(3) The Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Social Security Board shall consist of the following members, namely:—

- (a) Commissioner-cum-Secretary (Labour), DNH & DD as Chairperson
- (b) Additional Labour Commissioner (Daman / DNH / Diu)
- (c) one member representing the Central Government in the Ministry of Labour and Employment;
- (d) thirty-one members to be nominated by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, out of whom—
 - (i) seven representing the unorganised workers;
 - (ii) seven representing employers of unorganised workers
 - (iii) two members representing the Local Bodies of the Union Territory of Dadra and Nagar Haveli and Daman and Diu;
 - (iv) five members representing eminent persons from civil society;
 - (v) ten members representing the Departments concerned in the Union Territory of Dadra and Nagar Haveli and Daman and Diu; and
 - (vi) Member-Secretary as notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(4) All members except Chairperson of the Union Territory Unorganised Workers' Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(5) 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 Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board shall be such as may be prescribed by the Administrator of Dadra and Nagar Haveli and Daman and Diu :

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.

(6) The term of the Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board shall be three years.

(7) The Dadra and Nagar Haveli and Daman and Diu 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 Administrator of Dadra and Nagar Haveli and Daman and Diu.

(8) The Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board shall perform the following functions, namely:—

- (a) recommend the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu for framing suitable schemes for different sections of the unorganised sector workers;
- (b) advise the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu on such matters arising out of the administration of this Regulation as may be referred to it;
- (c) monitor such social welfare schemes for unorganised workers as are administered by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu;
- (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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu from time to time.

(9) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by notification, constitute with effect from such date as may be specified therein, one or more advisory committee to advise the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu upon such matters arising out of the administration of this Regulation relating to unorganised workers and such other matters as the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may refer to it for advice.

6. (1) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the Dadra and Nagar Haveli and Daman and Diu 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 VI.

(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.

Constitution of
State Building
Workers'
Welfare Boards.

(3) The Building Workers' Welfare Board shall consist of a chairperson to be nominated by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu:

Provided that the Building Workers' Welfare Board shall include an equal number of members representing the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(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 Regulation.

(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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu upon such matters arising out of the administration of this Regulation relating to building workers and such other matters as the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may refer to it for advice.

7. (1) No person shall be chosen as, or continue to be, a member of a Social Security Organisation, or any Committee thereof who,—

Disqualification and removal of a member of any social security organization

- (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 Regulation ;
- (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 Administrator of Dadra and Nagar Haveli and Daman and Diu may remove any member of Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board and the Building Workers' Welfare Board 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu:

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:

(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 Administrator of Dadra and Nagar Haveli and Daman and Diu, 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, Administrator of Dadra and Nagar Haveli and Daman and Diu, 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 the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, the member thereof representing the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu cannot continue to represent the Government, then, Administrator of Dadra and Nagar Haveli and Daman and Diu 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.

8. (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 under the corresponding Central Act.

Procedure for
transaction of
business of
Social Security
Organisation,
etc..

(2) All orders and decisions of the Social Security Organisation shall be authenticated by the Secretary (Labour), Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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.

9. (1) If the Administrator of Dadra and Nagar Haveli and Daman and Diu, is of the opinion that the Dadra and Nagar Haveli and Daman and Diu 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 the Administrator of Dadra and Nagar Haveli and Daman and Diu may, by notification, supersede the Union Territory 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:

Supersession of Corporation, Central Board, National Social Security Board or State Unorganised Workers' Board or the Building Workers' Welfare Board.

Provided that, before issuing a notification under this sub-section on any of the grounds specified herein, Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall give an opportunity to the Dadra and Nagar Haveli and Daman and Diu 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 Union Territory 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 Administrator of Dadra and Nagar Haveli and Daman and Diu shall make such alternate arrangements for the purpose of administration of the relevant provisions of this Regulation, as may be prescribed by the Central Government.

(3) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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, 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).

10. (1) The constitution and functions of the Board of Trustees shall be as prescribed by the Central Government under the Central Acts.

State Board, Regional Boards, local committees, etc.

11. Notwithstanding anything contained in this Regulation, 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

Entrustment of additional functions to Social Security Organisations.

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 GRATUITY

12. (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:

Payment of
gratuity

45 of 1955

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:

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 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

(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 the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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

13. 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 Regulation;

Continuous
service.

(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;

(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.

14. (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.

Nomination.

(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

15. (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.

Determination
of amount of
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.

5 of 1908. (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:—

(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.

45 of 1860. (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.

(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.

41 of 1999. 16. (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 the control of, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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:

Compulsory insurance.

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

43 of
1961.

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.

17. (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.

Competent
authority

(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 IV MATERNITY BENEFIT

18. (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.

Employment of,
or work by,
women
prohibited
during certain
period.

(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 21, 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.

19. (1) Subject to the other provisions of this Regulation, 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.

Right to
payment of
maternity
benefit.

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 Dadra and Nagar Haveli and Daman and Diu Wages Regulation, 2025.

(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.

20. Every woman entitled to the payment of maternity benefit under this Chapter, shall, notwithstanding the application of ESI to the

Continuance of
payment of
maternity

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.

benefit in certain cases.

21. (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.

Notice of claim for maternity benefit and payment thereof.

(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.

22. 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 19, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 21 and in case there is no such nominee, to her legal representative.

Payment of maternity benefit in case of death of a woman.

23. 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.

Payment of medical bonus.

24. (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.

Leave for miscarriage, etc.

(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 21, 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.

25. 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.

Nursing breaks.

26. (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:

Creche facility.

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, Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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.

27. (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:

Dismissal for
absence during
pregnancy.

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.

28. 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—

No deduction of
wages in
certain cases.

(a) the nature of work assigned to her by virtue of the provisions contained in section 18; or

(b) breaks for nursing the child allowed to her under the provisions of section 25

29. 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.

Forfeiture of
maternity
benefit.

30. 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.

Duties of
employer.

31. (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 V EMPLOYEE'S COMPENSATION

32. (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:

Power of
Inspector-cum-
Facilitator to
direct payments
to be made.

Reports of fatal
accidents and
serious bodily
injuries.

Provided that where the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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.

33. (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:

Employer's
liability for
compensation.

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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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 within the Union Territory of Dadra and Nagar Haveli and Daman and Diu, as if such diseases had been declared by this Regulation 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.

34. 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 35 and the Sixth Schedule, so far as may be applicable.

Compensation
in case of death
of or injury in
plantation.

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.

35. (1) Subject to the provisions of this Chapter, the amount of compensation shall be,—

Amount of
compensation.

(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

Power of
InspectorcumFaci
litator to direct
payments to be
made.

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 monthly wages in relation to an employee for the purposes of sub-section (1) shall be as specified by the Central Government by notification, under the corresponding Central Acts.

(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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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.

36. (1) Compensation under section 35 shall be paid as soon as it falls due.

Compensation to be paid when due and damages for default.

(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.

37. 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:—

Method of calculating monthly wages for purposes of compensation.

(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.

38. (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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu on application made without such certificate.

Review.

(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.

39. 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.

Commutation of half monthly payments.

40. (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:

Distribution 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

41. (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:

Notice and
claim.

Provided that where the accident is the contracting of a disease in respect of which the provisions of sub-section (3) of section 33 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 33 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.

42. (1) The provisions of this section shall, as far as its applicability, in case of following employees, shall be as prescribed by the Central Government under the Central Acts. —

Special provisions relating to accidents

(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.

(2) The serving of notice of the accident in cases of following employees, shall be as prescribed by the Central Government under the Central Acts.—

(a) a seamen, but not the master of the ship;
(b) a member of crew of an aircraft, but not 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu to that effect Government was furnished to the person commencing the proceedings.

43. (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:

Medical examination.

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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(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 35, 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.

44. (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

Contracting.

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.

45. 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 44 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Remedies of employer against stranger.

46. (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

Insolvency of employer.

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.

(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.

47. (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

Power to require from employers statements regarding fatal accidents.

31 of 2016
18 of 2013

the service of the notice, a statement, in such form as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

48. (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:

Registration of agreements.

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.

9 of 1872 (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.

(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 35, 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.

49. (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.

Reference to
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.

50. (1) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by notification, appoint any person who is or has been a member of a Union Territory 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.

Appointment of
competent
authority

(2) Where more than one competent authority has been appointed for any area, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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.

51. (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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, be done by or before the competent authority for the area in which—

Venue of proceedings and transfer.

- (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, except in the manner as prescribed by the Central Government under the corresponding Central Act.

(2) If a competent authority, other than the competent authority with whom any money has been deposited under section 40, 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 Union Territory of Dadra and Nagar Haveli and Daman and Diu or not, he may, subject to rules made under this Regulation 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 Regulation 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may transfer any matter from any competent authority appointed by it to any other competent authority appointed by it.

52. (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.

Form of application.

(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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

53. (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.

Power of competent authority to require further deposit in cases of fatal accident.

(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.

5 of 1908
2 of 1974

54. 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

Powers and procedure of competent authority.

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.

55. 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 81 or by any other officer specified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu in this behalf, authorised in writing by such person, or, with the permission of the competent authority, by any other person so authorised.

Appearance of parties.

56. 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu and shall form part of the record:

Method of recording evidence.

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.

57. 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.

Power to submit cases.

58. (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 36;
- (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 44; or
- (f) an order refusing to register a memorandum of agreement or

Appeal against order of competent authority.

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 VI

SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS

59. (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

Levy and
collection of
cess.

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 V.

(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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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.

60. If any employer fails to pay any amount of cess payable under section 59 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.

Interest payable on delay in payment of cess

61. 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 the Union Territory of Dadra and Nagar Haveli and Daman and Diu.

Power to exempt from cess.

62. (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 59 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 82.

Self-assessment of cess

(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.

63. If any amount of cess payable by any employer under section 62 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

Plenty for non payment of cess within the specified time

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.

64. (1) Any employer aggrieved by an order of assessment made under section 62 or by an order imposing penalty made under section 63 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.

Appeal to
appellate
authority.

(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.

65. 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.

Cessatio
n as
Benefici
ary

66. (1) A building worker who has been registered as a beneficiary under section 65 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:

Registration of
Building
Workers as
Beneficiary

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.

67. (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—

Building &
Other
Construction
Workers'
Welfare Fund
and its
application

(a) the amount of any cess levied under sub-section (1) of section 59

(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 6;

(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 VII

SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS

68. (1) The welfare schemes for unorganised workers on following matters framed and notified by the Central Government from time to time shall be applicable to the Union Territory of Dadra and Nagar Haveli and Daman and Diu,

Framing of
schemes for
unorganised
workers.

(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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu
- ; or
- (iii) partly funded by the Central Government, partly funded by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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.

(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
- (viii) 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.

69. (1) Any scheme notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under sub-section (2) of section 68 may be—

- (a) wholly funded by the Union Territory of Dadra and Nagar Haveli and Daman and Diu
- ; or

Funding of
State
Government
schemes.

- (b) partly funded by the Union Territory of Dadra and Nagar Haveli and Daman and Diu, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the Union Territory of Dadra and Nagar Haveli and Daman and Diu; or
- (c) funded from any source including corporate social responsibility fund referred to in clause (iv) of sub-section (3) of section 68 or any other such source as may be specified in the scheme.

(2) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

70. 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:

Record keeping

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.

71. 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:—

Helpline facilitation center, etc., for unorganized workers, gig workers and platform workers

- (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.

72. (1) Every unorganised worker, gig worker or platform worker

Registration of unorganized

shall be required to be registered for the purposes of this Chapter, subject to the fulfilment of the following conditions, namely:—

workers, gig
workers and
platform
workers

- (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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 97.

73. (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—

schemes for gig
workers and
platform
workers

- (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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu
; or
- (c) wholly funded by the contributions of the aggregators; or
- (d) partly funded by the Central Government, partly funded by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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
- (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 96, 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 constitution and functions of the National Social Security Board shall be as prescribed by the Central Government under the corresponding Central Acts.

(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 VIII

FINANCE AND ACCOUNTS

74. 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.

Accounts

75. (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.

Audit

(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

76. (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.

Budget
Estimates

(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.

77. (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.

Annual Report

(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.

78. Each of the fund maintained by a Social Security Organisation or by an establishment under this Regulation 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:—

Valuation of
Assets and
liabilities

(a) in case of Central Board, as prescribed by the Central Government;

(b) in case of Corporation, as prescribed by the Central Government ;

(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.

79. (1) A Social Security Organisation (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.

Holding of
Property, etc.,
by social
security
organizatrion

(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:

(3) Each of the Social Security Organisations 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 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;

80. 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 Regulation, 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:

Writing off of losses

CHAPTER IX

AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY

81. (1) The appropriate Government for the purposes of other provisions of this Regulation, may, by notification, appoint Inspector-cum-Facilitators who shall discharge his duties under this Regulation and exercise the powers conferred on them under sub-section (6) in accordance with the inspection scheme referred to in sub-section (2).

Appointment of Inspector cum Facilitators and their powers.

(2) The appropriate Government in respect of provisions of this Regulation, 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 Regulation 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 powers of the appropriate Government 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 in respect of provisions of this Regulation, by the appropriate Government;

(b) timely uploading of inspection reports in such manner and subject to such conditions as may be notified, in respect of provisions of this Regulation, by the appropriate Government;

(4) 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.

(5) 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.

82. 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) details as to cess paid in respect of building and other construction work;

(vii) total number of employees (regular, contractual or fixed term employment) on the day specified;

(Viii) persons recruited during a particular period;

(ix) occupational details of the employees; and

45
of
186
0.

Maintenance
of records,
registers,
returns, etc.

(x) 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:

83. No employer in relation to an establishment to which this Regulation or any scheme framed thereunder applies shall, by reason only of his liability for the payment of any contribution under this Regulation, , or any charges thereunder reduce whether directly or indirectly, the wages of any employee to whom the provisions of this Regulation 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.

Employer not to reduce wages, etc.

84. (1) Any amount due from an employer or any other person in relation to an establishment including any 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 85 to 87.

Recovery of amount due.

(2) Where any amount is in arrear under this Regulation, the competent authority 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) appointing a receiver for the management of the movable or immovable properties of the defaulter:

(c) arrest of the employer and his detention in prison;

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 competent authority 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 competent authority 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 competent authority, —

(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 competent authority

85. (1) When the competent authority issues a certificate to a Recovery Officer under section 84, 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 competent authority shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by

Validity of
certificate and
amendment
thereof.

sending intimation to the Recovery Officer

(3) Notwithstanding the issue of a certificate to a Recovery Officer, the Authorised Officer or the competent authority shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending intimation to the Recovery Officer

(4) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the competent authority 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 competent authority 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 84 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 Regulation

, the competent authority 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 Regulation, the competent authority 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.

86. (1) Notwithstanding the issue of a certificate to the Recovery Officer under section 84, any officer, so authorised by the appropriate Government in this behalf, may, recover the amount by any one or more of the modes provided in this section.

Other modes
of recovery

(2) If any amount is due from any person to any employer who is in arrears, the officer of such Social Security Organisation authorised 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 any officer of such Social Security Organisation so authorised 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.

(3) (a) The officer of Social Security Organisation authorised 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 officer authorised 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 officer of Social Security Organisation authorised 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 officer of Social Security Organisation authorised 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 Regulation, whichever is less.

(g) The officer of Social Security Organisation authorised 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 officer of Social Security Organisation authorised 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 officer of Social Security Organisation authorised 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 Regulation, 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 officer of Social Security Organisation authorised 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 84 to 87 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 84.

(4) The officer of Social Security Organisation authorised 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 officer of Social Security Organisation authorised 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.

87. The provisions of the Second Schedule and the Third Schedule to the Incometax 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 84 of this Regulation instead of to the income-tax:

Application of certain provisions of Income-tax Act.

Provided that any reference in the said provisions and the rules to the "assessee" shall be construed as a reference to an employer or establishment, as the case may be

CHAPTER X

OFFENCES AND PENALTIES

88. If any person,—

Penalty for failure to pay contributions, etc.

(a) being an employer, fails to pay any contribution which he is liable to pay under this Regulation 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 Regulation, reduces the wages or any privilege or benefits admissible to an employee; or

- (d) in contravention of the rules, Regulations or schemes made or framed under this Regulation, 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 Regulation or any rules, Regulations or schemes made or framed thereunder; or
- (f) obstructs any Inspector-cum-Facilitator or other officer or staff of the 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 Regulation ; or
- (h) fails to pay any amount of compensation to which an employee is entitled under this Regulation or
- (i) fails to provide any maternity benefit to which a woman is entitled under this Regulation ; or
- (j) fails to send to a competent authority a statement which he is required to send under any of the provision of this Regulation; or
- (k) fails to produce on demand by the Inspector-cum-Facilitator any register or document in his custody kept in pursuance of this Regulation 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 Regulation ; or
- (m) is guilty of any contravention of or non-compliance with any of the requirements of this Regulation 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 XI; 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 98 was granted; or
- (q) fails to pay any administrative or inspection charges payable under any of the schemes framed under this Regulation

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

89. Whoever, having been convicted by a court of an offence punishable under this Regulation, 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:

Enhanced punishment in certain cases after previous conviction.

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

90. (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:

Offences by companies.

(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.

91. (1) No court shall take cognizance of an offence punishable under this Regulation, except on a complaint made by the officer notified by the appropriate Government.

Cognizance of offences.

(2) Notwithstanding anything contained in sub-section (1), no prosecution under this Regulation shall be instituted for the purposes of offences relating to provisions of this Regulation, except by or with the previous sanction of 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.

92. Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator or any other officer notified for the purposes of the offences, 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

Prior opportunity before prosecution.

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93. (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—

Compounding of offences.

- (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 appropriate Government, in such manner as may be prescribed by 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 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

(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 XI

EMPLOYMENT INFORMATION AND MONITORING

94. (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.

Reporting of
vacancies to
career centres.

(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.

95. (1) The provisions of section 94 shall not apply in relation to vacancies,—

Exclusions
from
application of
this Chapter.

(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 XII MISCELLANEOUS

96. (1) The establishment of 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 be as prescribed by the Central Government under the corresponding Central Acts. Social Security Fund.

(2) There shall be established by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 Regulation relating to the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu; and
- (ii) such other sources as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, and the fund shall be administered and expended for the welfare of the unorganised workers in such manner as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

97. (1) An employee or unorganised worker or any other person, as the case may be, for— Application of Aadhaar.

- (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,

8 of 2016 under this Regulation 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

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2016 Services) Act, 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.

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(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.

98. (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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu or local bodies) or employees or class of employees, from any or all of the provisions of this Regulation or the scheme framed thereunder as may be specified in the notification and may renew for further period such exemption by like notification:

Power to
exempt
establishment.

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

(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 Regulation 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) 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.

(7) 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.

(8) 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 Regulation 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:

99. 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 Regulation in respect of the periods up to the date of such transfer:

Liability in case of transfer of establishment.

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.

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100. 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 Regulation, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members, officers and staff to be public servants.

101. No suit, prosecution or other legal proceeding shall lie against —
(i) the Central Government;

Protection of action taken in good faith.

(ii) a State Government;
 (iii) a Social Security Organisation;
 (iv) a competent authority;
 (v) any officer or staff of a Social Security Organisation; or
 any other person or authority, discharging the functions or exercising the powers under this Regulation, 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.

102. 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 Regulation 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:

Misuse of benefits.

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:

103. The Central Government may give directions to—

(i) Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu or to execute in the Union Territory of Dadra and Nagar Haveli and Daman and Diu, of any of the provisions of this Regulation; or
 any of the Social Security Organisations in respect of the matters relating to the implementation of the provisions of this Regulation.

Power of Central Government to give directions to State Government and Social Security Organisations.

104. The appropriate Government may, subject to the condition of previous publication, frame schemes not inconsistent with this Regulation, for the purposes of giving effect to the provisions thereof.

Power to frame schemes.

105. (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 or V of any member of any fund under this Regulation, 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.

Protection against attachment, etc.

(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.

106. (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.

Power to
amend
Schedule.

(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.

107. Notwithstanding anything contained in this Regulation, 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, shall, after the commencement of this Regulation, continue to exercise the powers and discharge the functions of the corresponding organisation under this Regulation, till a new Board is constituted under this Regulation or till the respective time period under the repealed enactment expire, whichever is earlier.

Transitional
provisions.

108. (1) The appropriate Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Regulation for the purpose of giving effect to the provisions thereof.

Power of
appropriate
Government
to make rules.

(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 6;
- (b) 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 12;
- (c) 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 14;
- (d) 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 15;
- (e) 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 16;
- (f) the qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 17;
- (g) authority to whom an appeal may be preferred under sub-section (3) of section 31;
- (h) class of employers and the form of notice-book under sub-section (4) of section 41;
- (i) the manner of recording the memorandum in a register by the competent authority under sub-section (1) of section 48;
- (j) such other experience and qualifications for appointment as a competent authority under sub-section (1) of section 50;
- (k) time limit to pay the amount of cess under section 60;

- (l) fees for appeal under sub-section (2) of section 64;
- (m) 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 79;
- (n) conditions and manner of writing off irrecoverable dues under section 80;
- (o) other powers of Inspector-cum-Facilitator under clause (e) of sub-section (6) of section 81;
- (p) 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 82;
- (q) the form and manner of application for compounding of an offence under sub-section (4) of section 93;
- (r) 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 94;
- (s) 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 98;
- (t) manner of determining the misuse of any benefit by an establishment or by any other person under section 102; and
- (u) any other matter which is required to be, or may be, prescribed

by the appropriate Government under the provisions of this Regulation.

109. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Regulation, for the purpose of giving effect to the provisions thereof.

Power of
Central
Government
to make rules.

(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) manner of establishment and maintenance of career centre and the career services under clause (8), the income of dependant parents (including father-in-law and mother-in-law of a woman employee), under sub-clause (e) of clause (28) 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 (44), of section 2;
- (b) the manner of administration of the funds vested in the Central Board under sub-section (1),
- (c) other welfare measures and facilities under clause (j) of sub-section (6) of section 6;
- (d) 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 8;
- (e) manner of reconstitution of 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 Regulation under sub-section (2) of section 9;
- (f) 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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu 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 16;

(g) the form of notice under sub-section (1) and the proof of pregnancy and proof of delivery under sub-section (5) of section 21;

(h) 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 24;

(i) the duration of breaks under section 25;

(j) the number of employees and distance for crèche facility under sub-section (1) of section 26;

(k) gross misconduct under the second proviso to sub-section (1) of section 27;

(l) rate of interest to be paid by the employer under clause (a) of sub-section (3) of section 36;

(m) the manner of notice under sub-section (1) and the manner of transmitting money under sub-section (3), of section 51;

(n) the form, manner and fee for application for claim or settlement under sub-section (3) of section 52;

(o) 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 59;

(p) the rate of interest in case of delayed payment of cess under section 60;

(q) the manner of self-assessment of cess under sub-section (1) of section 62;

(r) the authority to inquire and impose penalty under section 63;

(s) time limit to prefer appeal, appellate authority, form and manner of appeal under sub-section (1) of section 64;

(t) manner of registration as beneficiary under section 65;

(u) benefits of a beneficiary under sub-section (2) of section 66;

(v) 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 72;

(w) carrying out the matters specified in clause (i) of sub-section (7) of section 73;

(x) manner of compounding of offences under sub-section (1) of section 93;

(y) 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 98; and

(z) any other matter which is required to be, or may be, prescribed by the Central Government under the provisions of this Regulation.

110. (1) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Regulation, for the purpose of giving effect to the provisions thereof.

Power of State Government to make rules.

(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 Union Territory Unorganised Workers' Board under sub-section (2), 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 (5), and the time, place and rules of procedure relating to the transaction of business at its meetings under sub-section (7) of section 5;
- 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 6;

- c) 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 35;
- d) conditions when application for review is made without certificate of a medical practitioner under sub-section (1) of section 38;
- e) the frequent interval for medical examination under the proviso to sub-section (1) of section 43;
- f) the form of statement to be submitted by the employer under sub-section (1) of section 47;
- (g) the manner in which matters may be dealt with by or before a competent authority under sub-section (1) of section 51;
- (h) time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 52;
- (i) the manner of authentication of memorandum under section 56;
- (j) such other sources of funding and the manner of administering and expending of the fund under sub-section (2) of section 96; and
- (k) any other matter which is required to be, or may be, prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under the provisions of this Regulation.

111. The power to make rules, Regulations and schemes under this Regulation shall be subject to the condition of the previous publication of the same being made, in the following manner, namely:—

Prior
publication of
rules,
regulations,
etc

- (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 Regulation:

Provided that the Central Government may, in the circumstances of epidemic, pandemic or disaster, dispense with the condition of previous publication under this section.

112. (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 V 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 the Union Territory of Dadra and Nagar Haveli and Daman and Diu 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 the Union Territory of Dadra and Nagar Haveli and Daman and Diu :

Rules to give
effect to
arrangements
with other
countries for
the transfer of
money paid as
compensation.

Provided that no sum deposited under Chapter V 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 40.

(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 Regulation regarding distribution by the competent authority of compensation deposited with him shall cease to apply in respect of any such money

113. (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

Laying of
rules,
regulations
and schemes,
etc.

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 Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under this Regulation, shall be laid as soon as may be after it is made or framed, before each House of Parliament.

114. (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 Regulation:

Effect of laws and agreements inconsistent with 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 Regulation, 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 Regulation.

(2) Nothing contained in this Regulation 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 Regulation.

115. 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

Delegation of powers.

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.

116. (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 Regulation, as may be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

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 Regulation.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

117. (1) The following enactments, especially in its implementation to the Union Territory of Dadra and Nagar Haveli and Daman and Diu, are hereby repealed, namely:—

Repeal
and
savings.

- | | |
|-------------|---|
| 8 of 1923. | 1. The Employee's Compensation Act, 1923; |
| 31 of 1959. | 2. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; |
| 53 of 1961. | 3. The Maternity Benefit Act, 1961; |
| 39 of 1972. | 4. The Payment of Gratuity Act, 1972; |
| 33 of 1981. | 5. The Cine-Workers Welfare Fund Act, 1981; |
| 28 of 1996. | 6. The Building and Other Construction Workers' Welfare Cess Act, 1996; |
| 33 of 2008. | 7. The Unorganised Workers' Social Security Act, 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 Regulation 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) 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 Regulation or till any direction is made thereunder for such purpose.

10 of
1897

(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.

8. The provisions of the existing The Employee's Provident Funds and Miscellaneous Provisions Act, 1952 and Employees' State Insurance Act, 1948 shall continue to be applicable in the UT of Dadra & Nagar Haveli & Daman & Diu.