

No. DDD/OSHWC Regulation-2025/155

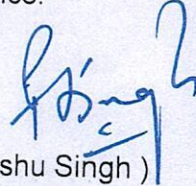
Dated: - 17-06-2025

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 on the Occupational Safety, Health and Working Conditions Code, 2020 enacted by the Parliament to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment.

A copy of draft of "the Dadra and Nagar Haveli and Daman and Diu Occupational Safety, Health and Working Conditions 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
OCCUPATIONAL SAFETY, HEALTH AND WORKING
CONDITIONS REGULATION, 2025
NO. OF 2025

A

Regulation

To consolidate and amend the laws regulating the
occupational safety, health and working conditions of the
persons employed in an establishment and for matters
connected therewith or incidental thereto.

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

*In exercise of the powers conferred by article 240 of the
Constitution, the President is pleased to promulgate the
following Regulation made by her:*

CHAPTER I
PRELIMINARY
(DRAFT REGULATION)

Short title,
commencement
and application.

(1) This Regulation may be called the Dadra and Nagar Haveli
and Daman and Diu Occupational Safety, Health and Working
Conditions Regulation, 2025.

(2) It shall come into force on such date as the Administrator of
Dadra and Nagar Haveli and Daman and Diu may, by notification
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.

(3) It extends to the Union Territory of Dadra and Nagar Haveli
and Daman and Diu :

Provided that the provisions of this Regulation shall not apply
to –

- (a) an establishment carried on by or under the authority of the
Central Government or the establishment of railways,
mines, oil field, major ports, air transport service,
telecommunication, banking and insurance company or a
corporation or other authority established by a Central Act
or a central public sector undertaking or subsidiary
companies set up by central public sector undertakings or
autonomous bodies owned or controlled by the Central
Government, including establishment of contractors for the
purposes of such establishment, corporation or other

authority, central public sector undertakings, subsidiary companies or autonomous bodies;

(b) the offices of the Central Government;

(c) the offices of the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu and;

(d) any ship of war of any nationality;

Provided further that the provisions of this Regulation shall apply in case of contract labour employed through contractor in the offices of the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

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

Definitions.

61 of
1986.

(a) "adolescent" shall have the same meaning as assigned to it in clause (i) of section 2 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986;

(b) "adult" means a person who has completed his eighteenth year of age;

(c) "appropriate Government" means the Administrator of Dadra and Nagar Haveli and Daman and Diu:

Explanation.—For the removal of doubts it is hereby clarified that the Administrator of Dadra and Nagar Haveli and Daman and Diu shall be the appropriate Government in respect of occupational safety, health and working conditions in a factory situated in in the Union Territory of Dadra and Nagar Haveli and Daman and Diu

(d) "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;

(e) "audio-visual worker" means a person, who is employed, directly or through any contractor, in or in connection with the audio-visual production to work as an artist including actor, musician, singer, anchor, news reader, dancer, dubbing artist or

stunt person or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise, and his remuneration with respect to such employment in or in connection with the production of audio-visual does not exceed, where remuneration is by way of monthly wages or where such remuneration is by way of lump sum, in each case, such amount as may be notified by the Central Government under the corresponding Central Acts;

(f) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include building or other construction work which is related to any factory or mine and the building or other construction work where such work is for own residential purposes of an individual or group of individuals for their own residence and the total cost of such work does not exceed rupees fifty lakhs or such higher amount and employing more than such number of workers as may be notified by the appropriate Government ;

(g) "building worker" means a person who is employed to do any highly skilled, skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;

(h) "cargo" includes anything carried or to be carried in a ship or other vessel, or vehicle;

(i) "Chief Inspector-cum-Facilitator" means a Chief Inspector-cum-Facilitator appointed under sub-section (5) of section 34;

(j) "competent person", means a person or an institution recognised as such by the Chief Inspector-cum-Facilitator for the purposes of carrying out tests, examinations and inspections required to be done in an establishment having regard to—

- (i) the qualifications and experience of the person and facilities available at his disposal; or

- (ii) the qualifications and experience of the persons employed in such institution and facilities available therein:

(k) "contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker but does not include a worker (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;

(l) "contractor", in relation to an establishment, means a person, who—

- (i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or

- (ii) supplies contract labour for any work of the establishment as mere human resource, and includes a sub-contractor;

(m) "controlled industry" means any industry the control of which by the Central Government has been declared under any Central Act in the public interest;

(n) "core activity of an establishment" means any activity for which the establishment is set up and includes any activity which is essential or necessary to such activity:

Provided that the following shall not be considered as essential or necessary activity, if the establishment is not set up for such activity, namely:—

- (i) sanitation works, including sweeping, cleaning, dusting and collection and disposal of all kinds of waste;
- (ii) watch and ward services including security services;
- (iii) canteen and catering services;
- (iv) loading and unloading operations;
- (v) running of hospitals, educational and training Institutions, guest houses, clubs and the like where they are in the nature of support services of an establishment;

- (vi) courier services which are in nature of support services of an establishment;
- (vii) civil and other constructional works, including maintenance;
- (viii) gardening and maintenance of lawns and other like activities;
- (ix) housekeeping and laundry services, and other like activities, where these are in nature of support services of an establishment;
- (x) transport services including, ambulance services;
- (xi) any activity of intermittent nature even if that constitutes a core activity of an establishment;

(o) "day" means a period of twenty-four hours beginning at mid-night;

(p) "employee" means,—

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1961.

- (i) in respect of an establishment, a person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied; and
- (ii) a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union.

(q) "employer" means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any Department of the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, the authority specified by the Administrator of Dadra and Nagar Haveli and Daman and Diu in this behalf or where no authority, is so specified, the head of the Department and in relation to an establishment carried on by a local authority, the Chief Executive of that authority, and includes,—

- (i) in relation to an establishment which is a factory, the occupier of the factory;
- (ii) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director;
- (iii) contractor; and

(iv) legal representative of a deceased employer;

(r) "establishment" means—

- (i) a place where any industry, trade, business, manufacturing or occupation is carried on in which ten or more workers are employed; or
- (ii) motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or
- (iii) factory, for the purpose of Chapter II, in which ten or more workers are employed, notwithstanding the threshold of workers provided in clause (s); or

Provided that in sub-clauses (i) and (ii), the threshold of worker specified therein shall not be applicable in case of such establishment or class of establishments, in which such hazardous or life-threatening activity is being carried on, as may be notified by the Central Government:

Provided further that notwithstanding any threshold provided in the definition of factory in clause (s), for the purposes of Chapter II, the establishment specified in sub-clause (i) or sub-clause (ii) or sub-clause (iii) shall be deemed to be the establishment within the meaning of this clause though the number of employees employed are ten or more;

(s) "factory" means any premises including the precincts thereof—

- (i) **whereon twenty or more workers** are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on; or
- (ii) whereon forty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

but does not include a mobile unit belonging to the armed forces of the Union, railways running shed or a hotel, restaurant or eating place:

Explanation I.—For computing the number of workers for the purposes of this clause all the workers (in different groups and relays) in a day shall be taken into account.

Explanation II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(t) "family", when used in relation to a worker, means—

- (i) spouse;
- (ii) children including adopted children of the worker who are dependent upon him and have not completed the age of eighteen years; and
- (iii) parents, grand-parents, widowed daughter and widowed sister dependent upon such worker.

Explanation. —For the purposes of this clause, such dependents shall not be included who are, for the time being, getting such income from such sources, as may be prescribed by the appropriate Government;

(u) "godown" means any warehouse or other place, by whatever name called, used for the storage of any article or substance required for any manufacturing process which means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as finished products;

(v) "hazardous" means involving danger or potential danger;

(w) "hazardous process" means any process or activity in relation to an industry or plantation specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, hazardous substances, wastes or effluents thereof or spraying of any pesticides, insecticides or chemicals used therein, as the case may be, would— (i) cause material impairment to the health of the persons engaged in or connected therewith, or (ii) result in the pollution of the general environment;

(x) "hazardous substance" means any substance or such quantity of the substance as may be prescribed by the appropriate Government or preparation of which by reason of its chemical or physio-chemical properties or handling is liable to cause physical or health hazards to human being or may cause

harm to other living creatures, plants, micro-organisms, property or the environment;

(y) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry, trade, business, occupation or manufacturing is being ordinarily carried on with or without the aid of power and includes a godown attached thereto;

(z) "industry" means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit, but does not include—
 - a. institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic services; or
 - b. any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the Departments of the Central Government dealing with defence research, atomic energy and space; or
 - c. any domestic service; or
 - d. any other activity as may be notified by the Central Government;

(za) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under sub-section (1) of section 34;

(zb) "inter-State migrant worker" means a person who is employed in an establishment and who—

- (i) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or

- (ii) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State, under an agreement or other arrangement for such employment and draws wages not exceeding the amount of rupees eighteen thousand per month or such higher amount as may be notified by the Central Government from time to time;

(zc) "machinery" means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to perform work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy;

15 of
1908.

(zd) "major port" means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908;

(ze) "manufacturing process" means any process for—

- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or
- (ii) pumping oil, water, sewage or any other substance; or
- (iii) generating, transforming or transmitting power; or
- (iv) composing, printing, printing by letter press, lithography, offset, photogravure screen printing, three Dimensional or four Dimensional printing, prototyping, flexography or other types of printing process or book binding; or
- (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or
- (vi) preserving or storing any article in cold storage; or
- (vii) such other processes as the Central Government may notify;

(zf) "medical officer" means the medical officer appointed under sub-section (1) of section 42;

(zg) "minerals" means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicing,

quarrying or by any other operation and includes mineral oils (such as natural gas and petroleum);

(zh) "motor transport undertaking" means a motor transport undertaking employing motor transport worker and engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier;

(zi) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend the duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but does not include any such person—

- (i) who is employed in a factory;
- (ii) to whom the provisions of any other law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;

(zj) "newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government;

(zk) "newspaper establishment" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate and includes following newspaper establishments which shall be deemed to be one establishment, namely:—

(i) two or more newspaper establishments under common control;

(ii) two or more newspaper establishments owned by an individual and his or her spouse unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;

(iii) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory.

Explanation 1.—For the purposes of sub-clause (i) two or more establishments shall be deemed to be under common control where—

(i) the newspaper establishments are owned by a common individual or individuals;

(ii) the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;

(iii) the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;

(iv) one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;

(v) one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or

(b) there is functional integrality between concerned newspaper establishments.

Explanation 2.—For the purposes of this clause,—

(i) different departments, branches and centres of newspaper establishments shall be treated as parts thereof;

(ii) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper;

(zl) "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;

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

Provided that—

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

(ii) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;

(iii) in the case of a factory owned or controlled by the 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;

(zn) "office of the mine" means an office at the surface of the mine concerned;

(zo) "open cast working" means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;

(zp) "ordinarily employed" with reference to any establishment or part thereof, means the average number of persons employed per day in the establishment or part thereof during the preceding calendar year obtained by dividing the number of man days worked by the number of working days excluding rest days and other non-working days;

(zq) "prescribed" means prescribed by rules made by the appropriate Government under this Regulation;

(zr) "principal employer", where the contract labour is employed or engaged, means—

(i) in relation to any office or Department of the Government or a local authority, the head of that office or Department or such other officer as the Government or the local authority, may specify in this behalf;

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;

(iii) in relation to any other establishment, any person responsible for the supervision and control of the establishment;

(zs) "producer", in relation to audio-visual production, means the company, firm or other person by whom the arrangements necessary for producing such audio-visual (including the raising

of finances and engaging audio-visual workers for producing audio-visual) are undertaken.

18 of
2013. 9
of 1932

Explanation.—For the purposes of this clause, the expressions "company" and "firm" have the same meaning as respectively assigned to them in the Companies Act, 2013 and the Indian Partnership Act, 1932;

102 of
1956.

(zt) "qualified medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (i) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled on a Indian Medical Register as defined in clause (e) and on a State Medical Register as defined in clause (l) of the said section;

(zu) "relay" means a set of two or more persons carrying out the same kind of work during different periods of the day and each such period is called a "shift";

(zv) "sales promotion employees" means any person by whatever name called employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person who,—

- (i) being employed or engaged in a supervisory capacity, draws wages exceeding eighteen thousand rupees per mensem or an amount as may be notified by the Central Government from time to time;
- (ii) is employed or engaged mainly in a managerial or administrative capacity.

(zw) "Schedule" means the Schedule appended to this Regulation;

(zx) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(zy) "standards", "regulations", "rules", "bye-laws" and "orders" respectively means standards, regulations, rules, bye-laws and orders made or declared, as the case may be, under this Code;

24 of
1997.

(zz) "telecommunication service" means the telecommunication service as defined in clause (k) of sub-section (1) of section 2 of the Telecom Regulatory Authority of India Act, 1997;

(zza) "wages" means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money

or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

- (i) basic pay;
- (ii) dearness allowance; and
- (iii) retaining allowance, if any
but does not include—
 - (a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;
 - (b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
 - (c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
 - (d) any conveyance allowance or the value of any travelling concession;
 - (e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;
 - (f) house rent allowance;
 - (g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
 - (h) any overtime allowance;
 - (i) any commission payable to the employee;
 - (j) any gratuity payable on the termination of employment;
 - (k) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under sub-clauses (a) to (j) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be

deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in sub-clauses (d), (f), (g) and (h) shall be taken for computation of wages.

Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

(zzb) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector-cum-Facilitator;

(zzc) "worker" means any person employed in any establishment to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees, but does not include any such person—

45 of 1950 (i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or

46 of 1950. (ii) who is employed in the police service or as an officer or other employee of a prison; or

62 of 1957. (iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who is employed in a supervisory capacity drawing wage exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time;

(zzd) "Working Journalist" means a person whose principal avocation is that of a journalist and who is employed as such, either whole-time or part-time, in, or in relation to, one or more newspaper establishment, or other establishment relating to any electronic media or digital media such as newspaper or radio or other like media and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copytester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who is employed mainly in a managerial, supervisory or administrative capacity;

3. (1) Every employer of any establishment, —

(a) which comes into existence after the commencement of this Regulation; and

(b) to which this Regulation shall apply, shall, within sixty days from the date of such applicability of this Regulation, make an application electronically to the registering officer appointed by the appropriate Government (hereinafter referred to as the registering officer) for the registration of such establishment : Provided that the registering officer may entertain any such application for registration after the expiry of such period on payment of such late fees as may be prescribed by the appropriate Government .

(2) Every application under sub-section (1) shall be submitted to the registering officer in such manner, in such form, containing such particulars including the information relating to the employment of inter-State migrant workers and shall be accompanied by such fees as may be prescribed by the appropriate Government.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration electronically to the employer thereof in such form and within such time and subject to such conditions as may be prescribed by the appropriate Government: Provided that if the registering officer fails to register an establishment under the application so made or to entertain the application within the prescribed period, then, such establishment shall be deemed to have been registered under this Regulation immediately on the expiration of such period and the electronic certificate of registration shall be auto generated and the responsibility of such failure shall be on the registering officer.

(4) Any change in the ownership or management or in any particulars referred to in sub-section (2) which occurs after the registration of an establishment under this Regulation, shall be intimated by the employer electronically to the registering officer within thirty days of such change in such form as may be prescribed by the appropriate Government and thereafter the registering officer shall make amendment in the certificate of registration electronically in such manner as may be prescribed by the appropriate Government.

(5) The employer of an establishment shall, within thirty days of the closing of the establishment—

(a) inform the closing of such establishment; and

(b) certify payment of all dues to the workers employed in such establishment, to the registering officer in such manner as may be prescribed by the appropriate Government and the registering officer shall, on receiving such information and certificate remove such establishment from the register of establishments maintained by him and cancel the registration certificate of the establishment within sixty days from the receipt of such information :

Provided that if the registering officer fails to cancel the registration certification of the establishment under this sub-section within such sixty days, then, the registration certificate of such establishment shall be deemed to have been cancelled under this Regulation immediately on the expiration of such period of sixty days and the cancellation of registration certificate shall be auto generated and the responsibility of such failure shall be on the registering officer.

(6) If an employer of an establishment—

(a) has obtained the registration of his establishment by misrepresentation or suppression of any material fact, or

(b) has obtained the registration of his establishment so fraudulently or otherwise that the registration has become useless or ineffective to run the establishment, then, in case of clause (a) such misrepresentation or suppression of any material fact shall be deemed to be the contravention of the provisions of this Regulation for prosecution of the employer under section 94 without affecting the registration and running of the establishment and in case of clause (b) the registering officer may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration by an order and such process for revocation shall be completed by the registering officer within sixty days from coming into his notice the facts specified in clause (b).

(7) No employer of an establishment who—

(a) has not registered the establishment under this section; or

(b) has not preferred appeal under section 4 against the cancellation of the registration certificate of the establishment under sub-section (5) or revocation of the registration of the establishment under sub-section (6) or the appeal so preferred has been dismissed, shall employ any employee in the establishment.

(8) Notwithstanding anything contained in this Regulation, where any establishment, to which this Regulation applies, has already been registered under any—

(a) Central Labour law; or

(b) any other law which may be notified by the Central Government and which applies to the establishment which is in existence at the time of the commencement of this Regulation,

shall be deemed to have been registered under the provisions of this Regulation, subject to the condition that the registration holder provides the details of registration to the concerned registering officer within such time and in such form as may be prescribed.

4. (1) Any person aggrieved by an order made under section 3 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person notified in this behalf by the appropriate Government : Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Appeal.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal within a period of thirty days from the date of receipt of such appeal.

5. (1) No employer of an establishment being factory or relating to contract labour or building or other construction work shall use such establishment to commence the operation of any industry, trade, business, manufacturing or occupation thereon without sending notice of such purpose in such form and manner and to such authority and within such time as may be prescribed and shall also intimate the cessation thereof to the said authority in such manner as may be prescribed by the appropriate Government .

Notice by
employer of
commencement
and cessation
of operation

(2) The notice or intimation under sub-section (1) shall be given electronically

CHAPTER III DUTIES OF EMPLOYER AND EMPLOYEES, ETC.

Duties of
employer.

6. (1) Every employer shall, —

(a) ensure that workplace is free from hazards which cause or are likely to cause injury or occupational disease to the employees;

(b) comply with the occupational safety and health standards declared under section 18 or the rules, regulations, bye-laws or orders made under this Regulation;

(c) provide such annual health examination or test free of costs to such employees of such age or such class of employees of establishments or such class of establishments, as may be prescribed by the appropriate Government;

(d) provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees;

(e) ensure the disposal of hazardous and toxic waste including disposal of e-waste;

(f) issue a letter of appointment to every employee on his appointment in the establishment, with such information and in such form as may be prescribed by the appropriate Government and where an employee has not been issued such appointment letter on or before the commencement of this Regulation, he shall, within three months of such commencement, be issued such appointment letter;

(g) ensure that no charge is levied on any employee, in respect of anything done or provided for maintenance of safety and health at workplace including conduct of medical examination and investigation for the purpose of detecting occupational diseases;

(h) relating to factory, building or other construction work, ensure and be responsible for the safety and health of employees, workers and other persons who are on the work premises of the employer, with or without his knowledge, as the case may be.

(2) Without prejudice to the generality of the provisions of sub-section (1), the duties of an employer shall particularly in respect of factory building or other construction work or plantation include—

(a) the provision and maintenance of plant and systems of work in the workplace that are safe and without risk to health;

(b) the arrangements in the workplace for ensuring safety and absence of risk to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work; (d) the maintenance of all places of work in the workplace in a condition that is safe and without risk to health

and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risk;

(e) the provision, maintenance or monitoring of such working environment in the workplace for the employees that is safe, without risk to health as regards facilities and arrangements for their welfare at work.

7. (1) Duties and responsibilities of owner, agent and manager in relation to mine shall be as prescribed by the Central Government.

Duties and responsibilities of owner, agent and manager in relation to mine.

8. (1) Every person who designs, manufactures, imports or supplies any article for use in any establishment shall—

Duties of designers, manufacturers, importers or suppliers.

(a) ensure so far as is reasonably practicable, that the article is so designed and constructed in the establishment as to be safe and without risk to the health of the workers when properly used;

(b) carry out or arrange for the carrying out of such tests and examination in the establishment as may be considered necessary for the effective implementation of the provisions of clause (a);

(c) take steps as may be necessary to ensure that adequate information will be available—

(i) in connection with the use of the article in any establishment;
(ii) about the use for which such article is designed and tested;
and

(iii) about any conditions necessary to ensure that the article, when put to such use, shall be safe, and without risk to the health of the workers:

Provided that where an article is designed or manufactured outside India, then it shall be obligatory on the part of the importer to see—

(A) that the article conforms to the same standards of such article manufactured in India; or

(B) if the standards adopted in the country outside India for the manufacture of such article is above the standards adopted in India, that the article conforms to such standards in such country;

(C) if there is no standard of such article in India, then, the article conforms to the standard adopted in the country from where it is imported at its national level.

(2) The designer, manufacturer, importer or supplier shall also comply with such duties as the Central Government may, in

consultation with the National Occupational Safety and Health Advisory Board referred to in sub-section (1) of section 16, by regulations specify.

(3) Every person, who undertakes to design or manufacture any article and substance for use in any factory, may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably, practicable, the elimination or minimisation of any risks to the health or safety of the workers to which the design or manufacture of article and substance may give rise to such risk.

(4) Nothing contained in sub-sections (1) and (2) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

5) Any duty imposed on any person by sub-sections (1) and (2) shall extend only to things done in the course of business carried on by him and to matters within his control.

(6) Every person,—

(a) who erects or installs any article for use in a factory, shall ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory;

(b) who manufactures, imports or supplies any substance for use in any factory shall—

(i) ensure, so far as practicable, that such substance when used in the factory does not make it unsafe or a risk to health of persons working in such factory;

(ii) carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;

(iii) take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;

c) who undertakes the manufacture of any substance for use in any factory shall carry out or arrange for carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimisation of any risks

to health or safety to which the substance may give rise out of such manufacture or research;

(7) For the purposes of this section, an article and substance is not to be regarded as properly used, if they are used without regard to any information or advice relating to their use which has been made available by the person who has designed, manufactured, imported or supplied the article and substance.

Explanation.—For the purpose of this section—

(a) "article" shall include plant and machinery

9. (1) It shall be the duty of the architect, project engineer or designer responsible for any building or other construction work or the design of any project or part thereof relating to such building or other construction work to ensure that, at the planning stage, due consideration is given to the safety and health aspects of the building workers and employees who are employed in the erection, operation and execution of such projects and structures as the case may be.

Duties of architect, project engineer and designer.

(2) Adequate care shall be taken by the architect, project engineer and other professionals involved in the project referred to in sub-section (1), not to include anything in the design which would involve the use of dangerous structures or other processes or materials, hazardous to health or safety of building workers and employees during the course of erection, operation and execution as the case may be.

(3) It shall also be the duty of the professionals, involved in designing the buildings structures or other construction projects, to take into account the safety aspects associated with the maintenance and upkeep of the structures and buildings where maintenance and upkeep may involve such hazards as may be notified by the appropriate Government

10. (1) Where at any place in an establishment, an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident or which is of such nature as may be prescribed by the appropriate Government , then, the employer of an establishment relating to building or other construction or any other establishment,

Notice of certain accident.

shall send notice thereof to such authorities, in such manner and within such time, as may be prescribed by the appropriate Government .

(2) Where a notice given under sub-section (1) relates to an accident causing death in an establishment relating to building

or other construction work or any other establishment, the authority to whom the notice is sent shall make an inquiry into the occurrence within two months of the receipt of the notice or if there is no such authority, the Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry within the said period.

11. Where in an establishment there is any dangerous occurrence of such nature, (whether causing any bodily injury or disability, or not) the employer shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

Notice of
certain
dangerous
occurrences.

12. (1) Where any worker in an establishment contracts any disease specified in the Third Schedule, the employer of the establishment shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government .

Notice of
certain
diseases.

(2) If any qualified medical practitioner attends on a person, who is or has been employed in an establishment, and who is, or is believed by the qualified medical practitioner, to be suffering from any disease specified in the Third Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector-cum-Facilitator in such form and manner and within such time as may be prescribed by the appropriate Government .

(3) If any qualified medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with penalty which may extend to ten thousand rupees.

13. Every employee at workplace shall,—

Duties of
employee.

(a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the workplace;

(b) comply with the safety and health requirements specified in the standards;

(c) co-operate with the employer in meeting the statutory obligations of the employer under this Regulation;

(d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable, report such situation to his employer or to the health and safety representative, safety officers or an official for his workplace or section thereof, as the case may be, who shall report it to the employer in the manner as may be prescribed by the appropriate Government ;

(e) not wilfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers;

(f) not do, wilfully and without reasonable cause, anything, likely to endanger himself or others; and

(g) perform such other duties as may be prescribed by the appropriate Government.

14. (1) Every employee in an establishment shall have the right to obtain from the employer information relating to employee's health and safety at work and represent to the employer directly or through a member of the Safety Committee as constituted under section 22, if constituted by the employer for such purpose, regarding inadequate provision for protection of his safety or health in connection with the work activity in the workplace, and if not satisfied, to the Inspector-cum-Facilitator.

Rights of employee.

(2) Where the employee referred to in sub-section (1) in any workplace has reasonable apprehension that there is a likelihood of imminent serious personal injury or death or imminent danger to health, he may bring the same to the notice of his employer directly or through a member of the Safety Committee referred to in sub-section (1) and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

(3) The employer or any employee referred to in sub-section (1) shall take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum-Facilitator in such manner as may be prescribed by the appropriate Government .

(4) If the employer referred to in sub-section (3) is not satisfied about the existence of any imminent danger as apprehended by his employees, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

15. No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health, safety or welfare under this Regulation.

Duty not to interfere with or misuse Things.

CHAPTER IV OCCUPATIONAL SAFETY AND HEALTH

16. (1) The constitution and functions of the National Occupational Safety and Health Advisory Board, to discharge the functions conferred on it and to advise the Central Government, shall be as prescribed by the Central Government under the corresponding Central Acts in force.

National Occupational Safety and Health Advisory Board.

(2) The nomination of the special invitee or representative of the National Occupational Safety and Health Advisory Board by the

Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu, if so required under the provisions of the said Central Act, shall be as prescribed under the said Central Act.
Proposed to be omitted.

17. (1) The Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu shall constitute a Board to be called the Union Territory Occupational Safety and Health Advisory Board (hereinafter referred to as "the Dadra and Nagar Haveli and Daman and Diu Advisory Board") to advise the Union Territory Administration of Dadra Nagar Haveli and Daman & Diu on such matters arising out of the administration of this Regulation as may be referred to it by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu.

State
Occupational
Safety and
Health
Advisory
Board.

(2) The constitution, procedure and other matters relating to the Dadra and Nagar Haveli and Daman and Diu Advisory Board shall be such as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman & Diu.

(3) The Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu may constitute as many technical committees or advisory committees of the Dadra & Nagar Haveli and Daman & Diu Advisory Board including site appraisal committees, consisting of such number of members and having such qualifications as may be prescribed, to assist the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu or Dadra & Nagar Haveli and Daman & Diu Advisory Board in discharge of their functions relating to the area falling within their respective jurisdictions.

18. (1) The standards on occupational safety and health for workplaces relating to factory, mine, dock work, *beedi* and cigar, building and other construction work and other establishments shall be as declared by the Central Government under the provisions of corresponding Central Act.

Occupational
safety and
health
standards.

(2) The amendment of the Second Schedule shall be as prescribed by the Central Government under the provisions of the prevailing Central Act..

(3) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, with the prior approval of the Central Government, by notification amend the standards made under sub-section (1) and sub-section (2) for the establishment for which it is the appropriate Government situated in the Union Territory of Dadra & Nagar Haveli and Daman & Diu.

19. It shall be the duty of such institutions in the field of occupational safety and health as the Central Government or Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may notify to conduct research, experiments

Research
related
activities.

and demonstrations relating to occupational safety and health and thereafter submit their recommendations to the Central Government or the UT Administration of Dadra & Nagar Haveli and Daman & Diu, as the case may be:

Provided that the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall consult the National Board before notifying conduct of research, experiments and demonstration relating to occupational safety and health.

20. (1) At any time during the normal working hours of an establishment or at any other time as he may deem necessary,

Safety and
occupational
Health surveys.

(a) the Chief Inspector-cum-Facilitator or any other officer as may be authorised by the appropriate Government;

(b) such other officer as may be authorised by the appropriate Government in the case of any other establishment or class of establishments,

after giving notice in writing to the employer, conduct survey of the factory or such other establishment or class of establishments and such employer shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

Explanation.—For the purposes of this sub-section, the expression "employer" includes manager for the factory or in the case of any other establishment or class of establishments such person who is for the time being responsible for the safety and the occupational health of such other establishment or class of establishments, as the case may be.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession which is relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be working hour for him.

Explanation.—For the purposes of this section, the report submitted to the appropriate Government by the person conducting the survey under sub-section (1) shall be deemed to be a report submitted by an Inspector-cum-Facilitator under this Regulation

(4) The Safety and occupational health surveys in respect of the establishments mentioned at proviso (a) to Section 3 of this Regulation shall be as prescribed by the Central Government.

21. (1) For the purposes of this Regulation, the Central Government and the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu shall collect, compile and analyse occupational safety and health statistics in such form and manner as may be prescribed.

Collection of statistics and portal for inter-State migrant workers.

(2) The Central Government and the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall maintain the database or record, for inter-State migrant workers, electronically or otherwise in such portal and in such form and manner as may be prescribed by the Central Government: Provided that an inter-State migrant worker may register himself as an inter-State migrant worker on such portal on the basis of self-declaration and Aadhaar:

Provided further that the workers who have migrated from one State to any other State and are self-employed in that other State may also register themselves on that portal.

Explanation.—For the purposes of this sub-section, the expression "Aadhaar" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

18 of 2016.

22. (1) The appropriate Government may, by general or special order, require any establishment or class of establishments to constitute in the prescribed manner a Safety Committee consisting of representatives of employers and workers engaged in such establishment in such manner that the number of representatives of workers on the Committee shall not be less than the number of representatives of the employer and the representatives of the workers shall be chosen in such manner and for such purpose as may be prescribed by the appropriate Government .

Safety Committee and safety officers.

(2) In every establishment which is a—

(a) factory wherein five hundred workers or more; or

(b) factory carrying on hazardous process wherein two hundred fifty workers or more; or

(c) building or other construction work wherein two hundred fifty workers or more; or

CHAPTER V HEALTH, SAFETY AND WORKING CONDITIONS

Responsibility of employer for maintaining health, safety and working conditions.

23. (1) The employer shall be responsible to maintain in his establishment such health, safety and working conditions for the employees as may be prescribed by the Central Government.

(2) Without prejudice to the generality of the power conferred under sub-section (1), the Central Government may prescribe for providing all or any of the following matters in the establishment or class of establishments, namely: —

- (i) cleanliness and hygiene;
- (ii) ventilation, temperature and humidity;
- (iii) environment free from dust, noxious gas, fumes and other impurities;
- (iv) adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work rooms;
- (v) potable drinking water;
- (vi) adequate standards to prevent overcrowding and to provide sufficient space to employees or other persons, as the case may be, employed therein;
- (vii) adequate lighting;
- (viii) sufficient arrangement for latrine and urinal accommodation to male, female and transgender employee separately and maintaining hygiene therein; (ix) effective arrangements for treatment of wastes and effluents; and
- (x) any other arrangement which the Central Government considers appropriate

CHAPTER VI WELFARE PROVISIONS

Welfare facilities
in the
establishment,
etc.

24. (1) The employer shall be responsible to provide and maintain in his establishment such welfare facilities for the employees as may be prescribed by the Central Government, including, —

- (i) adequate and suitable facilities for washing to male and female employees separately;
- (ii) bathing places and locker rooms for male, female and transgender employees separately;
- (iii) place of keeping clothing not worn during working hours and for the drying of wet clothing;
- (iv) sitting arrangements for all employees obliged to work in a standing position;

(v) facilities of canteen in an establishment for employees thereof, wherein one hundred or more workers including contract labourers are ordinarily employed;

(vi) in case of mines, medical examination of the employees employed or to be employed in the mines, shall be as prescribed by the Central Government;

(vii) adequate first-aid boxes or cupboards with contents readily accessible during all working hours; and

(viii) any other welfare measures which the Central Government considers, under the set of circumstances, as required for decent standard of life of the employees.

(2) Without prejudice to the generality of the powers referred to under sub-section (1), the Central Government may also prescribe for the following matters, namely: —

(i) ambulance room in every factory, building or other construction work wherein more than five hundred workers are ordinarily employed;

(ii) medical facilities at the operating centres and halting stations, uniforms, raincoats and other like amenities for protection from rain or cold for motor transport workers;

(iii) adequate, suitable and separate shelters or rest-rooms for male, female and transgender employees and lunch-room in every factory and wherein more than fifty workers are ordinarily employed and in motor transport undertaking wherein employee is required to halt at night;

(iv) the appointment of welfare officer in every factory or plantation wherein two hundred and fifty or more workers are ordinarily employed and the qualification, conditions of service and duties of such welfare officer;

(v) for providing by the employer temporary living accommodation, free of charges and within the work site or as near to it as may be possible, to all building workers employed by him and for causing removal or demolition of such temporary living accommodation and for returning by the employer the possession of any land obtained by him for such purpose from Municipal Board or any other local authority;

(vi) for payment by the principal employer the expenses incurred on providing the accommodation to the contractor, where the building or other construction work is done through the contractor;

(vii) any other matter which may be prescribed.

(3) The Central Government may make rules to provide for the facility of crèche having suitable room or rooms for the use of children under the age of six years of the employees at suitable location and distance either separately or along with common facilities in establishments wherein more than fifty workers are ordinarily employed:

Provided that an establishment can avail common crèche facility of the Central Government, 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 may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.

CHAPTER VII HOURS OF WORK AND ANNUAL LEAVE WITH WAGES

Daily and weekly
working hours,
leave, etc.

25. (1) No worker shall be required or allowed to work, in any establishment or class

of establishment for more than—

(a) Nine hours in a day; and

(b) the period of work in each day under clause (a) shall be so fixed, as not to exceed such hours, with such intervals and spread overs, as may be notified by the appropriate Government:

Provided that subject to clause (a) in the case of mines,—

(i) the persons employed below ground in a mine shall not be allowed to work for more than such hours as may be notified by the Central Government in any day;

(ii) no work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of work for each shift is not spread over more than

the daily maximum hours as notified under clause (i);

(iii) no person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of

work shown in respect of him in the register maintained under clause (a) of section 33:

Provided further that subject to clause (a) that the hours of work in case of motor transport worker shall include—

- (i) the time spent in work done during the running time of the transport vehicle;
- (ii) the time spent in subsidiary work; and
- (iii) period of mere attendance at terminals of less than fifteen minutes.

Explanation.—For the purposes of this sub-section—

(a) "running time" in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed by the Central Government during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work;

(b) *"subsidiary work" means the work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular—*

(i) the work in connection with accounts, paying of cash, signing of registers, handover of service sheets, the checking of tickets and other similar work;

(ii) taking over and garaging of the transport vehicles;

(iii) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;

(iv) work in connection with the upkeep and repair of the transport vehicle; and

(v) the loading and unloading of the transport vehicle;

(c) *"period of mere attendance" means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule.*

(2) Notwithstanding anything contained in sub-section (1), the hours of work for working journalist shall, subject to a maximum of one hundred and forty-four hours of work during any period of four consecutive weeks and a period of not less than twenty-four consecutive hours of rest during any period of seven consecutive days, be such as may be prescribed by the Central Government.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a sales promotion employee or the working journalist,—

(i) in addition to such holidays, casual leave or other kinds of leave as may be prescribed by the Central Government, shall be granted, if requested for—

(a) earned leave on full wages for not less than one-eleventh of the period spent on duty;

(b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service;

(ii) may accumulate earned leave up to such maximum limit as may be prescribed by the Central Government;

(iii) shall be entitled for the limit up to which the earned leave may be either encashed or availed of at a time by him and the reasons for which such limit may be exceeded shall be such as may be prescribed by the Central Government;

(iv) shall,—

(a) when he voluntarily relinquishes his post or retires from service; or

(b) when his services are terminated for any reason whatsoever (not being termination as punishment), be entitled to cash compensation, subject to such conditions and restrictions as may be prescribed by the Central Government (including conditions by way of specifying the maximum period for which such cash compensation shall be payable), in respect of the earned leave earned by him and not availed of;

(v) who dies while in service, his heirs shall be entitled to cash compensation for the earned leave earned by him and not availed of his heirs shall be paid the cash compensation in respect of any period of earned leave for which he or his heirs, is or are entitled to cash compensation under clause (iv) or clause (v), which shall be an amount equal to the wages due to him for such period.

(4) Notwithstanding anything contained in this section, the working hours of an adolescent worker shall be regulated in accordance with the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

26. (1) No worker shall be allowed to work in an establishment for more than six days in any one week:

Weekly and
compensatory
holidays.

Provided that in any motor transport undertaking, an employer may, in order to prevent any dislocation of a motor transport service, require a worker to work on any day of weekly holiday which is not a holiday so arranged that the worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

(2) The appropriate Government may, by notification, exempt such workers as it thinks fit from the provisions of sub-section (1), subject to such conditions as may be prescribed.

(3) Where, as a result of the passing of an order or the making of a rule under the provisions of this Regulation exempting an establishment or the workers therein from the provisions of sub-section (1), a worker is deprived of any of the weekly holidays, the worker shall be allowed, within the month in which the holidays were due or within the two months immediately following that month, compensatory holidays of equal number to the holidays, so deprived.

27. There shall be paid wages at the rate of twice the rate of wages in respect of overtime work, where a worker works in an establishment or class of establishment for more than such hours of work in any day or in any week as may be prescribed by the appropriate Government and the period of overtime work shall be calculated on a daily basis or weekly basis, whichever is more favourable to such worker:

Extra wages
for overtime.

Provided that a worker shall be required to work overtime by the employer subject to the consent of such worker for such work:

Provided further that the appropriate Government may prescribe the total number of hours of overtime.

28. Where a worker in an establishment works on a shift which extends beyond midnight,—

Night shifts.

(a) for the purposes of section 26, a weekly holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

29. (1) The work shall not be carried on in any establishment by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

Prohibition of overlapping shifts.

(2) The appropriate Government or subject to the approval of the appropriate Government, the Chief Inspector-cum-Facilitator, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any establishment or class of establishments or any department or section of an establishment or any category or description of workers therein from the provisions of sub-section (1)

30. No worker shall be required or allowed to work in a factory if he has already been working in any other such similar establishment within the preceding twelve hours, save in such circumstances as may be prescribed by the appropriate Government

Restriction on double employment in factory.

31. (1) There shall be displayed and correctly maintained in every establishment a notice of periods of work, showing clearly for every day the periods during which workers may be required to work in accordance with the provisions of this Regulation.

Notice of periods of work.

(2) The form of notice required by sub-section (1), the manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator shall be such as may be prescribed by the appropriate Government .

(3) Any proposed change in the system of work in any establishment which will necessitate a change in the notice referred to in sub-section (1) shall be intimated to the Inspector-cum-Facilitator before the change is made, and except with the previous sanction of the Inspector-cum-Facilitator, no such change shall be made until one week has elapsed since that last change.

32. (1) Every worker employed in an establishment shall be entitled for leave in a calendar year with wages subject to the following conditions, namely:—

Annual leave with wages, etc.

(i) that he has worked one hundred and eighty days or more in such calendar year;

(ii) that he shall be entitled for one-day leave for every twenty days of his work, in the case of adolescent worker for fifteen days of his work, in such calendar year;

(iii) any period of layoff, maternity leave or annual leave availed by such worker in such calendar year shall be counted for calculating the period of one hundred and eighty days or more under clause (i), but he shall not earn leave for the period so counted;

(iv) any holidays falling between the leave availed by such worker (in a calendar year or prefixed or suffixed holiday) shall be excluded from the period of leave so availed;

(v) in case of such worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate specified in clause (ii), if he has worked for one-fourth of the total number of days in the remainder of the calendar year;

(vi) in case such worker is discharged or dismissed from service or quits employment or is superannuated or dies while in service, during the course of the calendar year, such worker or his heir or nominee, shall be entitled to wages in lieu of the quantum of leave to which such worker was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death, calculated as specified in preceding clauses, even if such worker has not worked for the required period under this sub-section making such worker eligible to avail such leave, and such payment shall be made—

(a) where such worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting; and

(b) where such worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death;

(vii) if such worker does not in any one calendar year take the whole of the leave allowed to him under this sub-section and the rules made thereunder, then, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year so that—

(a) the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty days; and

(b) such worker, who has applied for leave with wages but has not been given such leave in accordance with this sub-section and the rules made thereunder shall be entitled to carry forward the leave refused without any limit;

(viii) without prejudice to clause (vi) such worker shall be entitled on his demand for encashment of leave at the end of calendar year;

(ix) such worker shall be entitled, where his total number of leave exceeds thirty days under sub-clause (a) of clause (vii), to encash such exceeded leave.

(2) The appropriate Government may, by notification, extend the provisions of sub-section (1) to any other establishment except

the establishments mentioned at proviso (a) to Section 3 of this Regulation.

CHAPTER VIII MAINTENANCE OF REGISTERS, RECORDS AND RETURNS

33. An employer of an establishment shall—

Maintenance
of registers,
records and
filing of returns.

(a) maintain register in prescribed form, electronically or otherwise, containing such particulars of workers as may be prescribed by the appropriate Government including,—

(i) work performed by them;

(ii) number of hours of work constituting normal working hours in a day;

(iii) day of rest allowed in every period of seven days;

(iv) wage paid and receipts given therefor;

(v) leave, leave wages, overtime work, attendance and dangerous occurrences; and

(vi) employment of adolescent;

(b) display notices at the workplace of the workers in such manner and form as may be prescribed by the appropriate Government ;

(c) issue wage slips to the workers, in electronic forms or otherwise; and

(d) file such return electronically or otherwise to the Inspector-cum-Facilitator in such manner and during such periods as may be prescribed by the appropriate Government.

CHAPTER IX INSPECTOR-CUM-FACILITATORS AND OTHER AUTHORITY

Appointment
of Inspector-cum-
Facilitators.

34. (1) The appropriate Government may, by notification, appoint Inspector-cum- Facilitators for the purposes of this Regulation who shall exercise the powers conferred on them under this Regulation throughout their respective jurisdiction specified in the notification.

(2) The Inspector-cum-Facilitators appointed under sub-section (1) shall, apart from other duties to be discharged by them under this Regulation, conduct such inspections as specified in sub-section (3).

(3) The appropriate Government may—

(i) for the purposes of inspection referred to in sub-section (2), by notification, inspection and calling of information under this

Regulation, electronically and such scheme shall, *inter alia*, have provisions to cater to special circumstances for assigning inspection and calling for information from establishment or any other person besides web-based inspections; and lay down an inspection scheme which may provide for the generation of web-based

(ii) without prejudice to the provisions of sub-section (2), by notification, under the scheme, provide for the randomised selection of establishment and the Inspector-cum-Facilitator for inspection.

(4) Without prejudice to the powers of the appropriate Government under this section, the inspection scheme referred to in sub-section (3) may be designed taking into account, *inter alia*, the following factors, namely:—

(a) assignment of unique number, to each establishment (which will be same as the registration number allotted to the establishment registered under section 3), unique number to each Inspector-cum-Facilitator and to each inspection in such manner as may be notified by the appropriate Government ;

(b) timely uploading of inspection reports in such manner and subject to such conditions as may be notified in the scheme;

(c) provisions for special inspections based on such parameters as may be notified by the appropriate Government ; and (d) the characteristics of employment, the nature of work, and characteristics of the workplaces based on such parameters as may be notified by the appropriate Government .

(5) The appropriate Government may, by notification, appoint any person or persons possessing the prescribed qualifications and experience to be Chief Inspector-cum-Facilitator for the purposes of such establishments or class of establishments and for such local limits of jurisdiction as may be specified in the notification:

(6) The appropriate Government may, by notification, appoint for the purposes of establishments as may be notified by that Government, as many Additional Chief Inspector-cum-Facilitators, Joint Chief Inspector-cum-Facilitators and Deputy Chief Inspector-cum-Facilitators or any other officer of any designation as it thinks appropriate, to exercise such powers of the Chief Inspector-cum-Facilitator within his jurisdiction, as may be specified in the notification.

(7) Every Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator and every other officer appointed under sub-section (6) shall, in addition to the powers of a Chief Inspector-cum-Facilitator specified in the notification by which the officer is appointed, exercise the powers of an Inspector-cum-Facilitator within such local limits as may be specified in the notification.

(8) No person shall be appointed under this section or having been so appointed, shall continue to hold office, who is, or who becomes, directly or indirectly interested in a workplace or work activity or in any process or business carried on in any workplace or in any plant or machinery connected therewith.

(9) The appropriate Government may also, by notification, appoint such public officers as it thinks fit to be Inspector-cum-Facilitators in addition to existing Inspector-cum-Facilitator for exercising the powers and discharging the duties of Inspector-cum-Facilitator for all or any of the purposes of this Regulation within such local limits as may be specified in such notification.

(10) Without prejudice to the other functions of the Inspector-cum-Facilitator under this Regulation, an Inspector-cum-Facilitator may in respect of any establishment or class of establishments in local area or areas of his jurisdiction where the Chief Inspector-cum-Facilitator with the approval of the appropriate Government and subject to such restrictions or conditions as he may think fit to impose, by order in writing authorise the Inspector-cum-Facilitator to exercise such of the powers of the Chief Inspector-cum-Facilitator as may be specified in such order:

Provided that the Chief Inspector-cum-Facilitator, with the approval of the appropriate Government, may by order in writing, prohibit the exercise, by any Inspector-cum-Facilitator or any class of Inspector-cum-Facilitators specified in such order, of any such power by such Inspector-cum-Facilitator or class of Inspector-cum-Facilitators.

(11) Every Chief Inspector-cum-Facilitator, Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator, Inspectorcum-Facilitator and every other officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and shall be officially subordinate to such authority as the appropriate Government may specify in this behalf.

35. (1) Subject to any rules made in this behalf, an Inspector-cum-Facilitator may—

Powers of
Inspector-cum-
Facilitators

(i) enter, with such assistance of persons, being persons in the service of the Government, or any local or other public authority, or with an expert, as he thinks fit, any place which is used, or which he has reason to believe, is used as a work place;

(ii) inspect and examine the establishment, any premises, plant, machinery, article, or any other relevant material;

(iii) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or death or not and take on the spot or otherwise statement of any person which he may consider necessary for such inquiry;

(iv) subject to any rules made by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu in this behalf, within his jurisdiction, examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Regulation, and take on the spot or otherwise statement of any person which he may consider necessary for carrying out the purposes of this Regulation relating to plantation;

(v) supply information and sensitise the employers and workers regarding the provisions of this Regulation and compliance thereof;

(vi) require the production of any register or any other document relating to the workplace or work activity;

(vii) search or seize, or take copies of, any register, record or other document or any portion thereof, as he may consider necessary in respect of any offence under this Regulation, which he has reason to believe, has been committed;

(viii) direct the concerned occupier or employer that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any inspection or inquiry;

(ix) take measurements, photographs and videographs and make such recordings as he considers necessary for the purpose of any examination or inquiry;

(x) take samples of any articles or substances found in any establishment or premises into which he has power to enter and of the air of the atmosphere in or in the vicinity of any such

establishment or premises in such manner as may be prescribed by the appropriate Government;

(xi) in case of any article or substance found in any establishment or premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health and safety of the employees, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of any provision of this Regulation) and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;

(xii) issue show cause notice relating to safety, health and welfare provisions arising under this Regulation, rules, regulations and bye-laws made thereunder;

(xiii) prosecute, conduct or defend before any court any complaint or other proceeding arising under this Regulation, the rules and regulations made thereunder; and

(xiv) exercise such other powers and perform such other duties as may be prescribed by the appropriate Government .

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1860

(2) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

2 of
1974

(3) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

36. The District Magistrate shall, within the local limits of his jurisdiction, exercise such powers and duties of the Inspector-cum-Facilitator in respect of mines as may be prescribed by the Central Government under the corresponding Central Act.

Powers and
duties of
District
Magistrate.

37. (1) The appropriate Government may, by notification, formulate a scheme to empanel experts possessing such qualifications and experience as may be prescribed for the purpose of such start-up establishments or class of establishments, as may be specified in the notification.

Third party audit
and certification

(2) The experts empanelled under sub-section (1), shall,—

(a) be assigned the third party audit and certification in a randomised manner, by the appropriate Government through a web-based scheme;

(b) carry out the audit and certification in the manner and for the purpose specified in the scheme referred to in sub-section (1);

(c) perform such duties as may be specified in such scheme and submit his report to the concerned employer and to the Inspector-cum-Facilitator.

38. (1) Without prejudice to the other powers of an Inspector-cum-Facilitator in this Regulation, an Inspector-cum-Facilitator,—

Special powers
of Inspectorcum-
Facilitator in
respect of
factory and
building or
other
construction
work.

(A) shall have the following special powers in respect of a factory, namely: —

(a) where it appears to the Inspector-cum-Facilitator that conditions in a factory or part thereof are such that they may cause serious hazard or imminent danger by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard or imminent danger and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard or danger is removed;

(b) any order issued by the Inspector-cum-Facilitator under sub-clause (a) shall have effect for a period of three days until extended by the Chief Inspector-cum-Facilitator by a subsequent order;

(c) any person aggrieved by an order of the Inspector-cum-Facilitator under sub-clause (a), and the Chief Inspector-cum-Facilitator under sub-clause (b), shall have the right to appeal to the High Court;

(d) any person whose employment has been affected by an order issued under sub-clause (a), shall, without prejudice to the rights of the parties under the Industrial Disputes Act, 1947, be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible in such manner as may be prescribed by the appropriate Government;

(B) shall have the special powers in respect of mines as may be prescribed by the Central Government under the Central Acts.

(C) shall have the following special powers in respect of dock work as prescribed under the Central Acts.

(2) Without prejudice to the other powers of an Inspector-cum-Facilitator elsewhere in this Regulation,—

(a) if it appears to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator that any site or place at which any building or other construction work is being carried on, is in such condition that it is dangerous to life, safety or health of building workers or the general public, he may, in writing serve, on the employer of building workers working at such site or place or on the employer of the establishment in which such site or place is situated or on the person in charge of such site or place, an order prohibiting any building or other construction work at such site or place until measures have been taken to remove the cause of the danger to his satisfaction;

(b) an Inspector-cum-Facilitator serving an order under clause (a) shall endorse a copy of the order to the Chief Inspector-cum-Facilitator;

(c) such prohibition order made by the Inspector-cum-Facilitator shall be complied with by the employer forthwith.

(3) Any person aggrieved by an order under clause (a) of sub-section (2), may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the appropriate Government and the Chief Inspector-cum-Facilitator or the appropriate Government, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty days:

Provided that the Chief Inspector-cum-Facilitator or the appropriate Government may, entertain the appeal after the expiry of the said period of fifteen days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the order under clause (a) of sub-section (2), shall be complied with, subject to the decision of the Chief Inspector-cum-Facilitator or the appropriate Government as the case may be.

39. (1) All copies of, and extracts from, registers or other records pertaining to any establishment and all other information relating to any manufacturing or commercial business or any working process acquired by the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator or by any one assisting him, in the course of the inspection or survey of any establishment under this Regulation or acquired by any officer authorised under section 20 in the exercise of his duties thereunder, shall be regarded as confidential and shall not, while in service or after leaving the service, be disclosed to any person or authority

Secrecy of
information
by Chief
Inspector-cum-
Facilitator or
Inspector-cum-
Facilitator,
etc.

unless the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator considers disclosure necessary to ensure the health, safety or welfare of any person employed in establishment.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information to—

(a) any court;

(b) any Committee or Board constituted under this Regulation ;

(c) an official superior or the employer of the establishment concerned;

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1923

(d) a Commissioner for employees' compensation appointed under the Employees' Compensation Act, 1923;

(e) any such officer, authority or authorised person as may be specified in this behalf by the appropriate Government.

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2005

(3) Notwithstanding anything contained in the Right to Information Act, 2005, no Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator shall disclose the source of any complaint, made to him regarding the contravention of the provisions of this Regulation without the consent of the complainant and shall also not while making an inspection under this Regulation in pursuance of such complaint, disclose to the employer concerned or any of his representative that the inspection is being made in pursuance of such complaint.

40. Every employer of an establishment shall afford the Chief Inspector-cum-Facilitator and every Inspector-cum-Facilitator having jurisdiction or every person authorised by the Chief Inspector-cum-Facilitator all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Regulation.

Facilities to be afforded to Inspector-cum-Facilitator.

41. The Powers of special officer to enter, measure in relation to mine shall be as prescribed by the Central Government under the Central Acts.

Powers of special officer to enter, measure, etc., in relation to mine

42. (1) The appropriate Government may appoint medical practitioners having prescribed qualification to be medical officers for the purposes of this Regulation in relation to factory, plantation, motor transport undertakings and in any other establishment as may be prescribed:

Medical officer.

Provided that the medical officers so appointed shall before entering into their office shall disclose to the appropriate Government their interest in the concerned establishment.

(2) The medical officer shall perform the following duties, namely:—

(a) the examination and certification of workers in a factory or in such other establishment engaged in such dangerous occupations or processes as may be prescribed;

(b) the exercise of such medical supervision for any factory motor transport undertaking and for such other establishment as may be prescribed by the appropriate Government where cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in such establishments;

(c) the examination and certification of adolescent for the purpose of ascertaining his fitness for employment in factory, plantation, motor transport undertakings and in any other establishment as may be prescribed by the appropriate Government in any work which is likely to cause injury to their health.

CHAPTER X SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN

Employment of
women

43. Women shall be entitled to be employed in all establishments for all types of work under this Code and they may also be employed, with their consent before 6 a.m. and beyond 7 p.m. subject to such conditions relating to safety, holidays and working hours or any other condition to be observed by the employer as may be prescribed by the appropriate Government.

44. Where the appropriate Government considers that the employment of women is dangerous for their health and safety, in an establishment or class of establishments or in any particular hazardous or dangerous processes in such establishment or class of establishments, due to the operation carried out therein, the appropriate Government may in the prescribed manner, require the employer to provide adequate safeguards prior to the employment of women for such operation.

Adequate
safety of
employment
of women in
dangerous
operation.

CHAPTER XI SPECIAL PROVISIONS FOR CONTRACT LABOUR AND INTER-STATE MIGRANT WORKER, ETC. PART I

CONTRACT LABOUR

Applicability of
this Part.

45. (1) This Part shall apply to—

(i) every establishment in which hundred or more contract labour are employed or were employed on any day of the preceding twelve months through contract;

(ii) every manpower supply contractor who has employed, on any day of the preceding twelve months, hundred or more contract labour

(2) This Part shall not apply to the establishment in which work only of an intermittent or casual nature is performed:

Provided that if a question arises as to whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the National Board or a Dadra and Nagar Haveli and Daman and Diu Advisory Board and its decision thereon shall be final.

Explanation.—For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months; or

(ii) if it is of seasonal character and is performed for more than sixty days in a year.

46. The appropriate Government may, by an order, appoint such persons, being Gazetted officers of the Government, as it thinks fit to be designated as authority under sub-section (1) of section 119 and specify the limits of their jurisdiction and vest with such powers and duties including dealing with issuance and revocation of licences electronically as may be specified therein.

Appointment
of designated
authority.

47. (1) No contractor to whom this Part applies shall—

Licensing of
contractors.

(a) supply or engage contract labour in any establishment; or
(b) undertake or execute the work through contract labour, except under and in accordance with a licence issued to him by the authority referred to in sub-section (1) of section 119 in accordance with the provisions of that section after satisfying that the contractor fulfills such requisite qualifications or criteria as may be prescribed by the Central Government under the corresponding Central Act and such licence shall, in addition to the requisite particulars and conditions specified in sub-section (3), specify the number of such contract labour who can be supplied or engaged and the amount of security to be deposited by the contractor.

(2) Where the contractor does not fulfil the requisite qualifications or criteria referred to in sub-section (1), the

authority referred to in sub-section (1) of section 119 may issue him a "work specific licence" electronically renewable within such period as may be prescribed by the Central Government to supply or engage the contract labour, or execute the work through contract labour, only for the concerned work order as may be specified in such licence and subject to such conditions as may be specified in such licence.

(3) Subject to the provisions of this Part,—

(a) a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as may be prescribed by the appropriate Government;

(b) the licence referred to in sub-section (1) or sub-section (2), shall be obtained from the authority referred to in sub-section (1) of section 119 designated by that Government:

Provided that the authority and procedure for granting licence for operating in more than one States shall be as prescribed by the Central Government referred to in sub-section (1) of section 119 designated by the Central Government for such purpose and the provisions of that section shall apply:

Provided further that before issuing such licence for the establishment for which the appropriate Government is the Union Territory of Dadra and Nagar Haveli and Daman and Diu, the authority referred to in the first proviso shall consult the authorities designated under sub-section (1) of section 119 in the Union Territory of Dadra and Nagar Haveli and Daman and Diu in the electronically.

48. (1) Subject to the provisions of section 119, every application for issuing a licence under section 119 for the purposes of sub-section (1) or sub-section (2) of section 47 shall be made electronically in such form and manner and shall contain such particulars regarding the number of contract labour, nature of work for which contract labour is to be employed and such other particulars including the information relating to the employment of inter-State migrant workers as may be prescribed by the appropriate Government.

Procedure for
issue or
renewal of
licence.

(2) Subject to the provisions of section 119, the authority referred to in sub-section (1) thereof shall follow such procedure as may be prescribed by the appropriate Government.

(3) Subject to the provisions of section 119, the licence issued for the purposes of sub-section (1) of section 47 shall be valid for a period of five years in respect of the number of contract labour specified therein and in case the contractor wants to increase the number of the contract labour, he shall apply in the

prescribed manner for the amendment to the licence for such purpose to the authority referred to in sub-section (1) of section 119 and if the licence is so amended, the number of contract labour shall be increased to such extent by depositing such security deposit as specified in the amended licence for the balance period.

(4) Subject to the provisions of section 119, the licence issued for the purposes of sub-section (1) of section 47 shall contain responsibility of the contractor as may be prescribed by the appropriate Government.

49. The contractor shall not charge directly or indirectly, in whole or in part, any fee or commission from the contract labour.

No fees or commission or any cost to workers.

50. (1) When a contractor receives work order from an establishment either to supply contract labour in the establishment or to execute the contract through contract labour in the establishment he shall, within such time and in such manner as may be prescribed, intimate to the authority referred to in section 119.

Information regarding work order to be given to the appropriate Government.

(2) Where the contractor fails to give intimation under sub-section (1), the designated authority may, after giving the holder of the licence an opportunity of showing cause, suspend or cancel the licence in such manner as may be prescribed by the appropriate Government.

51. (1) If the authority referred to in sub-section (1) of section 119 is satisfied, either on a reference made to him in this behalf or otherwise, that—

Revocation, suspension and amendment of licence.

(a) a licence granted for the purposes of this Part has been obtained by misrepresentation or suppression of any material fact, or

(b) the holder of a licence has, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Part or the rules made thereunder, then, without prejudice to any other penalty to which the contractor may be liable under this Regulation, the authority referred to in sub-section (1) of section 119 may, after giving the contractor an opportunity of showing cause, revoke or suspend the licence in accordance with the procedure as may be prescribed by the Central Government.

(2) Subject to any rules that may be made in this behalf, the authority referred to in sub-section (1) of section 119 may amend a licence granted for the purposes of this Part.

52. (1) Any person aggrieved by an order made under section 47, section 48 or section 51 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate authority prescribed by the appropriate Government under sub-section (6) of section 119:

Appeal

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within thirty days from the date on which the appeal is preferred.

53. Welfare facilities specified under section 23 and section 24 shall be provided by the principal employer of the establishment to the contract labour who are employed in such establishment.

Liability of principal employer for welfare facilities.

54. Where any principal employer of an establishment is employing contract labour through a contractor who is required to obtain a licence under this Part, but he has not obtained such licence, then, such employment shall be deemed to be in contravention of the provision of this Regulation.

Effect of employing contract labour from a non-licensed contractor.

55. (1) A contractor shall be responsible for payment of wages to each contract labour employed by him and such wages shall be paid before the expiry of such period as may be prescribed by the appropriate Government.

Responsibility for payment of wages.

(2) Every contractor shall, make the disbursement of wages referred to in sub-section (1) through bank transfer or electronic mode and inform the principal employer electronically the amount so paid by such mode:

Provided that where it is not practicable to disburse payment in the mode specified in this section, then, the payment shall be made in such manner as may be prescribed by the appropriate Government.

(3) In case the contractor fails to make payment of wages referred to in sub-section (1) within the prescribed period or makes short payment, then, the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the concerned contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(4) The appropriate Government, in the event the contractor does not pay the wages to the contract labour employed by him,

shall pass the orders of making payment of such wages from the amount deposited by such contractor as security deposit under the licence issued by the licensing officer to the contractor, in such manner as may be prescribed by such Government.

56. Every concerned contractor shall issue, on demand, experience certificate, in such form as may be prescribed by the appropriate Government, to the contract labour giving details of the work performed by such contract labour.

Experience
certificate

57. (1) Notwithstanding anything contained in this Part, employment of contract labour in core activities of any establishment is prohibited:

Prohibition of
employment of
contract labour.

Provided that the principal employer may engage contract labour through a contractor to any core activity, if—

(a) the normal functioning of the establishment is such that the activity is ordinarily done through contractor; or

(b) the activities are such that they do not require full time workers for the major portion of the working hours in a day or for longer periods, as the case may be;

(c) any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.

(2) (a) The appropriate Government may, by notification, appoint a designated authority to advise that Government on the question whether any activity of an establishment is a core activity or otherwise;

(b) if a question arises as to whether any activity of an establishment is a core activity or otherwise, the aggrieved party may make an application in such form and manner as may be prescribed, to the appropriate Government for decision;

(c) the appropriate Government may refer any such question *suo motu* or refer the application to the designated authority, which on the basis of relevant material in its possession, or after making such an enquiry as it deems fit, shall report to the appropriate Government, within such period and thereafter the appropriate Government shall decide the question within such period as may be prescribed.

58. The appropriate Government may, in the case of an emergency, direct, by notification, that subject to such conditions and restrictions, if any, and for such period, as may be specified in the notification, all or any of the provisions of this Regulation or the rules made thereunder shall not apply to any

Power to
exempt in
special cases.

establishment or class of establishments or any class of contractors.

PART II INTER-STATE MIGRANT WORKERS

Applicability of
Part II.

59. This Part shall apply to every establishment in which ten or more inter-State migrant workers are employed or were employed on any day of the preceding twelve months.

Facilities to
inter-State
migrant
workers.

60. It shall be the duty of every contractor or the employer, of an establishment employing inter-State migrant workers in connection with the work of that establishment—

(i) to ensure suitable conditions of work to such worker having regard to the fact that he is required to work in a State different from his own State;

(ii) in case of fatal accident or serious bodily injury to any such worker, to report to the specified authorities of both the States and also the next of kin of the worker;

34 of
1948

19 of
1952

(iii) to extend all benefits to such worker which are available to a worker of that establishment including benefits under the Employees' State Insurance Act, 1948 or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any other law for the time being in force and the facility of medical check-up as available to a worker under clause (c) of sub-section (1) of section 6.

Journey
allowance.

61. The employer shall pay, to every inter-State migrant worker employed in his establishment, in a year a lump sum amount of fare for to and from journey to his native place from the place of his employment, in the manner taking into account the minimum service for entitlement, periodicity and class of travel and such other matters as may be prescribed by the appropriate Government.

Benefits of
public
distribution
system, etc.

62. The appropriate Government shall make schemes to provide—

(a) option to an inter-State migrant worker for availing benefits of public distribution system either in his native State or the destination State where he is employed; and

(b) for portability of the benefits of the inter-State migrant worker working for building or other construction work out of the building and other construction cess fund in the destination State where such inter-State migrant worker is employed.

63. The appropriate Government may provide facility of toll free helpline to the inter-State migrant workers in such manner as may be prescribed by that Government.

Toll free helpline.

64. The appropriate Government may provide for study of inter-State migrant workers in such manner as may be prescribed by that Government

Study of inter-State migrant workers.

65. No suit or other proceeding shall lie in any court or before any authority for the recovery of debt or any part thereof relating to an inter-State migrant worker after the completion of his employment where it remains unsettled obligation to the contractor or the principal employer and such debt or part thereof shall, on the completion of the period of employment of such worker, be deemed to have been extinguished.

Past liabilities.

PART III AUDIO-VISUAL WORKERS

66. (1) No person shall be employed as an audio-visual worker in or in connection with production of any audio-visual programme unless,—

Prohibition of employment of audio-visual worker without agreement.

(a) an agreement in writing is entered into—

(i) with such person by the producer of such audio-visual programme; or

(ii) with such person by the producer of such audio-visual programme with the contractor, where such person is employed through such contractor; or

(iii) with such person by the contractor or other person through whom such person is employed; and

(b) such agreement is registered with the competent authority, to be notified by the appropriate Government, by the producer of such audio-visual programme.

(2) Every agreement, referred to in sub-section(1) shall,—

(a) be in the prescribed form;

(b) specify the name and such other particulars as may be prescribed by the appropriate Government with respect to, such person to be employed under the agreement as audio-visual worker;

(c) include, where such audio-visual worker is employed through a contractor, a specific condition to the effect that in the event of the contractor failing to discharge his obligations under the agreement to the audio-visual worker with respect to payment of wages or any other matter, the producer of the audio-visual programme shall also be liable to discharge such obligations and shall be entitled to be reimbursed with respect thereto by the contractor.

(3) A copy of the agreement referred to in sub-section (1) with respect to the employment of the audio-visual worker shall, if such audio-visual worker is covered under the provision of an enactment for the time being in force for providing the benefit of provident fund to him, also be forwarded by the producer of the audio-visual programme to such authority as may be prescribed by the appropriate Government.

(4) Notwithstanding anything contained in Chapters V, VI and VII, the agreement referred to in sub-section (1) shall include,—

(i) nature of assignment;

(ii) wages and other benefits (including provident fund, if covered under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952);

(iii) health and working conditions;

(iv) safety;

(v) hours of work;

(vi) welfare facilities; and

(vii) dispute resolution process or mechanism, the constitution and other details of which shall be prescribed by the appropriate Government:

Provided that in case of failure of the resolution of the dispute in such dispute resolution process or mechanism, either party in the dispute may invoke the jurisdiction of the Industrial Tribunal established by the appropriate Government under section 7A of the Industrial Disputes Act, 1947 and for such purpose such dispute shall be deemed to be industrial dispute within the meaning of that Act and it shall be the responsibility of the producer of the audio-visual programme to provide the facilities specified in the agreement to the audio-visual worker and the payment of wages shall be through electronic mode.

**PART IV
MINES**

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| 67. (1) Save as may be otherwise prescribed, every mine shall be under a sole manager who shall have such qualifications as may be prescribed by the Central Government and the owner or agent of every mine shall appoint a person having such qualifications to be the manager: | Managers. |
| 68. The applicability of the provisions of this Regulation to mines shall be as prescribed by the Central Government. | Code not to apply in certain cases. |
| 69. The exemption from provision regarding employment shall be as prescribed by the Central Government. | Exemption from provision regarding employment. |
| 70. The provisions related to the age limit for employment of persons in mine shall be as prescribed by the Central Government. | Employment of persons below eighteen years of age. |
| 71. The procedure for exemption to certain persons or category of persons employed in mines shall be as per the rules made in this behalf by the Central Government under the corresponding Central Act. | Employment of persons below eighteen years of age. |
| 72. The vocational training and rescue and recovery services for persons employed in a mine shall be as prescribed by the Central Government. | Exemption to certain persons. |
| 73. The Establishment, maintenance of rescue services and vocational training in respect of mines shall be as prescribed by the Central Government. | Establishment, maintenance of rescue services and vocational training. |

**PART V
BEEDI AND CIGAR WORKERS**

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| 74. (1) Save as otherwise provided in this Part, no employer shall use or allow to use any place or premises as an industrial premises unless he holds a valid licence issued under section 119 for the purposes of this Part and no such premises shall be | Licence to industrial premises and person. |
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used except in accordance with the terms and conditions of such licence.

(2) Subject to the provisions of section 119, any person who intends to use or allows to use any place or premises specified in sub-section (1) shall make an application to the authority referred to in sub-section (1) of section 119, in such form and on payment of such fees as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu, for a licence to use, or allow to use, such premises as an industrial premises.

Licence to
industrial
premises and
person.

(3) Subject to the provisions of section 119, the application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu.

(4) Subject to the provisions of section 119, the authority referred to in sub-section (1) thereof shall, in deciding whether to grant or refuse to grant a licence, have regard to the following matters, namely:—

(a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;

(b) previous experience of the applicant or he has employed experienced person or has entered into agreement with the experienced person for employment for the period of licence;

(c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;

(d) whether the application is made *bona fide* on behalf of the applicant himself or in *benami* of any other person;

(e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu.

(5) Subject to the provisions of section 119, a licence granted under the said section for the purposes of this section shall be valid for five years and may be renewed thereafter.

(6) Subject to the provisions of section 119, an application for the renewal of a licence for the purposes of this Part shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof:

Provided that the authority referred to in sub-section (1) of section 119 shall not grant or renew a licence unless it is satisfied that the provisions of this Part and the rules made thereunder have been complied with:

Provided further that the authority referred to in sub section (1) of section 119 shall renew or refuse to renew the licence within such period as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu and in deciding whether to renew a licence or to refuse a renewal thereof shall have regard to the matters specified in sub-section (4).

(7) Subject to the provisions of section 119, the authority referred to in sub-section (1) thereof may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under section 119 for the purposes of this Part, if it appears to it that such licence has been obtained by misrepresentation or fraud or that the licence has contravened or failed to comply with any of the provisions of this Part or the rules made thereunder or any of the terms or conditions of the licence.

(8) The Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu may issue in writing to an authority referred to in sub-section (1) of section 119 such directions of a general character as the Administration may consider necessary in respect of any matter relating to the grant or renewal of licence under section 119 relating to this section.

(9) Subject to section 119 and the foregoing provisions of this section, the authority referred to in sub-section (1) of section 119 may grant or renew licence relating to this Part on such terms and conditions as it may determine and where such authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

75. Any person aggrieved by the decision of the authority referred to in sub-section (1) of section 119 refusing to grant or renew a licence, or cancelling or suspending a licence, relating to this Part may, within such time and on payment of such fees as may be prescribed, appeal to the appellate authority referred to in sub-section (6) of section 119, and such authority may by order confirm, modify or reverse any order refusing to grant or renew a licence, or cancelling or suspending a licence, relating to this Part.

Appeals.

76. (1) The Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees, subject to such conditions as may be prescribed.

Permission to work by employees outside industrial premises.

(2) The employer shall maintain the record of the work permitted under sub-section (1), to be carried on outside the industrial premises, in such form as may be prescribed.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises:

Provided that nothing in this sub-section shall apply to any worker who is given raw material by an employer or a contractor to make beedi or cigar or both at home.

77. Nothing contained in this Part shall apply to the owner or occupier of a private dwelling house, not being an employee of an employer to whom this Part applies, who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him.

Part not to apply to selfemployed persons in private dwelling houses.

Explanation.—For the purposes of this section,—

(i) "family" does not include child, as defined in the Child and Adolescent (Prohibition and Regulation) Act, 1986, for this section;

(ii) "private dwelling house" means a house in which persons engaged in the manufacture of beedi or cigar or both reside.

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1986

PART VI BUILDING OR OTHER CONSTRUCTION WORKERS

Prohibition of employment of certain persons in certain building or other construction work.

78. No person, about whom the employer knows or has reasons to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness, shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

PART VII
FACTORIES

Approval and
licensing of
factories

79. (1) The appropriate Government may make rules in respect of factory or class or description of factories for—

(a) the submission of plans including specifications, nature and certification thereof;

(b) the previous permission for the site on which the factory is to be situated and for the construction or extension thereof; and

(c) subject to the provision of sub-section 119, licensing and renewal thereof including fees to be payable for such, licensing and renewal, if required, as the case may be.

(2) If on an application for permission referred to in clause (b) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (a) of that sub-section, sent to the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu or Chief Inspector-cum-Facilitator in the electronic mode, no order is communicated to the applicant within such period not exceeding thirty days, the permission applied for in the said application shall be deemed to have been granted.

(3) Where Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu or a Chief Inspector-cum-Facilitator refuses to grant permission to the site, construction or extension of a factory and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu and to the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu in any other case.

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, of the addition of any plant or machinery if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

80. Where any premises or separate buildings are leased to different occupiers for use as separate factories, the owner of the premises and occupiers of the factories utilising such common facilities which include safety and fire prevention and protection, access, hygiene, occupational health, ventilation, temperature, emergency preparedness and response, canteens, shelter, rest rooms and crèches shall jointly and severally be responsible for provision and maintenance of such

Liability of owner
of premises in
certain
circumstances.

common facilities and services as may be prescribed by the appropriate Government.

81. (1) The appropriate Government may, by notification, declare that all or any of the provisions of this Part shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is ordinarily carried on irrespective of the number of workers working in the factory.

Power to apply
Code to certain
premises.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Regulation, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

Explanation.—For the purposes of this section, "owner" shall include a lessee or mortgagee with possession of the premises.

82. The appropriate Government may by rules make the provisions relating to any factory or class or description of factories in which manufacturing process or operation is carried on which exposes any of the persons employed in it to a serious risk of bodily injury, poisoning or disease, for—

Dangerous
operations.

(a) specifying the manufacturing process or operation and declaring it to be dangerous;

(b) prohibiting or restricting the employment of pregnant women in the manufacturing process or operation;

(c) the periodical medical examination before, or at any time during the employment to ascertain the fitness of a worker or employee for such employment on the cost of the occupier; and

(d) welfare amenities, sanitary facilities, protective equipment and clothing, and any other requirement necessary for dangerous operations.

83. (1) The appropriate Government may, constitute one or more site appraisal committees consisting of a chairman and other members, for such purpose as may be prescribed including to consider and to give recommendations on an application for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of such factory.

Constitution
of site
appraisal
committee.

(2) The site appraisal committee referred to in sub-section (1) shall make its recommendation within a period of thirty days of the receipt of the application for any of the purpose referred to in the said sub-section in such form, as may be prescribed.

84. (1) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, the local authority within whose jurisdiction the factory is situate and the general public in the vicinity.

(2) The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the local authority and, thereafter, at such intervals as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu, inform the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the local authority of any change made in the said policy.

(3) The information furnished under sub-section (1) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(4) Every occupier shall, with the approval of the Chief Inspector-cum-Facilitator, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(5) Every occupier of a factory shall, if such factory proposes to engage in a hazardous process at any time after the commencement of this Regulation, within a period of thirty days before the commencement of such process, inform the Chief Inspector-cum-Facilitator about the nature and details of the process in such form and in such manner as may be prescribed by the UT Administration of Dadra & Nagar Haveli and Daman & Diu.

(6) Where any occupier of a factory contravenes the provisions of sub-section (5), the licence issued under section 79 to such factory shall, notwithstanding any penalty to which the occupier of factory shall be subjected to under the provisions of this Regulation, be liable for cancellation.

(7) The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector-cum-Facilitator, lay down measures for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu among the workers and the general public living in the vicinity.

85. Every occupier of a factory involving any hazardous process shall—

Specific responsibility of the occupier in relation to hazardous processes.

(a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu ;

(b) appoint persons who possess prescribed qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu :

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector-cum-Facilitator shall be final;

(c) provide for medical examination of every worker—

(i) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance; and

(ii) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu

86. (1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, direct the National Board to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected due to such failure or neglect and for the

National Board to inquire into certain situations.

prevention of recurrence of such extraordinary situations in future in such factory or elsewhere.

(2) The recommendations of the National Board shall be advisory in the nature.

87. (1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Directorate General Occupational Safety and Health formerly known as the Directorate General of Factory Advice Service and Labour Institutes or any Institution authorised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

Emergency standards.

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Regulation, be enforceable and have the same effect as if they had been incorporated in the rules made under this Regulation.

88. The maximum permissible limits of exposure of chemical and toxic substances in manufacturing process in any factory shall be of the value as may be prescribed by the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu.

Permissible limits of exposure of chemicals and toxic substances.

89. (1) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may, bring the same to the notice of the occupier, agent, manager or any other person who is in-charge of the factory or the process concerned directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

Right of workers to warn about imminent danger.

(2) It shall be the duty of such occupier, agent, manager or the person in-charge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum- Facilitator.

(3) If the occupier, agent, manager or the person in-charge referred to in sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by the workers, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

90. The appropriate Government may prescribe provisions providing the manner in which and the appropriate authority to whom the manager or occupier of the factory may make appeal against the order of the Inspector-cum-Facilitator and the procedure for disposing of such appeals.

Appeal against the order of Inspector cum-Facilitator in case of factory

91. (1) The appropriate Government may make rules,—

Power to make rules to exempt.

(a) specifying the persons who hold positions of supervision or management or are employed in a confidential position in a factory or empowering the Chief Inspector-cum-Facilitator to declare any person, other than a person so specified, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector-cum-Facilitator, such person holds such position or is so employed, and the provisions of this Regulation, shall not apply to any person so defined or declared;

(b) in respect of any worker or class of workers in any establishment or class of establishment, for providing the exemption, extent of exemption and conditions subject to which such exemption may be given.

(2) The appropriate Government or the Chief Inspector-cum-Facilitator may, by order in writing, exempt subject to such conditions as it may deem expedient, any or all of the adult workers in any establishment or class of establishments.

PART VIII PLANTATION

Facilities for workers in plantation.

92. The provisions for Plantation shall be as prescribed by the Central Government under the Central Acts.

93. All the conditions prescribed under the Central Acts shall be complied with by the employers of the Plantation.

CHAPTER XII OFFENCES AND PENALTIES

94. Save as otherwise expressly provided in this Regulation, if in, or in respect of, any establishment, there is any contravention of the provisions of this Regulation or regulations or rules, or bye-laws or any of standards, made thereunder or of any order in writing given under this Regulation or such regulations or rules or bye-laws or standards, the employer or the principal employer of the establishment, as the case may be, shall be liable to

General penalty for offences.

penalty which shall not be less than two lakhs rupees but which may extend up to three lakh rupees, and if the contravention is continued after the conviction, then, with further penalty which may extend to two thousand rupees for each day till such contravention continues.

95. (1) Whoever wilfully—

(i) prevents or causes obstruction to a Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or an officer of the appropriate Government or a person authorised to discharge any duty or to exercise any powers under this Regulation or the rules or the regulations or the bye-laws made thereunder, from discharging such duty or exercising such power; or

Punishment
for causing
obstruction to
Chief
Inspectorcum-
Facilitator or
Inspector-cum-
-Facilitator,
etc.

(ii) refuses entry to the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator or person or public authority referred to in clause (i) of sub-section (1) of section 35 or expert referred to in section 37, to any place where such Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or such person or authority or expert is entitled to enter; or

(iii) fails or refuses to produce any document which he is required to produce; or

(iv) fails to comply with any requisition or order issued to him, under this Regulation or the rules, regulations or bye-laws made thereunder he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.

96. (1) Any person, who is required under this Regulation or the rules or regulations or bye-laws or order made thereunder, to—

(i) maintain any register or other document or to file returns, omits or fails to maintain such register or document or to file such returns; or

Penalty for
Non maintenance
of register,
records and
non-filing of
returns, etc.

(ii) produce any register or plan or record or report or any other document, omits or fails to produce such register or plan or record or report or such other document, he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to two lakh rupees

97. (1) Any person, who, save as permitted by or under this Regulation, contravenes, any—

Punishment for contravention of certain provisions

(i) provision of this Regulation or of any rule, regulation or bye-laws; or

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both.

98. (1) Whoever—

Punishment for falsification of records, etc.

(a) produces false records or counterfeits or knowingly makes or produces or uses a false statement, declaration or evidence regarding any document in connection with compliance of any of the provisions of this Regulation or any rules, regulations or bye-laws or any order made thereunder; or

(b) falsifies any plan or section, the maintenance of which is required by or under this Regulation or produces before any authority such plan or section, knowing the same to be false; or

(c) makes, gives or delivers knowingly a false plan, section, return, notice, record or report containing a statement, entry or detail, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.

99. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at, or within, the prescribed time any plan, section, return, notice, register, record or report required by or under any provision of this Regulation to be made or furnished, he shall be liable to penalty which shall not be less than one lakh rupees but which may extend to two lakh rupees.

Penalty for omission to furnish plans, etc.

100. (1) Whoever being the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or any other person referred to in section 39 or section 121 discloses, contrary to the provisions of that section, any such information as is referred to in that section without the consent of the appropriate Government, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

Punishment for disclosure of information.

(2) No court shall proceed with the trial of any offence under this section except with the previous sanction of the appropriate Government.

101. Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Regulation, publishes or discloses to any person the results of an analysis, of a sample of substance used or intended to be used in any process under this Regulation, shall be punishable with imprisonment for a term, which may extend to six months, or with fine, which may extend to fifty thousand rupees, or with both.

Punishment for wrongfully disclosing results of analysis.

102. (1) Whoever fails to comply with or contravenes any of his duties specified under—

Punishment for contravention of provisions of duties relating to hazardous processes.

(i) clauses (a) to (h) of sub-section (1) or sub-section (2) of section 6 or clause (d) of section 13 in so far as such duty relates to hazardous processes; or

(ii) section 80, shall, in respect of such failure or contravention, be punishable with an imprisonment for a term which may extend to two years and with fine which may extend to five lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues, after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to three years or with a fine of twenty lakh rupees, or with both.

103. (1) If a person fails to comply with or contravenes any duties under this Regulation or the regulations, rules, bye-laws or orders made thereunder and such non-compliance or contravention has resulted in an accident or dangerous occurrences causing—

Punishment for contravention of provisions of duties relating to safety provisions resulting in an accident.

(a) death, he shall be punishable with imprisonment for a term which may extend to two years, or with a fine which shall not be less than five lakh rupees, or with both; or

(b) serious bodily injury to any person within the establishment, he shall be punishable with imprisonment for a term which may

extend to one year, or with a fine which shall not be less than two lakh rupees but not exceeding four lakh rupees, or with both:

Provided that while imposing the fine under this section, the court may direct that a portion of the fine, which shall not be less than fifty per cent. thereof, shall be given as compensation to the victim or to the legal heirs of the victim, in the case of his death.

(2) Where a person having been convicted under sub-section (1) is again convicted thereunder, shall be punishable with double the punishment provided under that sub-section for first conviction.

104. Whoever continues to work in contravention of any general or special order issued under the provisions of section 38, shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine which may extend to five lakh rupees:

Special provision for contravention of order under section 38.

Provided that the court shall not impose a fine under this section which shall be less than two lakh rupees without recording in the judgment the reasons for imposing such fine.

105. Whoever in compliance of the provisions of section 67, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both

Failure to appoint manager in mine.

106. (1) Subject to the provisions of section 13, except clause (d) thereof, if any employee employed in a workplace contravenes any provision of this Regulation or any rules or orders made thereunder, imposing any duty or liability on employee, he shall be punishable with penalty which may extend to ten thousand rupees.

Offences by employees.

(2) Where an employee is convicted of an offence punishable under sub-section (1), the employer of the establishment shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

107. The Prosecution of owner, agent or manager of mine shall be as prescribed by the Central Government.

Prosecution of owner, agent or manager of mine.

108. Where the owner, agent or manager of the mine or employer or occupier of the factory is charged with an offence punishable under this Regulation he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

Exemption of owner, agent or manager of mine or occupier of factory from liability in certain cases.

(a) that he has exercised due diligence to enforce the execution of this Regulation, or

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he was the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and the owner, agent or manager of a mine or the occupier or the manager of the factory shall be, discharged from any liability under this Regulation in respect of such offence:

Provided that in seeking to prove as aforesaid the owner, agent or manager of a mine or the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support, shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and shall, if the offence be proved, convict him.

109. (1) Where an offence under this Regulation has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies, etc.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, company secretary or other officer of the company, such director, manager, company secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" means,—

(i) in relation to a firm a partner thereof; or

(ii) in case of association of individuals other than specified in sub-clause (i), any of its members.

110. (1) Notwithstanding anything contained in this Chapter, the Inspector-cum- Facilitator shall, not initiate prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to comply with relevant provisions of this Act within a period of thirty days from the date of notice giving opportunity, and, if the employer complies with such provisions within such period, then, no such proceeding shall be initiated against such employer:

Limitation of
prosecution and
cognizance of
offences.

Provided that no such opportunity shall be accorded to an employer in case of an accident and if the violation of the same nature of the provisions under this Regulation is repeated within a period of three years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with provisions of sub-section (2).

(2) No court shall take cognizance of any offence punishable under this Regulation, unless a complaint in respect thereof is made within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector-cum-Facilitator and a complaint is filed in that regard by him.

(3) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Regulation. .

Explanation.—For the purposes of this section,—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act, time is granted or extended on an application made by the employer of an establishment, the period of limitation shall be computed from the date on which the time so granted or extended expired.

111. (1) Notwithstanding anything contained in section 110, for the purpose of imposing penalty under sub-section (3) of section 12 or sections 94, 96, 97, 99, 106 and sub-section (3) of section 114, the appropriate Government may appoint any officer of equivalent rank of an Under Secretary to the Government of India in the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, for holding enquiry in such manner, as may be prescribed by the Central Government from time to time.

Power of officers of appropriate Government to impose penalty in certain cases.

(2) While holding the enquiry, the officer referred to in sub-section (1) shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of such officer, may be useful for or relevant to the subject-matter of the enquiry and if, on such enquiry, he is satisfied that the person has committed any offence under the provisions referred to in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of that sub-section.

(3) Any person aggrieved by an order made by the officer under sub-section (2) may prefer an appeal, in such form and manner and accompanied by such fee as may be prescribed, to the appellate authority to be appointed by the appropriate Government from amongst officers not below the rank of Deputy Secretary to the Government of India or an officer of equivalent rank in the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be, within sixty days from the date on which the copy of the order made by the officer referred in sub-section (1) is received by the aggrieved person.

(4) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against, within a period of sixty days from the date of receipt of appeal.

(5) Where a person fails to pay the penalty so imposed within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend up to two lakh rupees.

(6) The amount of penalty imposed and received under this section shall be credited to the fund established under sub-section (1) of section 115.

112. For the purposes of conferring jurisdiction on any court in relation to an offence under this Regulation or the rules, regulation or bye-laws made thereunder in connection with an establishment, the place where the establishment is for the time being situated, shall be deemed to be the place where such offence has been committed.

Jurisdiction of court for entertaining proceedings, etc., for offence.

113. (1) Where the employer of a mine or a factory or a dock is convicted of an offence punishable under this Regulation, the court may, in addition to awarding him any punishment, by order in writing, require him within the period specified in the order (which may be extended by the court from time to time on application made in this behalf) to take such measures as may be specified in the order for remedying the matters in respect of which the offence was committed.

Power of court to make orders.

(2) Where an order is made under sub-section (1), the employer of the mine or the factory shall not be liable under this Regulation in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully complied with, employer shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

114. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any penalty under sub-section (3) of section 12 or section 94 or section 96 or sub-section (1) of section 97 or section 99 or section 106 or sub-section (3) or any offence under sub-section (2) of section 97 or sub-section (1) of section 100 or section 101 or clause (b) of sub-section (1) of section 103 or section 105 or sub-section (2) of section 113 may either before or after the holding the enquiry or, as the case may be, of institution of prosecution may be compounded by such officer of the appropriate Government as may be notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu in the manner as may be prescribed by it—

Composition of certain offences.

- (a) in a case of penalty for a sum of fifty per cent. of the maximum penalty provided for such penalty; and
- (b) in a case of offence for a sum of seventy-five per cent. of the maximum fine provided for such offence.

(2) Where a penalty or an offence has been compounded under sub-section (1), the person liable for penalty or the offender, as the case may be, shall be discharged of the penalty or offence and there shall be no further proceedings against him in respect of such penalty or offence.

(3) Any person who fails to comply with an order made by the officer referred to in sub-section (1), shall be liable to pay a penalty equivalent to twenty per cent. of the maximum penalty or fine provided for the penalty or the offence, as the case may be, in addition to the penalty or fine.

(4) The amount of composition received under sub-section (1) shall be credited to the fund established under sub-section (1) of section 115 for the unorganised workers.

(5) Nothing contained in sub-section (1) shall apply to a penalty or an offence committed by a person for a second or subsequent time within a period of three years from the date of penalty or offence, as the case may be,—

- (a) which was earlier compounded; or
- (b) for which such person was earlier convicted.

CHAPTER XIII SOCIAL SECURITY FUND

Social security
fund.

115. (1) There shall be established by the appropriate Government a social security fund for the welfare of the unorganised workers to which there shall be credited the amount received from composition of the offence as specified in sub-section (4) of section 114 and the amount of the penalty as specified in sub-section (6) of section 111.

(2) The fund may also be funded by such other sources as may be prescribed by the appropriate Government.

(3) The fund shall be administered and expended for welfare of the unorganised workers in such manner as may be prescribed by the appropriate Government including the transfer of the amount in the fund to any fund established under any other law for the time being in force for the welfare of the unorganised workers.

Explanation.—For the purpose of this section the expression "unorganised worker" shall have the same meaning as is assigned to it under clause (m) of section 2 of the Unorganised Workers Social Security Act, 2008.

33 of 2008.

CHAPTER XIV MISCELLANEOUS

116. The Central Government may, by notification, direct that any power exercisable by it under this Regulation or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by the Union Territory Administration of Dadra

Delegation of
powers.

and Nagar Haveli and Daman and Diu or by such officer or authority subordinate to the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu as may be specified in the said notification.

117. (1) When any offence is committed under this Regulation involving an issue of a certain age of a person and such person is in the opinion of the court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

Onus as to age.

(2) The medical authority prescribed by the Central Government shall, while examining a worker for issuing the certificate of age for the purposes of this Regulation, take into account the Aadhaar card of the worker, and in the absence thereof, the date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination Board of the worker, if available, and in the absence thereof, the birth certificate of the worker given by a corporation or a municipal authority or a Panchayat, and only in the absence of any of the methods specified in this sub-section, the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test.

118. In any proceeding for an offence for the contravention of any provision of this Regulation or regulations or bye-laws or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or all practicable measures were taken to satisfy the duty or requirement.

Onus of proving limits of what is practicable, etc.

119. (1) Notwithstanding anything contained in this Regulation, any person desirous of obtaining common licence in respect of a factory, industrial premises for *beedi* and cigar work and for engaging contract workers or any combination thereof or single licence for any one of them under this Regulation shall make an application electronically or otherwise to such authority as may be designated, by notification, by the appropriate Government.

Common licence for contractor, factories and to industrial premises, etc.

(2) The application under sub-section (1),—

(a) shall be in such form and filed in such manner and accompanied by such fee and contain such information as may be prescribed by the appropriate Government;

(b) shall, in so far as it relates to the licence for engaging contract labours, contain the number of inter-State migrant workers employed.

(3) On receipt of an application under sub-section (1), the authority referred to in that sub-section shall take such actions in such manner and make such inquiry as may be prescribed by the appropriate Government.

(4) Where the authority referred to in sub-section (1) is satisfied that the common licence may be issued in respect of a factory, industrial premises for *beedi* and cigar work and for engaging contract workers or any combination thereof or single licence for any one of them under this Regulation, such authority shall issue a licence electronically within forty-five days of the receipt of application failing which the licence shall be deemed to be issued and shall be auto generated and the responsibility of such failure shall be on such authority:

Provided that where the licence is deemed to be issued, no further inquiry shall be made:

Provided further that the form of licence shall, as far as practicable, be similar throughout India:

Provided also that where such authority rejects the application he shall assign the reason for such rejection.

(5) Notwithstanding anything contained in this Regulation, any licence in respect of a factory, industrial premises for *beedi* and cigar work and for engaging contract labour has been obtained under any Central labour law before the commencement of this Regulation, in respect of any establishment shall be deemed to have been obtained under the provisions of this Regulation and shall be valid for the period for which it was issued and shall have to be obtained afresh after its expiration.

(6) Any person aggrieved by an order passed under this section by the authority referred to in sub-section (1) may file, within thirty days from the date of the order, an appeal in such form, accompanied with such fee to such appellate authority as may be prescribed by the appropriate Government and the appeal shall be disposed of electronically within thirty days of the filing of the appeal.

120. (1) The provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement or contract of service whether made before or after the commencement of this Regulation:

Effect of law and agreements inconsistent with Code.

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Regulation, the employee shall continue to get the former notwithstanding that

he receives benefits in respect of other matters under this Regulation.

(2) Nothing contained in this Regulation shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Regulation.

121. (1) The appropriate Government may, in the event of the occurrence of an accident in an establishment which has caused or had the potentiality to cause serious danger to employees and other persons within, and in the vicinity of the workplace or whether immediate or delayed, or any occupational disease as specified in the Third Schedule, which has been or is suspected to have been contracted, in epidemic proportions, appoint one or more persons possessing legal or special knowledge to act as assessors or competent persons in such inquiry in order to inquire into the causes of the accident and disease, fix responsibilities and suggest a plan of action for the future to prevent such accidents or diseases and submit the report to the appropriate Government.

Power of
appropriate
Government
to direct
inquiry in
certain cases

(2) The appropriate Government may direct a Chief Inspector-cum-Facilitator or any other officer under the control of the Government concerned or appoint a committee to undertake a survey in such manner as may be prescribed by the appropriate Government on the situation relating to safety or health at work at any workplace or class of workplaces or into the effect of work activity on the health of the employees and other persons within and in the vicinity of the workplace.

5 of
1908.

(3) The officer directed or committee appointed, under sub-section (1) or sub-section (2), to hold an inquiry, shall have the powers of a civil court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also so far as may be necessary for the purposes of the inquiry, exercise such powers of an Inspector-cum-Facilitator under this Regulation as may be necessary.

(4) The rules for regulating the procedure of inquiry and survey and other related matters under this section shall be as prescribed by the Central Government.

<p>122. The appropriate Government may, if it thinks fit, cause to be published any report submitted to it by the National Board or Dadra and Nagar Haveli and Daman and Diu Advisory Board or any extracts from any report submitted to it under this Regulation.</p>	<p>Publication of reports.</p>
<p>123. The Central Government may give directions to the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu for the implementation of the provisions of this Regulation.</p>	<p>Powers of Central Government to give directions.</p>
<p>124. (1) No person shall in respect of the establishment, disclose any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties</p>	<p>General restriction on disclosure of information</p>
<p>(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of the business or process or for the purposes of any legal proceeding (including adjudication or arbitration), pursuant to any of the relevant statutory provisions or of any criminal proceeding under this Regulation which may be taken, whether pursuant to any of the relevant statutory provisions or otherwise, or for the purposes of any report of any such proceedings.</p>	<p>Jurisdiction of civil courts barred.</p>
<p>125. No civil court shall have jurisdiction in respect of any matter to which any provision of this Regulation applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Regulation.</p>	
<p>126. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Regulation or any rule or regulation or bye-laws or order made thereunder.</p>	<p>Protection of action taken in good faith.</p>
<p>(2) No prosecution or other legal proceeding shall lie against the Government, any Board or committees constituted under this Regulation or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Regulation or any rule or regulation or bye-laws or order made or issued thereunder.</p>	<p>Power to exempt in special cases.</p>
<p>127. (1) The appropriate Government may, by notification and subject to such conditions and restrictions, if any, and for such period or periods as may be specified in the notification, direct that all or any of the provisions of this Regulation or the rules or the regulations made thereunder shall not apply to or in relation to any establishment or class of establishments.</p>	
<p>(2) Without prejudice to the generality of sub-section (1), where the Union Territory Administration of Dadra and Nagar Haveli</p>	

and Daman and Diu is satisfied in the public interest that it is necessary to create more economic activities and employment opportunities, it may, by notification, exempt, subject to such conditions as it may think fit, any new factory or class or description of new factories from all or any of the provisions of this Regulation for such period from the date on which such commercial production starts, as may be specified in the notification:

63 of
1948.

Provided that any notification issued by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under the Factories Act, 1948 for the time being in force in the Union Territory prior to the commencement of this Regulation to achieve the same purpose as is specified in this sub-section, shall remain in force after such commencement for its remaining period as if the provisions of this Regulation, to the extent they defeat any purpose to be achieved by such notification issued by the Union Territory Administration of Dadra and Nagar Haveli, were not in force.

Explanation.—For the purpose of this sub-section, the expression "new factory or class or description of new Factories" means such factory or class or description of Factories which are established and whose commercial production start within such period as may be specified in the notification.

128. In case of a public emergency or disaster or pandemic in whole of India or part thereof, the appropriate Government may, by notification, exempt any workplace or work activity or class thereof from all or any of the provisions of this Regulation for such period and subject to such conditions as it may think fit:

Power to
exempt during
public
emergency.

Provided that no such notification shall be made for a period exceeding one year at a time.

Explanation.—For the purposes of this section "public emergency" means a grave emergency whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

129. The appropriate Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training, research or information, from all or any of the provisions of this Regulation:

Power to
exempt public
institution

Provided that no such exemption shall be granted from the provisions relating to hours of work and holidays unless the persons having the control of the institution submit, for the approval of the appropriate Government, a scheme of the regulation of the hours of employment, intervals for meals, and

holidays of the persons employed in or attending the institution or who are inmates for the institution, and the appropriate Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Regulation.

45 of
1860.

130. Every person required to give any notice or to furnish any information to any authority in relation to the provisions of this Regulation shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

Persons required to give notice, etc., legally bound to do so.

131. The Central Government may, by notification, amend any Schedule by way of addition, alteration or omission therein and on any such notification being issued, the Schedule shall be deemed to be amended accordingly.

Power of Central Government to amend Schedule.

132. (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Regulation, as appears to it to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of two years from the date on which this Regulation comes into force.

Power to remove difficulties.

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

133. (1) The appropriate Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Regulation.

Power of appropriate Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such

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:—

Power of appropriate Government to make rules.

(a) income from the sources under *Explanation* to clause (x) of sub-section (1) of section 2;

(b) substance or quantity of substance under clause (zb) of sub-section (1) of section 2;

(c) the late fee under the proviso to sub-section (1) of section 3;

(d) the manner of submitting application under sub-section (2) of section 3 and the form of such application and the particulars to be contained therein and the fees to be accompanied therewith;

(e) the form and manner of sending the notice and the authority to whom the notice shall be sent and the manner of intimating the authority under sub-section (1) of section 5;

- (f) annual health examination or test free of costs, age of employees or class of employees or establishment or class of establishments under clause (c) of sub-section (1) of section 6;
- (g) the information to be included in the letter of appointment and the form of such letter under clause (a) of sub-section (1) of section 6;
- (h) the nature of bodily injury and the manner of notice and the time within which the notice shall be sent and the authority to which notice shall be sent under sub-section (1) of section 10;
- (i) nature of dangerous occurrence and the form of notice, the time within which and the authority to which notice shall be sent under section 11;
- (j) the form of notice related to certain diseases and the time within which the notice shall be sent and the authority to which the notice shall be sent under sub-section (1) of section 12;
- (k) the form and manner of the report and the time within which such report shall be sent to the office of the Chief Inspector-cum-Facilitator under sub-section (2) of section 12;
- (l) manner of making report by employee under clause (d) and other duties of employees under clause (g) of section 13;
- (m) manner of sending report of action taken under sub-section (3) of section 14;
- (n) the manner of constituting a safety committee and the manner and the purpose for choosing the representative of the workers in the Safety Committee under sub-section (1) of section 22;
- (o) the qualifications, duties and number of safety officers under sub-section (2) of section 22;
- (p) conditions for exemption of workers from weekly and compensatory holidays under sub-section (2) of section 26;
- (q) the total number of overtime under second proviso to section 27;
- (r) circumstances for exemption from restriction on double employment in factory under section 30;
- (s) the form of notice and manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator under sub-section (2) of section 31;
- (t) the form of register and particulars of workers under clause (a) of section 33;

- (u) the manner and form of displaying notices under clause (b) of section 33;
- (v) return, manner of filing the return and periods of filing return to the Inspectorcum-Facilitator under clause (d) of section 33;
- (w) the qualification and experience of Chief Inspector-cum-Facilitator under sub-section (5) of section 34;
- (x) the manner of taking samples of any article or substance found in any premises and air of atmosphere under clause (x) of sub-section (1) of section 35;
- (y) the other powers and duties under clause (xiv) of sub-section (1) of section 35;
- (z) the specialised qualification and experience, duties and responsibilities of experts to be empanelled under section 37;
- (za) the manner of providing alternative employment under sub-clause (d) of clause (A) of sub-section (1) of section 38;
- (zb) the qualification for the appointment of medical practitioner and other establishment under sub-section (1) of section 42;
- (zc) other establishment engaged in the dangerous occupation or processes under clause (a) of sub-section (2) of section 42;
- (zd) medical supervision and other establishment under clause (b) of sub-section (2) of section 42; (ze) other establishment under clause (c) of sub-section (2) of section 42;
- (ze) conditions relating to safety, holidays and working hours or any other condition to be observed by the employer under section 43; (zg) the manner of requiring the employer to provide the adequate safeguards under section 44;
- (zf) conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour under clause (a) of sub-section (3) of section 47;
- (zg) the form and manner of application and the particulars which such application shall contain regarding the number of contract labour, nature of work for which contract labour is to be employed and other particulars including the information relating to the employment of inter-State migrant workers under sub-section (1) of section 48;
- (zh) the procedure under sub-section (2) of section 48;
- (zi) manner of applying for the renewal of licence and the manner of renewal of licence under sub-section (3) of section 48;
- (zj) responsibility of the contractor under sub-section (4) of section 48;

(zk) the manner of intimation of work order and time-limit for such intimation under sub-section (1) of section 50;

(zl) the manner of suspending or cancelling the licence under sub-section (2) of section 50;

(zm) the period before which the wages shall be paid under sub-section (1) of section 55;

(zo) the mode of payment of wages under proviso to sub-section (2) of section 55;

(zp) the manner of payment of wages from security deposit under sub-section (4) of section 55;

(zq) the form of issuing experience certificate under section 56;

(zr) the form and manner of making application under clause (b) of sub-section (2) of section 57;

(zs) period of making report and the period of deciding the question under clause (c) of sub-section (2) of section 57;

(zt) minimum service for entitlement, class of travel and other matters under section 61;

(zu) manner of providing facility of toll free helpline under section 63;

(zv) manner of providing for study on inter-State migrant workers under section 64;

(zw) authority to whom a copy of the agreement shall be forwarded by the producer under sub-section (3) of section 66;

(zx) details under clause (vii) of sub-section (4) of section 66;

(zy) rules in respect of factory or class or description of factories under sub-section (1) of section 79;

(zz) mode of submission of application under sub-section (2) of section 79;

(zza) common facilities and services for joint liability of owner of premises and occupiers of the factories under section 80;

(zzb) rules under section 82;

(zzc) purposes under sub-section (1) of section 83;

(zzd) form of application under sub-section (2) of section 83;

(zze) the appellate authority for appeal against the order of Inspector-cum- Facilitator of factory and the manner of appeal under section 90;

(zzf) rules under section 91;

(zzg) manner of holding enquiry under sub-section (1) of section 111;

(zzh) form and manner of preferring appeal and the fee to accompany such appeal under sub-section (3) of section 111;

(zzi) manner of compounding under sub-section (1) of section 114;

(zzj) other sources of fund under sub-section (2) of section 115;

(zzk) the manner of administering and expending the Fund under sub-section (3) of section 115;

(zzl) the form of application, manner of filing the application and the fee to be accompanied therewith including the information relating to the employment of inter-State migrant workers under sub-section (2) of section 119;

(zzm) actions, manner of taking actions and inquiry under sub-section (3) of section 119;

(zzn) the form of appeal, the fee to be accompanied therewith and the appellate authority under sub-section (6) of section 119;

(zzo) the manner of survey under sub-section (2) of section 121;

(zzp) any other matter which is required to be, or may be, prescribed under this Regulation.

134. (1) The Central Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Regulation .

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) the other authority under sub-clause (iii) of clause (zs) of sub-section (1) of section 2;

(b) the matters which are directly related to the condition of ship under the proviso to sub-clause (iii) of clause (zs) of sub-section (1) of section 2;

(c) other period under clause (a) of sub-section (1) of section 3;

(d) the form of intimation by the employer electronically and the manner of amendment in the certificate electronically under sub-section (4) of section 3;

- (e) the manner of informing closing of establishment and certifying payment to the registering officer under sub-section (5) of section 3;
- (f) procedure for nomination and discharge of functions of Members of National Board under sub-section (3) of section 16;
- (g) the terms and conditions of service of officers and employees of the National Board under sub-section (4) of section 16; (i) the number of members of technical committees or advisory committees and their qualifications under sub-section (5) of section 16;
- (h) the form and manner of collecting, compiling and analyzing occupational safety and health statistics under sub-section (1) of section 21;
- (i) the form and manner of maintaining database electronically or otherwise and the documents to be produced under sub-section (2) of section 21;
- (j) health and working conditions under sub-section (1) of section 23;
- (k) regarding matters specified in sub-section (2) of section 23;
- (l) welfare facilities for the employees under sub-section (1) of section 24;
- (m) regarding matters specified in sub-section (2) of section 24;
- (n) facility of crèche under sub-section (3) of section 24;
- (o) definition of "running time" in relation to a working day under clause (a) of the *Explanation* to sub-section (1) of section 25;
- (p) the hours of work for working journalist under sub-section (2) of section 25; (s) other kinds of leave under clause (i) of sub-section (3) of section 25;
- (q) the maximum period of accumulating leave under clause (ii) of sub-section (3) of section 25;
- (r) the limit up to which the earned leave may be availed of at a time and the reasons for which such leave may be exceeding under clause (iii) of sub-section (3) of section 25;
- (s) conditions and restrictions for entitlement of cash compensation under clause (iv) of sub-section (3) of section 25;
- (t) powers and duties of District Magistrate under section 36;

(u) requisite qualifications or criteria under sub-section (1) of section 47;

(v) period of renewal of licence under sub-section (2) of section 47;

(w) procedure under clause (b) of sub-section (1) of section 51;

(x) form of agreement under clause (a), and the name and other particulars under clause (b) of sub-section (2) of section 66;

(y) the matter which may be saved and the qualifications of sole manager under sub-section (1) of section 67;

(z) the conditions relating to number of employees, depth of excavation and other matters under clause (a) of sub-section (1) of section 68;

(za) conditions relating to workings, opencast workings and explosives under clause (b) of sub-section (1) of section 68;

(zb) to declare the mines and part thereof for the purpose of applicability of the provisions of this Regulation under sub-section (2) of section 68;

(zc) the authority, the manner of informing such authority and the time limit for making such information under sub-section (3) of section 68;

(zd) to provide for medical examination of apprentice, other trainee or employee under sub-section (3) of section 70;

(ze) to exempt certain persons or category of persons holding positions of supervision or management and the persons employed in mine and the persons employed therein under section 71;

(zf) to provide for vocational training and rescue and recovery services to the persons employed in a mine under section 72;

(zg) medical authority under sub-section (2) of section 117;

(zk) rules under sub-section (4) of section 121;

(zh) the language of the bye-laws under sub-section (7) of section 139;

(zi) any other matter which is required to be, or may be prescribed.

135. (1) The Union Territory Administration may, subject to the condition of previous publication and by notification, make rules for the carrying out the provisions of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the constitution, procedure and other matters relating to State Advisory Board under sub-section (2) of section 17;

(b) the number of members and their qualifications under sub-section (3) of section 17;

(c) the form of application and the payment of fees under sub-section (2) of section 74;

(d) the manner of preparing the plan of the place or premises under sub-section (3) of section 74;

(e) other matters under clause (e) of sub-section (4) of section 74;

(f) fees under sub-section (6) of section 74;

(g) period under the second proviso to sub-section (6) of section 74;

(h) the time of filing appeal and fees under section 75;

(i) the form of application by the employee and conditions under sub-section (1) of section 76;

(j) form of maintaining the record of the work under sub-section (2) of section 76;

(k) the manner of disclosing information by occupier of a factory under sub-section (1) of section 84;

(l) the interval of informing Chief Inspector-cum-Facilitator and the local authority about the policy with respect to the health and safety of the workers under sub-section (2) of section 84;

(m) the form and manner of informing Chief Inspector-cum-Facilitator under sub-section (5) of section 84;

(n) the manner of publicising among the workers and the general public living in the vicinity of the factory the measures and disposal laid down under sub-section (7) of section 84;

(o) the conditions for accessibility to the record by the workers under clause (a) of section 85;

(p) the qualification and experience of persons handling hazardous substance and manner of providing necessary facilities for protecting the workers under clause (b) of section 85;

(q) the manner of providing for medical examination of a worker under sub-clause (ii) of clause (c) of section 85;

(r) the measures or standards under sub-section (1) of section 86;

(s) the value of the maximum permissible limit of exposure of chemical and toxic substances in manufacturing process in any factory under section 88;

(t) requiring every employer to make in his plantation provisions in respect of as specified in clauses (a) to (d) of sub-section (1) of section 92;

(u) for prohibiting or, restricting employment of women or adolescents under sub-section (2) of section 93;

(v) qualifications under sub-section (3) of section 93;

(w) other matters under sub-section (4) of section 93;

(x) manner of periodical medical examination of worker under sub-section (5) of section 93;

(y) the manner of providing facilities, clothing and equipment under sub-section (7) of section 93;

(z) precautionary notices under sub-section (9) of section 93;

(za) any other matter which is required to be, or may be, prescribed.

(3) The Central Government may, by notification and in consultation with the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, make rules for the purposes of bringing uniformity, throughout the country, in occupational safety, health or such other matters as it considers necessary in respect of factories.

136. The Central Government may, by notification, make regulations consistent with this Regulation for all or any of the following purposes, namely:—

(a) for specifying the qualifications required for appointment as Inspector-cum-Facilitator;

(b) for specifying and regulating the duties and powers of the Chief Inspectorcum-Facilitator and of Inspector-cum-Facilitators in regard to the inspection of mines under this Code;

Power of Central Government to make regulations in relation to mines and dock work.

- (c) for specifying the duties of owners, agents and managers of mines and of persons acting under them, and for specifying the qualifications (including age) of agents and managers of mines and of persons acting under them;
- (d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;
- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage, conveyance and use of explosives;
- (a) for specifying the number of officials to be appointed;
- (b) for specifying the qualifications of the officials to be appointed;
- (c) for specifying the qualifications and experience of the agents;
- (d) for specifying the period during which the agent shall be resident in India;
- (e) providing for the fire and explosion prevention and protection;
- (f) providing for safe means of access to ships, holds, stagings, equipment, lifting appliances and other working places;
- (g) providing for the safety of workers engaged in the opening and closing of hatches, protection of ways and other openings in the docks which may be dangerous to them;
- (h) providing for the safety of workers on docks from the risk of falling overboard being struck by cargo during loading or unloading operations;
- (i) providing for the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;
- (j) providing for the safety of workers employed in freight container terminals or other terminals for handling unitised cargo;

- (k) providing for the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;
- (l) providing for the construction, maintenance and use of staging;
- (m) providing for the rigging and use of ship's derricks;
- (n) providing for the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;
- (m) providing for the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;
- (o) providing for the handling of dangerous substances and working in dangerous or harmful environments and the precautions to be taken in connection with such handling;
- (p) providing for the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;
- (q) providing for the employment of persons for handling cargo, handling appliances, power operated hatch covers or other power operated ship's equipment, such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;
- (r) providing for protective equipment or protective clothing;
- (s) providing for the sanitary, washing and welfare facilities;
- (t) providing for—
 - (i) the medical supervision;
 - (iii) the safety and health organisation; and
- (u) providing for the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;
- (v) any other matter which is required to be or may be specified by regulation.
- (w) for specifying the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 5;

(x) for specifying the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within forty-five meters of any railway subject to the provisions of the Indian Railways Act, 1989 or of any public roads or other works as the case may be, which are maintained by the Government or any local authority;

(y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1989;

(z) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner in the same manner as an arrear of land revenue;

(za) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public;

(zb) for specifying the number of officials to be appointed;

(zc) for specifying the qualifications of the officials to be appointed;

(zd) for specifying the qualifications and experience of the agents;

(ze) for specifying the period during which the agent shall be resident in India;

(zf) for specifying duties and responsibilities of suppliers, designers, importer and contractors for safety in mines;

(zg) for requiring the owners, agents and managers of mines to formulate, maintain and enforce safety management plan in their mines;

(zh) for requiring the managers of mines to formulate and implement codes of practice or standard operating procedure in respect of any machinery or operation used in the mines;

(zi) for providing for the safety in opencast mines and associated operations and machineries used therein;

(zj) for regulating the extraction of methane from working or abandoned coal mines or from virgin coal seam;

- (zk) for specifying the forms of returns which shall be filed by the establishments or the class of establishments under this Code;
- (zl) for the general requirement relating to the construction, equipping and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;
- (zm) for the safety of any regular approaches over a dock, wharf, quay or other places which dock workers have to use for going for work and for fencing of such places and projects;
- (zn) for the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;
- (zo) providing and maintaining adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;
- (zp) providing for the fire and explosion prevention and protection;
- (zq) providing for safe means of access to ships, holds, stagings, equipment, lifting appliances and other working places;
- (zr) providing for the safety of workers engaged in the opening and closing of hatches, protection of ways and other openings in the docks which may be dangerous to them;
- (zs) providing for the safety of workers on docks from the risk of falling overboard being struck by cargo during loading or unloading operations;
- (zt) providing for the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;
- (zu) providing for the safety of workers employed in freight container terminals or other terminals for handling unitised cargo;
- (zv) providing for the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;
- (zw) providing for the construction, maintenance and use of staging;
- (zx) providing for the rigging and use of ship's derricks;

(zy) providing for the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work;

(zz) providing for the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;

(zza) providing for the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;

(zzb) providing for the handling of dangerous substances and working in dangerous or harmful environments and the precautions to be taken in connection with such handling;

(zzc) providing for the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;

(zzd) providing for the employment of persons for handling cargo, handling appliances, power operated hatch covers or other power operated ship's equipment, such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;

(zze) providing for the transport of dock workers;

(zzf) providing for the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibrations and air pollution at the workplace;

(zzg) providing for protective equipment or protective clothing;

(zzh) providing for the sanitary, washing and welfare facilities;

(zzi) providing for—

(i) the medical supervision;

(ii) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

(iii) the safety and health organisation; and

(iv) the training of dock workers and for the obligations and rights of the dock workers for their safety and health at the workplace;

(zzj) providing for the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom,

they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

(zzk) providing for the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers; and

(zzl) any other matter which is required to be or may be specified by regulation

137. The power to make rules, regulations, and bye-laws 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, etc.

(a) the date to be specified after a draft of rule, regulation, and bye-laws proposed to be made will be taken under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rule, regulation and bye-laws is published for general information;

(b) rule, regulation and bye-laws shall be published in the Official Gazette and on such publication, shall have effect as if enacted in this Regulation.

138. Notwithstanding anything contained in section 137, regulations under section 136 may be made without previous publication and without reference to the National Occupational Safety Health Advisory Board constituted under sub-section (1) of section 16, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger and to avoid delay it is necessary to dispense with from such publication and reference.

Power to make
regulation without
previous
publication.

140. Notwithstanding any law for the time being in force, the Central Government may make rules to regulate general safety and health of the persons residing in whole or part of India, in the event of declaration of an epidemic, pandemic or disaster, for such period as may be notified by the Central Government.

Powers to
regulate
general safety
and health.

141. Every rule, regulation, standard and bye-laws notified or made by the Central Government under this Regulation shall be laid, as soon as may be after it is notified or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation, standard or bye-law or both Houses agree that the rule, regulation, standard or bye-law should not be made, the rule, regulation, standard or bye-

Laying of
regulations, rules,
byelaws, etc.,
before Parliament.

law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, standard or bye-law, as the case may be.

142. Every rule made by the Administrator of Dadra and Nagar Haveli and Daman and Diu under this section shall, as soon as possible after it is made, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions as aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule 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 amendment shall be without prejudice to the validity of anything previously done under that rule.

Laying of regulations, rules, byelaws, etc., before Parliament.

143. (1) The following enactments shall stand repealed on and from the dates the notification referred to in sub-section (2) of section 1 is issued, namely:—

Repeal and Savings.

63 of 1948.

(a) The Factories Act, 1948;

69 of 1951.

(b) The Plantations Labour Act, 1951;

35 of 1952.

(c) The Mines Act, 1952;

45 of 1955.

(d) The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955;

29 of 1958.

(e) The Working Journalists (Fixation of Rates of Wages) Act, 1958;

27 of 1961.

(f) The Motor Transport Workers Act, 1961;

32 of 1966.

(g) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;

37 of 1970.

(h) The Contract Labour (Regulation and Abolition) Act, 1970;

11 of 1976.

(i) The Sales Promotion Employees (Conditions of Service) Act, 1976;

30 of 1979.

(j) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;

50 of 1981.

(k) The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981;

(1) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

(2) Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed for the purposes under any of the provisions of the enactments repealed by this Regulation, shall be deemed to have been appointed under this Regulation for such purposes under this Regulation.

(3) Notwithstanding repeal under sub-section (1), anything done or any action taken under the enactments so repealed (including any rule, regulation, bye-laws, notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Regulation and shall remain in force to the extent they are not contrary to the provisions of this Regulation till they are repealed by the Central Government.

(4) Without prejudice to the provisions of sub-section (2), provisions of section 6 of 10 of 1897. the General Clauses Act, 1897 shall apply to the repeal of such enactments.

THE FIRST SCHEDULE [See section 2(za)]

THE FIRST SCHEDULE [See section 2(za)]

List of Industries involving hazardous processes:

1. Ferrous Metallurgical Industries

- ☐ Integrated Iron and Steel
- ☐ Ferro-alloys

Special Steels.

2. Non-ferrous metallurgical Industries

- ☐ Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium

3. Foundries (ferrous and non-ferrous)

- ☐ Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting.

4. Coal (including coke) industries

- ☐ Coal, Lignite, Coke and like other substances
- ☐ Fuel Gases (including Coal Gas, Producer Gas, Water Gas).

5. Power Generating Industries

6. Pulp and paper (including paper products) industries

7. Fertiliser Industries

- ☐ Nitrogenous
- ☐ Phosphatic
- ☐ Mixed.

8. Cement Industries
 - ☐ Portland Cement (including slag cement, puzzolona cement and their products).
9. Petroleum Industries
 - ☐ Oil Refining
 - ☐ Lubricating Oils and Greases.
10. Petro-chemical Industries.
11. Drugs and Pharmaceutical Industries
 - ☐ Narcotics, Drugs and Pharmaceuticals.
12. Fermentation Industries (Distilleries and Breweries).
13. Rubber (Synthetic) Industries.
14. Paints and Pigment Industries.
15. Leather Tanning Industries
16. Electro-plating Industries.
17. Chemical Industries.
 - (a) Coke Oven by-products and Coaltar Distillation products:
 - (b) Industrial Gases (nitrogen, oxygen, acetylene, argon, carbon dioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, or any like gases);
 - (c) Industrial Carbon;
 - (d) Alkalies and Acids;
 - (e) Chromates and dichromates;
 - (f) Lead and its compounds;
 - (g) Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides);
 - (h) Electrothermal produces (artificial abrasive, calcium carbide);
 - (i) Nitrogenous compounds (cyanides, cyanamides and other nitrogenous compounds);
 - (j) Phosphorous and its compounds;
 - (k) Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine);
 - (l) Explosives (including industrial explosives and detonators and fuses).
18. Insecticides, Fungicides, Herbicides and other Pesticides Industries.
19. Synthetic Resin and plastics.
20. Man made Fibre (Cellulosic and non-cellulosic) industry.
21. Manufacture and repair of electrical accumulators.
22. Glass and Ceramics.
23. Grinding or glazing of metals.
24. Manufacture, handling and processing of asbestos and its products

25. Extraction of oils and fats from vegetable and animal sources.
26. Manufacture, handling and use of benzene and substances containing benzene.
27. Manufacturing processes and operations involving carbon disulphide.
28. Dyes and Dyestuff including their intermediates.
29. Highly flammable liquids and gases.
30. Printing and dyeing on fabrics in textiles and plywood and laminate manufacturing process.
31. Process involving usage of radium or Radioactive Substances.
32. Stone Crushing industry.
33. Extraction of Oil and Raw material from the scrap tyres.
34. Cigarette manufacturing industry
35. Ship breaking industry.
36. Hazardous waste and e-waste processing plants.
37. Semiconductor manufacturing industry
38. Styrene manufacturing, handling and processing industry.
39. Nano-particles utilising industry.
40. Manufacturing, processing, preparation and utilisation of Mercury or Compounds of Mercury, Lead Tetra-ethyl, Manganese, Arsenic, Chrome, Aliphatic series, Beryllium, Phosgene and Isocyanates.

THE SECOND SCHEDULE

[See section 18(2)(f)]

List of matters:

- (1) fencing of machinery;
- (2) work on or near machinery in motion;
- (3) employment of adolescents on dangerous machines;
- (4) striking gear and devices for cutting off power;
- (5) self acting machines;
- (6) casing of new machinery;
- (7) prohibition of employment of women, children and adolescent near cotton openers;
- (8) hoists and lifts;
- (9) lifting machines, chains, ropes and lifting tackles;
- (10) revolving machinery;
- (11) pressure plant;
- (12) floors, stairs and means of access;
- (13) pits, sumps, openings in floors and other similar indentation of area;
- (14) safety officers;

- (15) protection of eyes;
- (16) precautions against dangerous fumes, gases, etc.;
- (17) precautions regarding the use of portable electric light;
- (18) explosive or inflammable dust, gas, and other like dusts or gases;
- (19) safety committee;
- (20) power to require specifications of defective parts or tests of stability;
- (21) safety of buildings and machinery;
- (22) maintenance of buildings;
- (23) prohibition in certain cases of danger;
- (24) notice in respect of accidents;
- (25) court of inquiry in case of accidents;
- (26) safety management in plantation;
- (27) the general requirement relating to the construction, equipments and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;
- (28) the safety of any regular approaches over a dock, wharf, quay or other places which dock worker have to use for going for work and for fencing of such places and projects;
- (29) the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;
- (30) adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;
- (31) the fire and explosion preventions and protection;
- (32) safe means of access to ships, holds, stagings, equipment, appliances and other working places;
- (33) the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;
- (34) the safety of workers employed in freight container terminals of other terminals for handling unitized cargo;
- (35) the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;
- (36) the construction, maintenance and use of staging;
- (37) the rigging and use of ship's derricks;
- (38) the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work;
- (39) the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;

- (40) the measures to be taken in order to prevent dangerous methods of' working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;
- (41) the handling of dangerous substances and working, in dangerous or harmful environments and the precautions to be taken in connection with such handling;
- (42) the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;
- (43) the employment of persons for handling cargo, handling appliances, power operated batch covers or other power operated ship's equipment such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;
- (44) the transport of dock workers;
- (45) the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibration and air pollution at the work place;
- (46) protective equipment and protective clothing;
- (47) the sanitary, washing and welfare facilities;
- (48) the medical supervision;
- (49) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;
- (50) the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of' notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;
- (51) The submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers.
- (52) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;
- (53) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person for the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;
- (54) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;
- (55) the erection installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

- (56) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;
- (57) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;
- (58) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;
- (59) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;
- (60) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working only of the operations and as if it were securely fenced;
- (61) the safe handling and use of plant, including tools and equipment operated by compressed air;
- (62) the precaution to be taken in case of fire;
- (63) the limits of weight to be lifted or moved by workers;
- (64) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;
- (65) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;
- (66) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;
- (67) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipment and floating operational equipments;
- (68) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;
- (69) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefore and the matters connected therewith, to be framed by the employers and contractors for tile operations to be carried on in a building or other construction work;

- (70) emergency standards for enforcement of suitable standards in respect of hazardous processes in a factory;
- (71) the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory;
- (72) lightning; and
- (73) any other matter which the Central Government considers under the circumstance for better working condition for safety at the workplace.

THE THIRD SCHEDULE

[See section 12(1)]

List of Notifiable Diseases:

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead-tetra-ethyle poisoning.
3. Phosphorus poisoning or its sequelae.
4. 4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic
14. Pathological manifestations due to—
 - (a) radium or other radio-active substances;
 - (b) X-rays
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances
18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.
19. Byssionosis
20. Asbestosis
21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.
22. Noise induced hearing loss (exposure to high noise levels)

23. Beryllium poisoning
24. Carbon monoxide poisoning.
25. Coal miners' pneumoconiosis.
26. Phosgene poisoning.
27. Occupational cancer.
28. Isocyanates poisoning.
29. Toxic nephritis.