



भारत सरकार / Government of India

सरकारी राजपत्र OFFICIAL GAZETTE

संघ प्रदेश दादरा एवं नगर हवेली तथा दमण एवं दीव प्रशासन
U.T. ADMINISTRATION OF DADRA AND NAGAR HAVELI AND
DAMAN AND DIU

श्रेणी - २
SERIES - II

प्राधिकरण द्वारा प्रकाशित / PUBLISHED BY AUTHORITY

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संघ प्रदेश दादरा एवं नगर हवेली तथा दमण एवं दीव प्रशासन
समाज कल्याण विभाग, जिला न्यायालय परिसर,
फोर्ट एरिया, मोटी दमण - 396220.

सं. स.क./स्टेट फंड/आरपीडब्ल्यूडी ऐक्ट/2025-26/87

दिनांक : 03/06/2025.

- पढ़ें : 1) विधि एवं न्याय मंत्रालय (विधायी विभाग), नई दिल्ली द्वारा दिनांक 28/12/2016 को जारी दिव्यांगजन अधिकार अधिनियम, 2016.
- 2) दिव्यांगजन अधिकार अधिनियम, 2016 के तहत सभी संघ प्रदेशों के प्रशासकों को प्रदान की गई शक्तियों से संबंधित गृह मंत्रालय, नई दिल्ली द्वारा जारी अधिसूचना एफ. नंबर यू-11030/1/2017-यूटीएल, दिनांक 12/12/2017.
- 3) अधिसूचना सं. स.क./आरपीडब्ल्यूडी/2021-22/38, दिनांक 16/06/2021 के अनुसार समाज कल्याण विभाग, दानह तथा दमण एवं दीव द्वारा जारी दादरा एवं नगर हवेली तथा दमण एवं दीव दिव्यांगजन अधिकार नियम, 2021.

अधिसूचना

माननीय प्रशासक, दादरा एवं नगर हवेली तथा दमण एवं दीव गृह मंत्रालय की अधिसूचना एफ. संख्या यू-11030/1/2017-यूटीएल, दिनांक 12/12/2017 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 88 के साथ पठित दादरा एवं नगर हवेली तथा दमण एवं दीव दिव्यांगजन अधिकार नियम, 2021 के नियम 59 के तहत दिव्यांगजनों के लिए यू.टी. फंड का गठन करते हैं।

1. फंड का गठन :-

- यह फंड केन्द्र सरकार/संघ प्रदेश प्रशासन द्वारा स्वीकृत निधि से बनेगा।
- फंड की परिसंपत्तियों में निम्नलिखित शामिल होंगे :-

- क. केन्द्र सरकार से आवर्ती या गैर-आवर्ती निधि;
- ख. सरकार द्वारा वार्षिक बजट में आवश्यक प्रावधान के लिए सहायता अनुदान के रूप में बजटीय आवंटन;
- ग. संघ प्रदेश या केन्द्र सरकार द्वारा अनुमत अंतर्राष्ट्रीय/राष्ट्रीय/परोपकारी/धर्मार्थ संस्थानों/संगठनों और व्यक्तियों से दान/योगदान;
- घ. चैरिटी शो, कार्यक्रम, खेल, दंड, शुल्क आदि के माध्यम से प्राप्त योगदान;
- ड. सीएसआर (कॉर्पोरेट की सामाजिक जिम्मेदारी) के तहत कंपनियों से योगदान।

2. दिव्यांगजनों के लिए यू.टी. फंड के प्रबंधन हेतु शासी निकाय :

- (i) दिव्यांगजनों के लिए यू.टी. फंड के प्रबंधन हेतु शासी निकाय का गठन निम्नानुसार है :-

क्र.सं.	दिव्यांगजनों के लिए यू.टी. फंड, दानह तथा दमण एवं दीव के प्रबंधन हेतु शासी निकाय	पदनाम
1.	माननीय प्रशासक के सलाहकार, दानह तथा दमण एवं दीव	अध्यक्ष
2.	संयुक्त सचिव, पीआरआई एवं ग्रामीण विकास, दानह तथा दमण एवं दीव	सदस्य
3.	संयुक्त सचिव, स्वास्थ्य, दानह तथा दमण एवं दीव	सदस्य
4.	निदेशक-सह-संयुक्त सचिव, शिक्षा, दानह तथा दमण एवं दीव	सदस्य
5.	प्राचार्य, राजकीय महाविद्यालय, दमण	सदस्य
6.	राज्य समावेशी शिक्षा समन्वयक, शिक्षा विभाग, दानह तथा दमण एवं दीव	सदस्य
7.	सचिव, समाज कल्याण, दानह तथा दमण एवं दीव	संयोजक एवं मुख्य कार्यकारी अधिकारी

- (ii) शासी निकाय की बैठक जब भी आवश्यकता होगी तब, परन्तु प्रत्येक वित्तीय वर्ष में एक बार अवश्य आयोजित होगी ।
- (iii) शासी निकाय के संयोजक एवं मुख्य कार्यकारी अधिकारी दिव्यांगजनों के लिए यू.टी. फंड के आहरण एवं संवितरण अधिकारी होंगे ।

इसे माननीय प्रशासक के अनुमोदन पर डायरी सं. 1346332, दिनांक 27/05/2025 के अनुसार जारी किया जाता है ।

माननीय प्रशासक, दादरा एवं नगर हवेली तथा
दमण एवं दीव के आदेश एवं नाम से

ह/-

निदेशक-सह-उप सचिव (एसडब्ल्यू/डब्ल्यूसीडी),
दानह तथा दमण एवं दीव

**U.T. Administration of Dadra & Nagar Haveli and Daman & Diu
Social Welfare Department, District Court Premises
Fort Area, Moti Daman - 396 220**

No. SW/StateFund/RPWD Act/2025-26/87**Dated: 03/06/2025**

- Read:** (1) The Rights of Persons with Disabilities Act, 2016 issued by the Ministry of Law and Justice (Legislative Department). New Delhi dated: 28.12.2016
- (2) Notification F. No. U-11030/1/2017-UTL dated 12.12.2017 issued by the Ministry of Home Affairs. New Delhi regarding powers conferred to Administrators of all the Union Territories under the RPWD Act, 2016.
- (3) The Dadra and Nagar Haveli and Daman and Diu Rights of Persons with Disabilities Rules, 2021 issued by the Social Welfare Department. DNH & DD vide notification no. SW/RPwD/2021-22/38 dated:16.06.2021

NOTIFICATION

In exercise of the powers conferred to the Hon'ble Administrator, Dadra & Nagar Haveli and Daman & Diu by the Ministry of Home Affairs vide notification F. No. U-11030/1/2017-UTL dated 12.12.2017, is pleased to constitute UT Fund for Persons with Disabilities under Section 88 of the Rights of Persons with Disabilities Act, 2016 read with Rule 59 of the Dadra and Nagar Haveli and Daman and Diu Rights of Persons with Disabilities Rules, 2021.

1. Constitution of the Fund: -

1. The Fund shall be consisting of a Corpus sanctioned by the Central Government/UT Administration.
2. The assets of the fund shall include and consist of the following: -
 - a. recurring or non-recurring fund from the Central Government;
 - b. budgetary allocation in the shape of Grants-in-aid for necessary provision shall be made in the Annual Budget by the Government;
 - c. donations/contributions from International/National/Philanthropist/ Charitable Institutions / Organizations and individuals permitted by the Union Territory or Central Government;
 - d. contribution received through charity shows, programmes, sports, penalties, fees, etc.;
 - e. contribution from companies under CSR (Corporate Social Responsibility).

2. Governing Body for Management of the UT Fund for Persons with Disabilities: -

- (i) The Governing Body for Management of the UT Fund for Persons with Disabilities shall consist of the following:

Sr. No.	Governing Body for Management of the UT Fund for Persons with Disabilities, DNH & DD	Designation
1.	Advisor to Hon'ble Administrator, DNH & DD	Chairperson
2.	Joint Secretary, PRI & Rural Development, DNH & DD	Member
3.	Joint Secretary. Health, DNH & DD	Member
4.	Director -cum- Joint Secretary, Education, DNH & DD	Member
5.	Principal, Government College, Daman	Member
6.	State Inclusive Education Coordinator. Department of Education, DNH & DD	Member
7.	Secretary, Social Welfare, DNH & DD	Convener and Chief Executive Officer

- (ii) The Governing body shall meet as often as necessary, but at least once in every financial year.
- (iii) The Convener and Chief Executive Officer of the Governing Body shall be the Drawing and Disbursing Officer for the UT Fund for Persons with Disabilities.

This is issued with the approval of the Hon'ble Administrator vide diary no. 1346332 dated : 27/05/25.

By order and in the name of the
Administrator of Dadra & Nagar Haveli and
Daman and Diu

Sd/–
Director-cum-Deputy Secretary (SW/WCD)
DNH & DD

UT Administration of Dadra Nagar Haveli and Daman & Diu
Department of Labour & Employment,
Daman-396210

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.

Sd/–

(Priyanshu Singh)

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

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:*

Short title,
commencement
and application.

CHAPTER I
PRELIMINARY
(DRAFT REGULATION)

(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,—

- (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;

(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, hydraulic, 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.

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;

(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,—

18 of
2013.
9 of
1932

102 of
1956.

- (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;

24 of 1997. (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;

(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 (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

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

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

(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;

CHAPTER II REGISTRATION

Registration
of certain
establishments

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 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:

Research
related
activities.

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.

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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.

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

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.

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

(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 subsection (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.

61 of
1986.

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

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;

14 of 1947

(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 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.

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

(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;

(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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(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 he 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 establishment or class of establishments or any class of contractors.

Power to exempt in special cases.

PART II INTER-STATE MIGRANT WORKERS

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.

Applicability of Part II.

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—

Facilities to inter-State migrant workers.

(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;

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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 (I) of section 6.

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.

Journey allowance.

62. The appropriate Government shall make schemes to provide—

Benefits of public distribution system, etc.

(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

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

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

Licence to industrial premises and person.

(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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PART VI BUILDING OR OTHER CONSTRUCTION WORKERS

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.

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

PART VII FACTORIES

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

Approval and licensing of factories

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

Liability of owner of premises in certain circumstances.

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.

Compulsory
disclosure of
information by
occupier.

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

National Board to inquire into certain situations.

(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 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.

General
penalty for
offences.

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—

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

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

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

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

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 lies upon him, omits to make or furnish in the prescribed form or manner or at, or within, the prescribed time any plan, section, return, notice, register, record or report required by or under any provision of this 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 subsection (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.

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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.

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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 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.

Delegation of powers.

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.

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.

Publication of reports.

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.

Powers of Central Government to give directions.

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

General restriction on disclosure of information

(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.

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.

Jurisdiction of civil courts barred.

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.

Protection of action taken in good faith.

(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.

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.

Power to exempt in special cases.

(2) Without prejudice to the generality of sub-section (1), where the Union Territory Administration of Dadra and Nagar Haveli 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:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of two years from the date on which this Regulation comes into force.

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

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.

Power of State Government to make rules.

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

(a) the 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;
- (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;

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

- (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-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, standard or bye-law, as the case may be.

Laying of regulations, rules, byelaws, etc., before Parliament.

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;
- 27 of 1996. (l) 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.
- 10 of 1897 (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 of other bulk cargo;
- (40) the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;
- (41) the handling of dangerous substances and working, in dangerous or harmful environments and the precautions to be taken in connection with such handling;
- (42) the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;
- (43) the employment of persons for handling cargo, handling appliances, power operated batch covers or other power operated ship's equipment such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;
- (44) the transport of dock workers;
- (45) the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibration and air pollution at the work place;
- (46) protective equipment and protective clothing;
- (47) the sanitary, washing and welfare facilities;
- (48) the medical supervision;
- (49) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

- (50) the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;
- (51) The submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers.
- (52) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;
- (53) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person for the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;
- (54) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;
- (55) the erection installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;
- (56) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;
- (57) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;
- (58) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;
- (59) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;
- (60) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working only of the operations and as if it were securely fenced;
- (61) the safe handling and use of plant, including tools and equipment operated by compressed air;
- (62) the precaution to be taken in case of fire;
- (63) the limits of weight to be lifted or moved by workers;
- (64) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;
- (65) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;
- (66) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;
- (67) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipment and floating operational equipments;

- (68) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;
- (69) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefore and the matters connected therewith, to be framed by the employers and contractors for tile operations to be carried on in a building or other construction work;
- (70) emergency standards for enforcement of suitable standards in respect of hazardous processes in a factory;
- (71) the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory;
- (72) lightning; and
- (73) any other matter which the Central Government considers under the circumstance for better working condition for safety at the workplace.

THE THIRD SCHEDULE

[See section 12(1)]

List of Notifiable Diseases:

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead-tetra-ethyle poisoning.
3. Phosphorus poisoning or its sequelae.
4. 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. Berilyllium poisoning
24. Carbon monoxide poisoning.
25. Coal miners' pneumoconiosis.
26. Phosgene poisoning.
27. Occupational cancer.
28. Isocyanates poisoning.
29. Toxic nephritis.

**UT Administration of Dadra Nagar Haveli and Daman & Diu
Department of Labour & Employment,
Daman-396210**

No. DDD/Wages Regulation-2025/156**Dated:-17-06-2025**

PUBLIC NOTICE

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

With the changing industrial scenario, there is a need felt to have a Regulation based on the Code on Wages, 2019 enacted by the Parliament to provide a more transparent and efficient system for wages, minimum wages, and bonus payments, ensuring timely payments and preventing unlawful deductions.

A copy of draft of "the Dadra and Nagar Haveli and Daman and Diu Wages 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.

Sd/–

(Priyanshu Singh)

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

THE DADRA AND NAGAR HAVELI AND DAMAN AND DIU WAGES
REGULATION, 2025

No. of 2025

A

Regulation

to amend and consolidate the laws relating to wages and bonus and 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)

(1) This Regulation may be called the Dadra and Nagar Haveli and Daman and Diu
Wages Regulation, 2025

Short title, extent
and
commencement

(2) 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 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.

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

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

Definitions

(a) "accounting year" means the year commencing on the 1st day of April ;

(b) "Advisory Board" means

(i) the Central Advisory Board constituted by the Central Government under the
corresponding Central Acts; and

(ii) the Union Territory Advisory Board, constituted under section 42;

(c) "agricultural income tax law" means any law for the time being in force relating to
the levy of tax on agricultural income;

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

Provided that the Central Government shall continue to be the appropriate Government
in respect of the establishments specified under the proviso to Section 2 of this
Regulation.

18 of 2013.

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

(f) "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;

(g) "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 —

(i) 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

(ii) 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;

2 of 1912.

(h) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force relating to co-operative societies in any state or in the Union Territory of Dadra Nagar Haveli and Daman & Diu;

(i) "corporation" means any body corporate established by or under any Central Act, or State Act or this Regulation, but does not include a company or a co-operative society;

(j) "direct tax" means—

(i) any tax chargeable under the—

43 of 1961

(A) Income-tax Act, 1961;

7 of 1964.

(B) Companies (Profits) Surtax Act, 1964;

(C) Agricultural income tax law; and

(ii) any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification, to be a direct tax for the purposes of this Regulation or any other Central Acts;

52 of 1961.

(k) "employee" means, any person (other than an apprentice engaged under the Apprentices Act, 1961), employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate

(l) "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 head of such department, in this behalf or where no authority, is so specified the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,—

(i) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (zs) of sub-section (1) of section 2 of the Dadra Nagar Haveli Daman & Diu Occupational Safety, Health and Working Conditions Regulation, 2025 and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the said Regulation, the person so named;

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

(iii) contractor; and

(iv) legal representative of a deceased employer;

(m) "establishment" means any place where any industry, trade, business, manufacture or occupation is carried on and includes Government establishment;

(n) "factory" means a factory as defined in clause (w) of subsection (1) of section 2 of the Dadra Nagar Haveli Daman & Diu Occupational Safety, Health and Working Conditions Regulation, 2025;

(o) "Government establishment" means any office or department of the Government or a local authority;

43 of 1961.

(p) "Income-tax Act" means the Income -tax Act, 1961;

(q) "industrial dispute" means,—

(i) any dispute or difference between employers and employees, or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person; and

(ii) any dispute or difference between an individual worker and an employer connected with, or arising out of, discharge, dismissal, retrenchment or termination of such worker;

(r) "Inspector-cum-Facilitator" means a person appointed by the appropriate Government under sub-section (1) of section 51;

(s) "minimum wage" means the wage fixed under section 6;

(t) "notification" means a notification published in the Official Gazette of India or in 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 variation and cognate expressions shall be construed accordingly;

(u) "prescribed" means prescribed by rules made by the appropriate Government;

(v) "same work or work of a similar nature" means work in respect of which the skill, effort, experience and responsibility required are the same, when performed under similar working conditions by employees and the difference if any, between the skill, effort, experience and responsibility required for employees of any gender, are not of practical importance in relation to the terms and conditions of employment;

(w) "State" includes a Union Territory;

(x) "Tribunal" shall have the same meaning as assigned to it in clause (zn) of section 2 of the The Dadra Nagar Haveli and Daman & Diu Industrial Relations Regulation, 2025);

42 of 2005.

(y) "wages" means all remuneration whether by way of salary, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

(i) basic pay;

(ii) dearness allowance; 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 clauses (a) to (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

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

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

52 of 1961.

z) "worker" means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes—

(i) working journalists as defined in clause (zzm) of sub-section (1) of section 2 of the Dadra Nagar Haveli Daman & Diu Occupational Safety, Health and Working Conditions Regulation, 2025 and

(ii) sales promotion employees as defined in clause (zze) of sub-section (1) of section 2 of the Dadra Nagar Haveli Daman & Diu Occupational Safety, Health and Working Conditions Regulation, 2025 and for the purposes of any proceeding under this Regulation in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

45 of 1950.
46 of 1950.
62 of 1957.

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

(b) who is employed in the police service or as an officer or other employee of a prison; or

(c) who is employed mainly in a managerial or administrative capacity; or

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

3. (1) There shall be no discrimination in an establishment or any unit thereof among employees on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature done by any employee.

Prohibition of discrimination on ground of gender.

(2) No employer shall,—

(i) for the purposes of complying with the provisions of sub-section (1), reduce the rate of wages of any employee; and

(ii) make any discrimination on the ground of sex while recruiting any employee for the same work or work of similar nature and in the conditions of employment, except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

4. Where there is any dispute as to whether a work is of same or similar nature for the purposes of section 3, the dispute shall be decided by such authority as may be notified by the appropriate Government.

Decision as to disputes with regard to same or similar nature of work.

5. No employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate Government.

Payment of minimum rate of wages.

6. (1) Subject to the provisions of section 9, the appropriate Government shall fix the minimum rate of wages payable to employees in accordance with the provisions of section 8.

Fixation of minimum wages.

(2) For the purposes of sub-section (1), the appropriate Government shall fix a minimum rate of wages—

(a) for time work; or

(b) for piece work.

(3) Where employees are employed on piece work, for the purpose of sub-section (1), the appropriate Government shall fix a minimum rate of wages for securing such employees a minimum rate of wages on a time work basis.

(4) The minimum rate of wages on time work basis may be fixed in accordance with any one or more of the following wage periods, namely:—

(i) by the hour; or

(ii) by the day; or

(iii) by the month.

(5) Where the rates of wages are fixed by the hour or by the day or by the month, the manner of calculating the wages shall be such, as may be prescribed.

(6) For the purpose of fixation of minimum rate of wages under this section, the appropriate Government,—

(a) shall primarily take into account the skill of workers required for working under the categories of unskilled, skilled, semi-skilled and highly-skilled or geographical area or both; and

(b) may, in addition to such minimum rate of wages for certain category of workers, take into account their arduousness of work like temperature or humidity normally difficult to bear, hazardous occupations or processes or underground work as may be prescribed by the appropriate Government; and

(c) the norms of such fixation of minimum rate of wages shall be such as may be prescribed.

(7) The number of minimum rates of wages referred to in sub-section (6) may, as far as possible, be kept at minimum by the appropriate Government.

7. (1) Any minimum rate of wages fixed or revised by the appropriate Government under section 8 may consist of—

Components of minimum wages.

(a) a basic rate of wages and an allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as "cost of living allowance"); or

(b) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or

(c) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rate shall be computed by such authority, as the appropriate Government may by notification, appoint, at such intervals and in accordance with such directions as may be specified or given by the appropriate Government from time to time.

8. (1) In fixing minimum rates of wages for the first time or in revising minimum rates of wages under this Regulation, the appropriate Government shall either—

Procedure for fixing and revising minimum wages.

(a) appoint as many committees as it considers necessary to hold enquiries and recommend in respect of such fixation or revision, as the case may be; or

(b) by notification publish its proposals for the information of persons likely to be affected thereby and specify a date not less than two months from the date of the notification on which the proposals shall be taken into consideration.

(2) Every committee appointed by the appropriate Government under clause (a) of sub-section (1) shall consist of persons—

(a) representing employers;

(b) representing employees which shall be equal in number of the members specified in clause (a); and

(c) independent persons, not exceeding one-third of the total members of the committee.

(3) After considering the recommendation of the committee appointed under clause (a) of sub-section (1) or, as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall by notification fix, or as the case may be, revise the minimum rates of wages and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages in the manner specified in clause (b) of sub-section (1), it shall also consult concerned Advisory Board constituted under section 42.

(4) The appropriate Government shall review or revise minimum rates of wages ordinarily at an interval not exceeding five years.

9. The minimum rates of wages fixed by the appropriate Government under section 6 shall not be less than the floor wage fixed by the Central Government under the Minimum Wages Act, 1948 and if the minimum rates of wages fixed by the appropriate Government earlier is more than the floor wage, then, the appropriate Government shall not reduce such minimum rates of wages fixed by it earlier.

Power of Central Government to fix floor wage.

10. If an employee whose minimum rate of wages has been fixed under this Regulation by the day works on any day on which he was employed for a period of less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done on that day, as if he had worked for a full normal working day:

Wages of employee who works for less than normal working day

Provided that he shall not be entitled to receive wages for a full normal working day,—

(i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work; and

(ii) in such other cases and circumstances, as may be prescribed

11. Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

Wages for two or more classes of work.

12. Where a person is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Regulation, the employer shall pay to such person wages at not less than the minimum time rate.

Minimum time rate wages for piece work.

13. (1) Where the minimum rates of wages have been fixed under this Regulation, the appropriate Government may —

Fixing hours of work for normal working day.

(a) fix the number of hours of work which shall constitute a normal working day inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

(2) The provisions of sub-section (1) shall, in relation to the following classes of employees apply, only to such extent and subject to such conditions as may be prescribed, namely:—

(a) employees engaged in any emergency which could not have been foreseen or prevented;

(b) employees engaged in work of the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;

(c) employees whose employment is essentially intermittent;

(d) employees engaged in any work which for technical reasons has to be completed before the duty is over; and

(e) employees engaged in a work which could not be carried on except at times dependent on the irregular action of natural forces.

(3) For the purposes of clause (c) of sub-section (2), employment of an employee is essentially intermittent when it is declared to be so by the appropriate Government on the ground that the daily hours of duty of the employee, or if there be no daily hours of duty as such for the employee, the hours of duty normally include periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attention.

14. Where an employee whose minimum rate of wages has been fixed under this Regulation by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess, at the overtime rate which shall not be less than twice the normal rate of wages.

Wages for overtime work.

CHAPTER III PAYMENT OF WAGES

15. All wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee or by the electronic mode:

Mode of payment of wages.

Provided that the appropriate Government may, by notification, specify the industrial or other establishment, the employer of which shall pay to every person employed in such industrial or other establishment, the wages only by cheque or by crediting the wages in his bank account.

16. The employer shall fix the wage period for employees either as daily or weekly or fortnightly or monthly subject to the condition that no wage period in respect of any employee shall be more than a month:

Fixation of wage period.

Provided that different wage periods may be fixed for different establishments.

17. (1) The employer shall pay or cause to be paid wages to the employees, engaged on—

Time limit for payment of wages.

- (i) daily basis, at the end of the shift;
- (ii) weekly basis, on the last working day of the week, that is to say, before the weekly holiday;
- (iii) fortnightly basis, before the end of the second day after the end of the fortnight;
- (iv) monthly basis, before the expiry of the seventh day of the succeeding month.

(2) Where an employee has been—

- (i) removed or dismissed from service; or
- (ii) retrenched or has resigned from service, or became unemployed due to closure of the establishment, the wages payable to him shall be paid within two working days of his removal, dismissal, retrenchment or, as the case may be, his resignation.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the appropriate Government may, provide any other time limit for payment of wages where it considers reasonable having regard to the circumstances under which the wages are to be paid.

(4) Nothing contained in sub-section (1) or sub-section (2) shall affect any time limit for payment of wages provided in any other law for the time being in force.

18. (1) Notwithstanding anything contained in any other law for the time being in force, there shall be no deductions from the wages of the employee, except those as are authorised under this Regulation.

Deductions which may be made from wages.

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

(a) any payment made by an employee to the employer or his agent shall be deemed to be a deduction from his wages;

(b) any loss of wages to an employee, for a good and sufficient cause, resulting from—
(i) the withholding of increment or promotion, including the stoppage of an increment;
or

(ii) the reduction to a lower post or time-scale; or

(iii) the suspension, shall not be deemed to be a deduction from wages in a case where the provisions made by the employer for such purposes are satisfying the requirements specified in the notification issued by the appropriate Government in this behalf.

(2) Deductions from the wages of an employee shall be made in accordance with the provisions of this Regulation, and may be made only for the following purposes, namely:—

(a) fines imposed on him;

(b) deductions for his absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employee for custody; or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house-accommodation supplied by the employer or by appropriate Government or any housing board set up under any law for the time being in force, whether the Government or such board is the employer or not, or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the appropriate Government by notification;

(e) deductions for such amenities and services supplied by the employer as the appropriate Government or any officer specified by it in this behalf may, by general or special order, authorise and such deduction shall not exceed an amount equivalent to the value of such amenities and services.

Explanation.—For the purposes of this clause, the expression "services" does not include the supply of tools and raw materials required for the purposes of employment;

(f) deductions for recovery of—

(i) advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of overpayment of wages;

(ii) loans made from any fund constituted for the welfare of labour, as may be prescribed by the appropriate Government, and the interest due in respect thereof;

(g) deductions for recovery of loans granted for house-building or other purposes approved by the appropriate Government and the interest due in respect thereof;

(h) deductions of income-tax or any other statutory levy levied by the **Central Government or State Government** and payable by the employee or deductions required to be made by order of a court or other authority competent to make such order;

(i) deductions for subscription to, and for repayment of advances from any social security fund or scheme constituted by law including provident fund or pension fund or health insurance scheme or fund known by any other name;

(j) deductions for payment of co-operative society subject to such conditions as the appropriate Government may impose;

(k) deductions made, with the written authorisation of the employee, for payment of the fees and contribution payable by him for the membership of any Trade Union registered under the Dadra and Nagar Haveli and Daman & Diu Industrial Relations Regulations, 2025;

(l) deductions for recovery of losses sustained by the railway administration on account of acceptance by the employee of counterfeit or base coins or mutilated or forged currency notes;

(m) deductions for recovery of losses sustained by the railway administration on account of the failure of the employee to invoice, to bill, to collect or to account for the appropriate charges due to the railway administration whether in respect of fares, freight, demurrage, wharfage and crantage or in respect of sale of food in catering establishments or in respect of commodities in grain shops or otherwise;

(n) deductions for recovery of losses sustained by the railway administration on account of any rebates or refunds incorrectly granted by the employee where such loss is directly attributable to his neglect or default;

(o) deductions, made with the written authorisation of the employee, for contribution to the Prime Minister's National Relief Fund or to such other fund as the Central Government may, by notification, specify.

(3) Notwithstanding anything contained in this Regulation and subject to the provisions of any other law for the time being in force, the total amount of deductions which may be made under sub-section (2) in any wage period from the wages of an employee shall not exceed fifty per cent. of such wages

(4) Where the total deductions authorised under sub-section (2) exceed fifty per cent. of the wages, the excess may be recovered in such manner, as may be prescribed.

(5) Where any deduction is made by the employer from the wages of an employee under this section but not deposited in the account of the trust or Government fund or any other account, as required under the provisions of the law for the time being in force, such employee shall not be held responsible for such default of the employer.

19. (1) No fine shall be imposed on any employee save in respect of those acts and omissions on his part as the employer, with the previous approval of the appropriate Government or of such authority as may be prescribed, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in such manner as may be prescribed, on the premises in which the employment is carried on.

(3) No fine shall be imposed on any employee until such employee has been given an opportunity of showing cause against the fine or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employee shall not exceed an amount equal to three per cent. of the wages payable to him in respect of that wage-period.

Fines.

- (5) No fine shall be imposed on any employee who is under the age of fifteen years.
- (6) No fine imposed on any employee shall be recovered from him by instalments or after the expiry of ninety days from the day on which it was imposed.
- 7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.
- (8) All fines and all realisations thereof shall be recorded in a register to be kept in such manner and form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the establishment as are approved by the prescribed authority.

20. (1) Deductions may be made under clause (b) of sub-section (2) of section 18 only on account of the absence of an employee from the place or places where by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

Deductions for
absence from duty

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made in a larger proportion than the period for which he was absent bears to the total period within such wage-period during which by the terms of his employment he was required to work:

Provided that, subject to any rules made in this behalf by the appropriate Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

Explanation.—For the purposes of this section, an employee shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

21. (1) A deduction under clause (c) or clause (n) of sub-section (2) of section 18 for damage or loss shall not exceed the amount of the damage or loss caused to the employer by negligence or default of the employee.

Deductions for
damage or loss.

(2) A deduction shall not be made under sub-section (1) until the employee has been given an opportunity of showing cause against the deduction or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(3) All such deductions and all realisations thereof shall be recorded in a register to be kept in such form as may be prescribed.

22. A deduction under clause (d) or clause (e) of sub-section (2) of section 18 shall not be made from the wages of an employee, unless the house-accommodation amenity or service has been accepted by him as a term of employment or otherwise and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and shall be subject to such conditions as the appropriate Government may impose.

Deductions for
services rendered.

23. Deductions under clause (f) of sub-section (2) of section 18 for recovery of advances given to an employee shall be subject to the following conditions, namely:—

Deductions for recovery of advances

(a) recovery of advance of money given to an employee before the employment began shall be made from the first payment of wages to him in respect of a complete wage-period but no recovery shall be made of such advances given for travelling expenses;

(b) recovery of advance of money given to an employee after the employment began shall be subject to such conditions as may be prescribed;

(c) recovery of advances of wages to an employee not already earned shall be subject to such conditions as may be prescribed.

24. Deductions under clause (g) of sub-section (2) of section 18 for recovery of loans granted to an employee, regulating the extent to which such loans may be granted and the rate of interest payable thereon, shall be such as may be prescribed.

Deductions for recovery of loans.

25. The provisions of this Chapter shall not apply to the Government establishments unless the appropriate Government, by notification, applies such provisions to the Government establishments specified in the said notification.

Chapter not to apply to Government establishments.

CHAPTER IV PAYMENT OF BONUS

26. (1) There shall be paid to every employee, drawing wages not exceeding such amount per mensem, as determined by notification, by the appropriate Government, by his employer, who has put in at least thirty days work in an accounting year, an annual minimum bonus calculated at the [rate of eight and one-third per cent. of the wages](#) earned by the employee or one hundred rupees, whichever is higher whether or not the employer has any allocable surplus during the previous accounting year.

Eligibility for bonus, etc.

(2) For the purpose of calculation of the bonus where the wages of the employee exceeds such amount per mensem, as determined by notification by the appropriate Government, the bonus payable to such employee under sub-sections (1) and (3) shall be calculated as if his wage were such amount, so determined by the appropriate Government or the minimum wage fixed by the appropriate Government, whichever is higher.

(3) Where in respect of any accounting year referred to in sub-section (1), the allocable surplus exceeds the amount of minimum bonus payable to the employees under that sub-section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year, bonus which shall be an amount in proportion to the wages earned by the employee during the accounting year, subject to a maximum of twenty per cent. of such wages.

(4) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 36 shall be taken into account in accordance with the provisions of that section.

(5) Any demand for bonus in excess of the bonus referred to in sub-section (1), either on the basis of production or productivity in an accounting year for which the bonus is payable shall be determined by an agreement or settlement between the employer and the employees, subject to the condition that the total bonus including the annual minimum bonus referred to in sub-section (1) shall not exceed twenty per cent. of the wages earned by the employee in the accounting year.

(6) In the first five accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment and such

bonus shall be calculated in accordance with the provisions of this Regulation in relation to that year, but without applying the provisions of section 36.

(7) For the sixth and seventh accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 36 shall apply subject to the following modifications, namely:—

(i) for the sixth accounting year set on or set off, as the case may be, shall be made, in the manner as may be prescribed by the Central Government under the provisions of the Payment of Bonus Act, 1965, taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth and sixth accounting years;

(ii) for the seventh accounting year set on or set off, as the case may be, shall be made, in the manner as may be prescribed by the Central Government under the provisions of the Payment of Bonus Act, 1965, taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth, sixth and seventh accounting years.

(8) From the eighth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 36 shall apply in relation to such establishment as they apply in relation to any other establishment.

Explanation 1.—For the purpose of sub-section (6), an employer shall not be deemed to have derived profit in any accounting year, unless—

(a) he has made provision for depreciation of that year to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income tax law; and

(b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

Explanation 2.—For the purposes of sub-sections (6), (7) and (8), sale of the goods produced or manufactured during the course of the trial running of any factory or of the prospecting stage of any mine or an oil-field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the appropriate Government may, after giving the parties a reasonable opportunity of representing the case, decide upon the issue.

(9) The provisions of sub-sections (6), (7) and (8) shall, so far as may be, apply to new departments or undertakings or branches set up by existing establishments.

27. Where an employee has not worked for all the working days in an accounting year, the minimum bonus under sub-section (1) of section 26, if such bonus is higher than eight and one third per cent. of the salary or wage of the days such employee has worked in that accounting year, shall be proportionately reduced.

Proportionate reduction in bonus in certain cases.

28. For the purposes of section 27, an employee shall be deemed to have worked in an establishment in any accounting year also on the days on which,—

Computation of number of working days.

(a) he has been laid off under an agreement or as permitted by standing orders under the Dadra and Nagar Haveli and Daman & Diu Industrial Relations Regulations, 2025, or under any other law applicable to the establishment;

(b) he has been on leave with salary or wages;

(c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(d) the employee has been on maternity leave with salary or wages, during the accounting year.

29. Notwithstanding anything contained in this Regulation, an employee shall be disqualified from receiving bonus under this Regulation, if he is dismissed from service for —

Disqualification for bonus.

(a) fraud; or

(b) riotous or violent behaviour while on the premises of the establishment; or

(c) theft, misappropriation or sabotage of any property of the establishment; or

(d) conviction for sexual harassment.

30. Where an establishment consists of different departments or undertakings or has branches, whether situated in the same place or in different places, all such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Regulation:

Establishments to include departments, undertakings and branches.

Provided that where for any accounting year a separate balance-sheet and profit and loss account are prepared and maintained in respect of any such department or undertaking or branch, then, such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus, under this Regulation for that year, unless such department or undertaking or branch was, immediately before the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus.

31. (1) The bonus shall be paid out of the allocable surplus which shall be an amount equal to sixty-seven per cent. in case of other establishment, of the available surplus and the available surplus shall be the amount calculated in accordance with section 33.

Payment of bonus out of allocable surplus.

(2) Audited accounts of companies shall not normally be questioned.

(3) Where there is any dispute regarding the quantum of bonus, the authority notified by the appropriate Government having jurisdiction may call upon the employer to produce the balance sheet before it, but the authority shall not disclose any information contained in the balance sheet unless agreed to by the employer.

32. The gross profits derived by an employer from an establishment in respect of the accounting year shall be calculated in the manner as may be prescribed by the Central Government;

Computation of gross profits.

33. The available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 34:

Computation of available surplus.

Provided that the available surplus in respect of the accounting year commencing on any day in a year after the commencement of this Regulation and in respect of every subsequent accounting year shall be the aggregate of—

(a) the gross profits for that accounting year after deducting therefrom the sums referred to in section 34; and

(b) an amount equal to the difference between—

(i) the direct tax, calculated in accordance with the provisions of section 35, in respect of an amount equal to the gross profits of the employer for the immediately preceding accounting year; and

(ii) the direct tax, calculated in accordance with provisions of section 35, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting there from the amount of bonus which the employer has paid or is liable to pay to his employees in accordance with the provisions of this Regulation for that year.

Computation of available surplus.

34. The following sums shall be deducted from the gross profits as prior charges, namely:—

Sums deductible from gross profits.

(a) any amount by way of depreciation admissible in accordance with the provisions of sub-section (1) of section 32 of the Income-tax Act or in accordance with the provisions of the agricultural income-tax law, for the time being in force, as the case may be;

(b) subject to the provisions of section 35, any direct tax which the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year;

(c) such further sums in respect of the employer as may be prescribed by the Central Government from time to time.

35. For the purposes of this Regulation, any direct tax payable by the employer for any accounting year shall, subject to the following provisions, be calculated at the rates applicable to the income of the employer for that year, namely:—

Calculation of direct tax payable by the employer.

(a) in calculating such tax no account shall be taken of,—

(i) any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;

(ii) any arrears of depreciation which the employer is entitled to add to the amount of the allowance for depreciation for any succeeding accounting year or years under sub-section (2) of section 32 of the Income-tax Act;

(b) where the employer is a religious or a charitable institution to which the provisions of section 41 do not apply and the whole or any part of its income is exempt from the tax under the Income-tax Act, then, with respect to the income so exempted, such institution shall be treated as if it were a company in which the public are substantially interested within the meaning of that Act;

(c) where the employer is an individual or a Hindu undivided family, the tax payable by such employer under the Income-tax Act shall be calculated on the basis that the income derived by him from the establishment is his only income;

(d) where the income of any employer includes any profits and gains derived from the export of any goods or merchandise out of India and any rebate on such income is allowed under any law for the time being in force relating to direct taxes, then, no account shall be taken of such rebate;

(e) no account shall be taken of any rebate other than development rebate or investment allowance or development allowance or credit or relief or deduction (not hereinbefore mentioned in this section) in the payment of any direct tax allowed under any law for the time being in force relating to direct taxes or under the relevant annual Finance Act, for the development of any industry.

36. (1) Where for any accounting year, the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under section 26, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in such manner as may be prescribed by the Central Government.

Set on and set off of allocable surplus.

(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 26, and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in such manner as may be prescribed by the Central Government.

(3) The principle of set on and set off as may be provided in rules by the Central Government under the Payment of Bonus Act, 1965 shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Regulation.

(4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.

37. Where in any accounting year,—

(a) an employer has paid any puja bonus or other customary bonus to employee; or

(b) an employer has paid a part of the bonus payable under this Regulation to an employee before the date on which such bonus becomes payable, then, the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this Regulation in respect of that accounting year and the employee shall be entitled to receive only the balance.

Adjustment of customary or interim bonus against bonus payable under this Regulation.

38. Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Regulation in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

Deduction of certain amounts from bonus payable.

39. (1) All amounts payable to an employee by way of bonus under this Regulation shall be paid by crediting it in the bank account of the employee by his employer within a period of eight months from the close of the accounting year:

Time limit for payment of bonus.

Provided that the appropriate Government or such authority as the appropriate Government may specify in this behalf may, upon an application made to it by the employer and for sufficient reasons, by order, extend the said period of eight months to such further period or periods as it thinks fit; so, however, that the total period so extended shall not in any case exceed two years.

(2) Notwithstanding anything contained in sub-section (1), where there is a dispute regarding payment of bonus pending before any authority, such bonus shall be paid, within a period of one month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute:

Provided that if, there is a dispute for payment at the higher rate, the employer shall pay eight and one-third per cent. of the wages earned by the employee as per the provisions of this Regulation within a period of eight months from the close of the accounting year.

40. (1) If in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both, is not less than twenty per cent. of the gross income of the establishment in public sector for that year, then, the provisions of this Chapter shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector.

Application of this Chapter to establishments in public sector in certain cases.

41. (1) Nothing in this Chapter shall apply to—

Non applicability of this Chapter.

(a) employees employed by the Life Insurance Corporation of India;

44 of 1958. (b) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958;

9 of 1948.

(c) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948, and employed by registered or listed employers;

(d) employees employed by an establishment under the authority of any department of the Central Government or a State Government or a local authority;

(e) employees employed by—

(i) the Indian Red Cross Society or any other institution of a like nature including its branches;

(ii) universities and other educational institutions;

(iii) institutions including hospitals, chamber of commerce and social welfare institutions established not for purposes of profit;

(f) employees employed by the Reserve Bank of India;

(g) employees employed by public sector financial institution other than a banking company, which the Central Government may, by notification, specify, having regard to—

(i) its capital structure;

(ii) its objectives and the nature of its activities;

(iii) the nature and extent of financial assistance or any concession given to it by the Government; and

(iv) any other relevant factor;

(v) employees employed by inland water transport establishments operating on routes passing through any other country; and

(h) employees of any other establishment which the appropriate Government may, by notification, exempt having regard to the overall benefits under any other scheme of profit sharing available in such establishments to the employees.

(2) Subject to the provisions of sub-section (1) and notwithstanding anything contained in any other provisions of this Chapter, the provisions of this Chapter shall apply to such establishment in which twenty or more persons are employed or were employed on any day during an accounting year.

CHAPTER V ADVISORY BOARD

42. (1) The constitution and functions of the Central Advisory Board shall be as prescribed by the Central Government under the Minimum Wages Act, 1948.

Central Advisory Board and UT Advisory Boards.

CHAPTER VI PAYMENT OF DUES, CLAIMS AND AUDIT

43. Every employer shall pay all amounts required to be paid under this Regulation to every employee employed by him:

Responsibility for payment of various dues.

Provided that where such employer fails to make such payment in accordance with this Regulation, then, the company or firm or association or any other person who is the proprietor of the establishment, in which the employee is employed, shall be responsible for such payment.

Payment of various undisbursed dues in case of death of employee.

9 of 1932. Explanation.—For the purposes of this section the expression "firm" shall have the same meaning as assigned to it in the Indian Partnership Act, 1932.

44. (1) Subject to the other provisions of this Regulation, all amounts payable to an employee under this Regulation shall, if such amounts could not or cannot be paid on account of his death before payment or on account of his whereabouts not being known,—

- (a) be paid to the person nominated by him in this behalf in accordance with the rules made under this Regulation; or
- (b) where no such nomination has been made or where for any reasons such amounts cannot be paid to the person so nominated, be deposited with the such authority, as may be prescribed, who shall deal with the amounts so deposited in the manner as may be prescribed.

(2) Where in accordance with the provisions of sub-section (1), all amounts payable to an employee under this Regulation—

- (a) are paid by the employer to the person nominated by the employee; or
- (b) (b) are deposited by the employer with the authority referred to in clause (b) of sub-section (1),

then, the employer shall be discharged of his liability to pay those amounts.

45. (1) The appropriate Government may, by notification, appoint one or more authorities, not below the rank of a Gazetted Officer, to hear and determine the claims which arises under the provisions of this Regulation.

Claims under Regulation and procedure thereof.

(2) The authority appointed under sub-section (1), while deciding the claim under that sub-section, may order, having regard to the circumstances under which the claim arises, the payment of compensation in addition to the claim determined, which may extend to ten times of the claim determined and endeavour shall be made by the authority to decide the claim within a period of three months.

(3) If an employer fails to pay the claim determined and compensation ordered to be paid under sub-section (2), the authority shall issue a certificate of recovery to the Collector or District Magistrate of the district where the establishment is located who shall recover the same as arrears of land revenue and remit the same to the authority for payment to the concerned employee.

(4) Any application before the authority for claim referred to in sub-section (1) may be filed by,—

16 of 1926

- (a) the employee concerned; or
- (b) any Trade Union registered under the Trade Unions Act, 1926 of which the employee is a member; or
- (c) the Inspector-cum-Facilitator.

(5) Subject to such rules as may be made, a single application may be filed under this section on behalf or in respect of any number of employees employed in an establishment.

(6) The application under sub-section (4) may be filed within a period of three years from the date on which claims referred to in sub-section (1) arises:

Provided that the authority referred to in sub-section (1) may, entertain the application after three years on sufficient cause being shown by the applicant for such delay.

5 of 1908.

(7) The authority appointed under sub-section (1) and the appellate authority appointed under sub-section (1) of section 49, shall have all the powers of a civil court under the Regulation of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority or appellate authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Regulation of Criminal Procedure, 1973.

2 of 1974.

46. Notwithstanding anything contained in this Regulation, where any dispute arises between an employer and his employees with respect to—

Reference of disputes under this Regulation.

(a) fixation of bonus or eligibility for payment of bonus under the provisions of this Regulation; or (b) the application of this Regulation, in respect of bonus, to an establishment in public sector, then, such dispute shall be deemed to be an industrial dispute within the meaning of the Dadra and Nagar Haveli and Daman & Diu Industrial Relations Regulations, 2025.

47. (1) Where, during the course of proceedings before—

- (a) the authority under section 45; or
- (b) the appellate authority under section 49; or
- (c) a Tribunal; or
- (d) an arbitrator referred to in clause (c) of section 2 of the Dadra and Nagar Haveli and Daman & Diu Industrial Relations Regulations, 2025, in respect of any dispute of the nature specified in sections 45 and 46 or in respect of an appeal under section 49, the balance sheet and the profit and loss account of an employer, being a corporation or a company (other than a banking company), duly audited by the Comptroller and Auditor General of India or by auditors duly qualified to act as auditors of companies under section 141 of the Companies Act, 2013, are produced before it, then, the said authority, appellate authority, Tribunal or arbitrator, as the case may be, may presume the statements and particulars contained in such balance sheet and profit and loss account to be accurate and it shall not be necessary for the corporation or the company to prove the accuracy of such statements and particulars by the filing of an affidavit or by any other mode:

Presumption about accuracy of balance sheet and profit and loss account of corporations and companies.

18 of 2013.

Provided that where the said authority, appellate authority, Tribunal or arbitrator, as the case may be, is satisfied that the statements and particulars contained in the balance sheet or the profit and loss account of the corporation or the company are not accurate, it may take such steps as it thinks necessary to find out the accuracy of such statements and particulars

(2) When an application is made to the authority, appellate authority, Tribunal or arbitrator, as the case may be, referred to in sub-section (1), by any Trade Union being a party to the dispute or as the case may be, an appeal, and where there is no Trade Union, by the employees being a party to the dispute, or as the case may be, an appeal, requiring any clarification relating to any item in the balance sheet or the profit and loss account, then such authority, appellate authority, Tribunal or arbitrator, may, after satisfying itself that such clarification is necessary, by order, direct the corporation or, as the case may be, the company, to furnish to the Trade Union or the employees such clarification within such time as may be specified in the direction and the corporation or, as the case may be, the company, shall comply with such direction.

48. (1) Where any claim, dispute or appeal with respect to bonus payable under this Regulation between an employer, not being a corporation or a company, and his employees is pending before any authority, appellate authority, Tribunal or arbitrator, as the case may be, as referred to in sub-section (1) of section 47 and the accounts of such employer audited by any auditor duly qualified to act as auditor of companies under the provisions of section 141 of the Companies Act, 2013, are produced before such authority, appellate authority, Tribunal or arbitrator, then the provisions of section 47 shall, so far as may be, apply to the accounts so audited.

Audit of account of employers not being corporations or companies.

18 of 2013.

(2) When the authority, appellate authority, Tribunal or arbitrator, referred to in sub-section (1), as the case may be, finds that the accounts of such employer have not been audited by any such auditor and it is of opinion that an audit of the accounts of such employer is necessary for deciding the question referred to it, then, such authority, appellate authority, Tribunal or arbitrator, may, by order, direct the employer to get his accounts audited within such time as may be specified in the direction or within such further time as it may allow by such auditor or auditors as it thinks fit and thereupon the employer shall comply with such direction.

(3) Where an employer fails to get the accounts audited under sub-section (2), the authority, appellate authority, Tribunal or arbitrator, referred to in sub-section (1), as the case may be, may, without prejudice to the provisions of section 54, get the accounts audited by such auditor or auditors as it thinks fit.

(4) When the accounts are audited under sub-section (2) or sub-section (3), the provisions of section 47 shall, so far as may be, apply to the accounts so audited.

(5) The expenses of, and incidental to, any audit under sub-section (3) including the remuneration of the auditor or auditors shall be determined by the authority, appellate authority, Tribunal or arbitrator, referred to in sub-section (1), as the case may be, and paid by the employer and in default of such payment shall be recoverable by the authority referred to in sub-section (3) of section 45 from the employer in the manner provided in that sub-section.

49. (1) Any person aggrieved by an order passed by the authority under sub-section (2) of section 45 may prefer an appeal, to the appellate authority having jurisdiction appointed by the appropriate Government, by notification, for such purpose, within ninety days from the date of such order, in such form and manner as may be prescribed:

Appeal.

Provided that the appellate authority may entertain the appeal after ninety days if it satisfied that the delay in filing the appeal has occurred due to sufficient cause.

(2) The appellate authority shall be appointed from the officers of the appropriate Government holding the post at least one rank higher than the authority referred under sub-section (1) of section 45.

(3) The appellate authority shall, after hearing the parties in the appeal, dispose of the appeal and endeavour shall be made to dispose of the appeal within a period of three months.

(4) The outstanding dues under the orders of the appellate authority shall be recovered by the authority referred to in section 45, by issuing the certificate of recovery in the manner specified in sub-section (3) of that section.

50. (1) Every employer of an establishment to which this Regulation applies shall maintain a register containing the details with regard to persons employed, muster roll, wages and such other details in such manner as may be prescribed.

Records, returns and notices.

(2) Every employer shall display a notice on the notice board at a prominent place of the establishment containing the abstract of this Regulation, category-wise wage rates of employees, wage period, day or date and time of payment of wages, and the name and address of the Inspector-cum-Facilitator having jurisdiction.

(3) Every employer shall issue wage slips to the employees in such form and manner as may be prescribed.

(4) The provisions of sub-sections (1) to (3) shall not apply in respect of the employer to the extent he employs not more than five persons for agriculture or domestic purpose:

Provided that such employer, when demanded, shall produce before the Inspectorcum-Facilitator, the reasonable proof of the payment of wages to the persons so employed.

. Explanation.—For the purposes of this sub-section, the expression "domestic purpose" means the purpose exclusively relating to the home or family affairs of the employer and does not include any affair relating to any establishment, industry, trade, business, manufacture or occupation.

CHAPTER VII INSPECTOR-CUM-FACILITATOR

51. (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 sub-section (4) throughout the Union Territory or such geographical limits assigned in relation to one or more establishments situated in such Union Territory or geographical limits or in one or more establishments, irrespective of geographical limits, assigned to him by the appropriate Government, as the case may be.

Appointment of Inspector-cum-Facilitators and their powers.

(2) The appropriate Government, may, by notification, lay down an inspection scheme which may also provide for generation of a web-based inspection and calling of information relating to the inspection under this Regulation electronically.

(3) Without prejudice to the provisions of sub-section (2), the appropriate authority, may, by notification, confer such jurisdiction of randomised selection of inspection for the purposes of this Regulation to the Inspector-cum-Facilitator as may be specified in such notification.

45 of 2023.

4. Every Inspector-cum-Facilitator appointed under sub-section (1) shall be deemed to be public servant within the meaning of section 2(28) of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

5. The Inspector-cum-Facilitator may—

(a) advice to employers and workers relating to compliance with the provisions of this Regulation.

(b) inspect the establishments as assigned to him by the appropriate authority, subject to the instructions or guidelines issued by the appropriate Government from time to time.

6. Subject to the provisions of sub-section (4), the Inspector-cum-Facilitator may,—

- a) examine any person who is found in any premises of the establishment, whom the Inspector- cum-Facilitator has reasonable cause to believe, is a worker of the establishment;
- b) require any person to give any information, which is in his power to give with respect to the names and addresses of the persons;
- c) search, seize or take copies of such register, record of wages or notices or portions thereof as the Inspector-cum-Facilitator may consider relevant in respect of an offence under this Regulation and which the Inspector-cum-Facilitator has reason to believe has been committed by the employer;
- d) bring to the notice of the appropriate Government defects or abuses not covered by any law for the time being in force; and
- e) exercise such other powers as may be prescribed.

45 of 2023

46 of 2023

(7) Any person required to produce any document or to give any information required by a Inspector- cum-Facilitator under sub-section (5) shall be deemed to be legally bound to do so within the meaning of section 210 and section 211 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

(8) The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) shall, so far as may be, apply to the search or seizure under sub-section (5) as they apply to the search or seizure made under the authority of a warrant issued under section 97 of the said Sanhita.

16 of 1926.

2 of 1974

52. (1) No court shall take cognizance of any offence punishable under this Regulation, save on a complaint made by or under the authority of the appropriate Government or an officer authorised in this behalf, or by an employee or a registered Trade Union registered under the Trade Unions Act, 1926 or an Inspector-cum-Facilitator.

Cognizance of offences.

(2) Notwithstanding anything contained in the Regulation of Criminal Procedure, 1973, no court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this Regulation.

53. (1) Notwithstanding anything contained in section 52, for the purpose of imposing penalty under clauses (a) and (c) of sub-section (1) and sub-section (2) of section 54 and sub-section (7) of section 56, 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 such provisions.

54. (1) Any employer who—

Penalties for offences.

(a) pays to any employee less than the amount due to such employee under the provisions of this Regulation shall be punishable with fine which may extend to fifty thousand rupees;

(b) having been convicted of an offence under clause (a) is again found guilty of similar offence under this clause, within five years from the date of the commission of the first or subsequent offence, he shall, on the second and the subsequent commission of the offence, 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;

(c) contravenes any other provision of this Regulation or any rule made or order made or issued thereunder shall be punishable with fine which may extend to twenty thousand rupees;

(d) having been convicted of an offence under clause (c) is again found guilty of similar offence under this clause, within five years from the date of the commission of the first or subsequent offence, he shall, on the second and the subsequent commission of the offence under this clause, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to forty thousand rupees, or with both.

(2) Notwithstanding anything contained in sub-section (1), for the offences of non-maintenance or improper maintenance of records in the establishment, the employer shall be punishable with fine which may extend to ten thousand rupees.

(3) Notwithstanding anything contained in clause (c) of sub-section (1) or sub-section (2), the Inspector-cum-Facilitator shall, before initiation of prosecution proceeding for the offences under the said clause or sub-section, give an opportunity to the employer to comply with the provisions of this Regulation by way of a written direction, which shall lay down a time period for such compliance, and, if the employer complies with the direction within such period, the Inspector-cum-Facilitator shall not initiate such prosecution proceeding and, no such opportunity shall be accorded to an employer, if the violation of the same nature of the provisions under this Regulation is repeated within a period of five years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of this Regulation.

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

Offences by companies.

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

(2) Notwithstanding anything contained in sub-section (1), where an offence 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, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means anybody corporate and includes—

(i) a firm; or

(ii) a limited liability partnership registered under the Limited Liability Partnership Act, 2008; or

	(iii) other association of individuals; and (b) "director" in relation to a firm means a partner in the firm.	
46 of 2023	<p>56. (1) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), any offence punishable under this Regulation, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted Officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent. of the maximum fine provided for such offence, in the manner as may be prescribed.</p> <p>2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date— (i) of commission of a similar offence which was earlier compounded; (ii) of commission of similar offence for which such person was earlier convicted.</p> <p>3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.</p> <p>4) Every application for the compounding of an offence shall be made in such manner as may be prescribed.</p> <p>5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.</p> <p>(6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) in writing, to the notice of the court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.</p> <p>(7) Any person who fails to comply with an order made by the officer referred to in sub-section (1), shall be punishable with a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.</p> <p>(8) No offence punishable under the provisions of this Regulation shall be compounded except under and in accordance with the provisions of this section.</p>	Composition of offences.

CHAPTER IX MISCELLANEOUS

	<p>57. No court shall entertain any suit for the recovery of minimum wages, any deduction from wages, discrimination in wages and payment of bonus, in so far as the sum so claimed—</p> <p>(a) forms the subject of claims under section 45;</p> <p>(b) has formed the subject of a direction under this Regulation;</p> <p>(c) has been adjudged in any proceeding under this Regulation;</p> <p>(d) could have been recovered under this Regulation.</p>	Bar of suits.
	<p>58. No suit, prosecution or any other legal proceeding shall lie against the appropriate Government or any officer of that Government for anything which is in good faith done or intended to be done under this Regulation.</p>	Protection of action taken in good faith.
	<p>59. Where a claim has been filed on account of non-payment of remuneration or bonus or less payment of wages or bonus or on account of making deductions not authorized by this Regulation from the wages of an employee, the burden to prove that the said dues have been paid shall be on the employer.</p>	Burden of proof.

60. Any contract or agreement whereby an employee relinquishes the right to any amount or the right to bonus due to him under this Regulation shall be null and void in so far as it purports to remove or reduce the liability of any person to pay such amount under this Regulation.

Contracting out.

61. 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, settlement or contract of service.

Effect of laws agreements, etc. inconsistent with this Regulation.

62. The appropriate Government may, by notification, direct that any power exercisable by it under this Regulation shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be also exercisable 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 notification.

Delegation of powers.

63. Where an employer is charged with an offence under this Regulation, he shall be entitled upon complaint duly made by him, 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 employer proves to the satisfaction of the court—

Exemption of employer from liability in certain cases.

(a) that he has used due diligence to enforce the execution of this Regulation; and

(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 were the employer and the employer shall be discharged from any liability under this Regulation in respect of such offence:

Provided that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

64. Any amount deposited with the appropriate Government by an employer to secure the due performance of a contract with that Government and any other amount due to such employer from that Government in respect of such contract shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the employer other than any debt or liability incurred by the employer towards any employee employed in connection with the contract aforesaid.

Protection against attachments of assets of employer with Government.

65. The Central Government may, for carrying into execution of the provisions of this Regulation in the Union Territory of Dadra and Nagar Haveli and Daman and Diu give directions to the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, and the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall abide by such directions.

Power of Central Government to give directions.

42 of 2005. 66. Nothing contained in this Regulation shall be deemed to affect the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 and the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, or of any scheme made thereunder.

Saving.

67. (1) The appropriate Government may, subject to the condition of previous publication, make rules for carrying out the provisions of this Regulation.

Power of appropriate Government to make rules.

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

(a) the manner of calculating the wages under sub-section (4) of section 6;

(b) the arduousness of work to be taken into account in addition to minimum rate of wages for certain category of workers under clause (b) of sub-section (6) of section 6;

- (c) the norms under clause (c) of sub-section (6) of section 6;
- (d) the cases and circumstances in which an employee employed for a period of less than the requisite number of hours shall not be entitled to receive wages for a full normal working day, under section 10;
- (e) the extent and conditions, which shall apply in relation to certain classes of employees under sub-section (2) of section 13;
- (f) the longer wage period for fixation of minimum rate of wages as referred to in section 14;
- (g) the manner of deducting loans made from any fund constituted for the welfare of labour under sub-clause (ii) of clause (f) of sub-section (2) of section 18;
- (h) the manner of recovery of excess of amount under sub-section (4) of section 18;
- (i) the authority to provide approval for imposition of fine under sub-section (1) of section 19;
- (j) the manner of exhibition of the acts and omissions to be specified in the notice under sub-section (2) of section 19;
- (k) the procedure for the imposition of fines under sub-section (3) of section 19;
- (l) the form of the register to record all fines and all realisations thereof under sub-section (8) of section 19;
- (m) the procedure for making deductions for absence from duty under sub-section (2) of section 20;
- (n) the procedure for making deductions for damage or loss under sub-section (2) of section 21;
- (o) the form of the register to record all deductions and all realisations thereof under sub-section (3) of section 21;
- (p) conditions for recovery of advance of money given to an employee after the employment began under clause (b) of section 23;
- (q) conditions for recovery of advances of wages to an employee not already earned under clause (c) of section 23;
- (r) deductions for recovery of loans and the rate of interest payable thereon under section 24;
- (s) the manner of regulating the procedure by the Dadra and Nagar Haveli and Daman and Diu Advisory Board, including that of the committees and sub-committees constituted by the Dadra and Nagar Haveli and Daman and Diu Advisory Board, under sub-section (10) of section 42;
- (t) the terms of office of members of the Dadra and Nagar Haveli and Daman and Diu Advisory Board, including that of the committees and sub-committees constituted by the Dadra and Nagar Haveli and Daman and Diu Advisory Board, under sub-section (11) of section 42;
- (u) the authority and manner of depositing with such authority, various undisbursed dues under clause (b) of sub-section (1) of section 44;

- (v) the form of single application in respect of a number of employees under sub-section (5) of section 45;
- (w) the form for making an appeal to the appellate authority under sub-section (1) of section 49;
- (x) the manner of maintenance of a register by the employer under sub-section (1) of section 50;
- (y) the form and manner of issuing wage slips under sub-section (3) of section 50;
- (z) the other powers to be exercised by the Inspector-cum-Facilitator under sub-section (5) of section 51;
- (za) the manner of imposing fine under sub-section (1) of section 56;
- (zb) the manner of composition of offence by a Gazetted Officer specified under sub-section (4) of section 56;
- (zc) any other matter which is required to be, or may be, prescribed under the provisions of this Regulation.

3) The rules made by the Central Government in respect of following matters, under the Central Acts namely shall be applicable to the Union Territory of Dadra and Nagar Haveli and Daman and Diu :—

- (a) the manner of fixing floor wage under sub-section (1) of section 9;
- (b) the manner of consultation with State Government under sub-section (3) of section 9;
- (c) the manner of making set on or set off for the sixth accounting year under clause (i) of sub-section (7) of section 26;
- (d) the manner of making set on or set off for the seventh accounting year under clause (ii) of sub-section (7) of section 26;
- (e) the manner of calculating gross profit under clauses (a) and (b) of section 32;
- (f) such further sums in respect of employer under clause (c) of section 34;
- (g) the manner of utilising the excess of allocable surplus to be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year under sub-section (1) of section 36;
- (h) the manner of utilising the minimum amount or the deficiency to be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year under sub-section (2) of section 36;

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.

68. (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 may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of three years from the commencement of this Regulation.

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

4 of 1936.
11 of 1948.
21 of 1965.
25 of 1976.

69. (1) The Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 are hereby repealed, especially in its implementation to the Union Territory of Dadra and Nagar Haveli and Daman and Diu.

Repeal and savings.

Provided that the directions issued for State Governments by the Central Government are applicable to the Union Territory of Dadra and Nagar Haveli.

(2) Notwithstanding such repeal, anything done or any action taken under the enactments so repealed including any notification, nomination, appointment, order or direction made thereunder or any amount of wages provided in any provision of such enactments for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Regulation and shall be in force to the extent they are not contrary to the provisions of this Regulation till they are repealed under the corresponding provisions of this Regulation or by the notification to that effect by the Central Government.

10 of 1897

(3) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

UT Administration of Dadra Nagar Haveli and Daman & Diu
Department of Labour & Employment,
Daman-396210

No. DDD/IR Regulation-2025/157**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 Industrial Relations Code, 2020 to safeguard the rights of employers and employees by providing easy labour reforms and facilitating ease of Doing Business.

A copy of draft of "the Dadra and Nagar Haveli and Daman and Diu Industrial Relations 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.

Sd/–
(Priyanshu Singh)
Deputy Director-cum-Deputy Secretary (Labour)
DNH & DD

THE DADRA AND NAGAR HAVELI
INDUSTRIAL RELATIONS REGULATION, 2025
No. of 2025

An Act to consolidate and amend the laws relating to Trade Unions,
conditions of employment in industrial establishment or
undertaking, investigation and settlement of industrial disputes and
for matters connected therewith or incidental thereto.

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)

(1) This Regulation may be called the Dadra and Nagar Haveli and Daman and Diu Industrial Relations Regulation, 2025.

Short title, extent
and
commencement

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

Provided that the provisions of this Regulation shall not be applicable to any industrial establishment or undertaking carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government including establishments of the contractors for the purposes of such establishment, corporation, other authority, public sector undertakings or any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government.

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

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

Definitions

(a) "appellate authority" means an authority appointed by the Government to exercise such functions in such area as may be specified by the Government by notification in the Official Gazette;

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

Provided that the Central Government shall continue to be the appropriate Government in respect of the establishments owned and controlled by the Central Government as defined under the corresponding laws.

- (c) "arbitrator" includes an umpire;
- (d) "average pay" means the average of the wages payable to a worker,—
 - (i) in the case of monthly paid worker, in three complete calendar months;
 - (ii) in the case of weekly paid worker, in four complete weeks;
 - (iii) in the case of daily paid worker, in twelve full working days, preceding the date on which the average pay becomes payable, if the worker had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a worker during the period he actually worked;
- (e) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Industrial Tribunal referred to in section 44 or National Industrial Tribunal referred to in section 46 and includes an arbitration award made under section 42;
- (f) "certifying officer" means any officer appointed by the appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV;
- (g) "closure" means the permanent closing down of a place of employment or part thereof;
- (h) "conciliation officer" means a conciliation officer appointed under section 43;
- (i) "conciliation proceeding" means any proceeding held by a conciliation officer under this Regulation;

52 of 1961. (j) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed by an industrial establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union;

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

63 of 1948. (i) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (n) of section 2 of the Factories Act, 1948 and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the said Act, the person so named;

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

(iii) contractor; and

(iv) legal representative of a deceased employer;

(l) "executive", in relation to a Trade Union, means the body by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(m) "fixed term employment" means the engagement of a worker on the basis of a written contract of employment for a fixed period:

Provided that—

(a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;

(b) he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and

(c) he shall be eligible for gratuity if he renders service under the contract for a period of one year;

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

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, but does not include —

(i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(ii) any activity of the appropriate Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or

(iii) any domestic service; or

(iv) any other activity as may be notified by the Central Government;

(o) "industrial dispute" means any dispute or difference between employers and employees or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person and includes any dispute or difference between an individual worker and an employer connected with, or arising out of discharge, dismissal, retrenchment or termination of such worker;

(p) "industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on:

Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,—

(i) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking which is not carrying on or aiding the carrying on of any such activity, such unit shall be deemed to be a separate industrial establishment or undertaking;

(ii) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking;

4 of 1938 (q) "insurance company" means a company as defined in section 2 of the Insurance Act, 1938;

(r) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason, to give employment to a worker whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.

Explanation.—Every worker whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the worker, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;

(s) "lock-out" means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

35 of 1952 (t) "mine" means a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952;

(u) "National Industrial Tribunal" means a National Industrial Tribunal constituted under section 46;

(v) "negotiating union or negotiating council" means the negotiating union or negotiating council referred to in section 14;

(w) "notification" means a notification published in the Official 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 variation and cognate expressions shall be construed accordingly;

(x) "office-bearer", in relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor;

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

24 of 1989. (z) "railway" means the railway as defined in clause (31) of section 2 of the Railways Act, 1989;

(za) "registered office" means that office of a Trade Union which is registered under this Regulation as the head office thereof;

(zb) "registered Trade Union" means a Trade Union registered under this Regulation;

(zc) "Registrar" means a Registrar of Trade Unions appointed by the Administrator of Dadra and Nagar Haveli and Daman and Diu under section 5;

(zd) "retrenchment" means the termination by the employer of the service of a worker for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(i) voluntary retirement of the worker; or

(ii) retirement of the worker on reaching the age of superannuation; or

(iii) termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(iv) termination of service of the worker as a result of completion of tenure of fixed term employment; or

(v) termination of the service of a worker on the ground of continued ill-health;

(ze) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and to the conciliation officer;

(zf) "standing orders" means orders relating to matters set-out in the First Schedule;

(zg) "strike" means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal, under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment and includes the concerted casual leave on a given day by fifty per cent. or more workers employed in an industry;

(zh) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that the provisions of Chapter III of this Regulation shall not affect

(i) any agreement between partners as to their own business; or

(ii) any agreement between an employer and those employed by him as to such employment; or

(iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft;

(zi) "Trade Union dispute" means any dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union inter se;

(zj) "Tribunal" means an Industrial Tribunal constituted under section 44;

(zk) "unfair labour practice" means any of the practices specified in the Second Schedule;

33 of 2008. (zl) "unorganised sector" shall have the same meaning as assigned to it in clause (l) of section 2 of the Unorganised Workers' Social Security Act, 2008;

(zm) "wages" means all remuneration, whether by way of salary, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

(i) basic pay;

(ii) dearness allowance;

(iii) retaining allowance, if any,

but does not include—

(a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(d) any conveyance allowance or the value of any travelling concession;

(e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(f) house rent allowance;

(g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(h) any overtime allowance;

(i) any commission payable to the employee;

(j) any gratuity payable on the termination of employment; or

(k) any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment:

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

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

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

52 of 1961 (zn) "worker" means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the purposes of any proceeding under this Regulation in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

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

45 of 1950.
46 of 1950.
62 of 1957. (ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

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

Provided that for the purposes of Chapter III, "worker"—

- (a) means all persons employed in trade or industry; and
- (b) includes the worker as defined in clause (m) of section 2 of the Unorganised Workers' Social Security Act, 2008.

CHAPTER II BI-PARTITE FORUMS

3. (1) In the case of any industrial establishment in which one hundred or more workers are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute a Works Committee, in such manner as may be prescribed, consisting of representatives of employer and workers engaged in the establishment:

Works Committee

Provided that the number of representatives of workers in such Committee shall not be less than the number of representatives of the employer.

(2) The representatives of the workers shall be chosen, in such manner as may be prescribed, from among the workers engaged in the establishment and in consultation with their Trade Union, if any, registered in accordance with the provisions of section 9.

(3) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workers and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

4. (1) Every industrial establishment employing twenty or more workers shall have one or more Grievance Redressal Committees for resolution of disputes arising out of individual grievances.

Grievance
Redressal
Committee.

(2) The Grievance Redressal Committee shall consist of equal number of members representing the employer and the workers to be chosen in such manner as may be prescribed.

(3) The chairperson of the Grievance Redressal Committee shall be selected from among persons representing the employer and the workers alternatively on rotational basis every year

(4) The total number of members of the Grievance Redressal Committee shall not exceed ten

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

(5) An application in respect of any dispute referred to in sub-section (1) may be filed before the Grievance Redressal Committee by any aggrieved worker in such manner as may be prescribed within one year from the date on which the cause of action of such dispute arises.

(6) The Grievance Redressal Committee may complete its proceedings within thirty days of receipt of the application under sub-section (5).

(7) The decision of the Grievance Redressal Committee on any application filed under sub-section (5) shall be made on the basis of majority view of

the Committee, provided more than half of the members representing the workers have agreed to such decision, otherwise it shall be deemed that no decision could be arrived at by the Committee.

(8) The worker who is aggrieved by the decision of the Grievance Redressal Committee or whose grievance is not resolved in the said Committee within the period specified in sub-section (6), may, within a period of sixty days from the date of the decision of the Grievance Redressal Committee or from the date on which the period specified in sub-section (6) expires, as the case may be, file an application for the conciliation of such grievance to the conciliation officer through the Trade Union, of which he is a member, in such manner as may be prescribed.

(9) Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual worker, any dispute or difference between that worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other worker nor any Trade Union is a party to the dispute.

(10) Notwithstanding anything contained in this section or section 53, any worker as is specified in sub-section (5) may, make an application directly to the Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the conciliation officer of the appropriate Government for conciliation of the dispute, and on receipt of such application the Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as the Tribunal has in respect of the application filed under sub-section (6) of section 53.

(11) The application referred to in sub-section (10) shall be made to the Tribunal before the expiry of two years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (9).

CHAPTER III TRADE UNIONS

5. (1) The Administrator of Dadra and Nagar Haveli and Daman and Diu may, by notification, appoint a person to be the Registrar of Trade Unions, and other persons as Additional Registrar of Trade Unions, Joint Registrar of Trade Unions and Deputy Registrar of Trade Unions, who shall exercise such powers and perform such duties of the Registrar as the Administrator of Dadra and Nagar Haveli and Daman and Diu may, by notification, specify from time to time.

Registrar of Trade
Unions.

(2) Subject to the provisions of any order made by the Administrator of Dadra and Nagar Haveli and Daman and Diu, where an Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions exercises the powers and performs the duties of the Registrar in an area within which the registered office of a Trade Union is situated, such Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions, as the case may be, shall be deemed to be the Registrar in relation to that Trade Union for the purposes of this Regulation.

6. (1) Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Regulation with respect to registration, apply for registration of the Trade Union under this Regulation.

Criteria for
registration

(2) No Trade Union of workers shall be registered unless at least ten per cent. of the workers or one hundred workers, whichever is less, engaged or employed in the industrial establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration

(3) Where an application has been made under sub-section (1) for registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.

(4) A registered Trade Union of workers shall at all times continue to have not less than ten per cent. of the workers or one hundred workers, whichever is less, subject to a minimum of seven, engaged or employed in an industrial establishment or industry with which it is connected, as its members.

7. A Trade Union shall not be entitled to registration under this Regulation, unless the executive thereof is constituted in accordance with the provisions of this Regulation, and the rules of the Trade Union provide for the following matters, namely:—

Provisions to be contained in constitution or rules of Trade Union

(a) the name of the Trade Union;

(b) the whole of the objects for which the Trade Union has been established;

(c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Regulation;

(d) the maintenance of a list of members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;

(e) the admission of ordinary members (irrespective of their craft or category) who shall be persons actually engaged or employed in the industrial establishment, undertaking or industry, or units, branches or offices of an industrial establishment, as the case may be, with which the Trade Union is connected, and also the admission of such number of honorary or temporary members, who are not such workers, as are not permitted under section 21 to be office-bearers to form the executive of the Trade Union;

(f) the payment of a subscription by members of the Trade Union from such members and others, as may be prescribed;

(g) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on any member;

(h) the annual general body meeting of the members of the Trade Union, the business to be transacted at such meeting, including the election of office-bearers of the Trade Union;

(i) the manner in which the members of the executive and the other office bearers of the Trade Union shall be elected once in a period of every three years and removed, and filling of casual vacancies;

(j) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the office-bearers and members of the Trade Union;

(k) the manner in which the rules shall be amended, varied or rescinded; and (l) the manner in which the Trade Union may be dissolved.

(l) the manner in which the Trade Union may be dissolved.

8. (1) Every application for registration of a Trade Union shall be made to the Registrar electronically or otherwise and be accompanied by—

Application for registration, alteration of name and procedure thereof.

(a) a declaration to be made by an affidavit in such form and manner as may be prescribed;

(b) copy of the rules of the Trade Union together with a copy of the resolution by the members of the Trade Union adopting such rules;

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

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

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

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars, as may be prescribed.

(3) The Registrar may call for further information for the purpose of satisfying himself that the application complies with the provisions of this Regulation and the Trade Union is entitled for registration under this Regulation, and may refuse to register the Trade Union until such information is furnished.

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

9. (1) The Registrar shall, on being satisfied that the Trade Union has complied with all the requirements of the provisions of this Chapter in regard to registration, register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

Registration of Trade Union and cancellation thereof.

(2) Where the Registrar makes an order for registration of a Trade Union, he shall issue a certificate of registration to the applicant Trade Union, in such form as may be prescribed, which shall be the conclusive evidence that the Trade Union has been registered under this Regulation.

(3) If the Registrar has issued a certificate of registration to a Trade Union, he shall enter the name and other particulars of the Trade Union in a register maintained in this behalf in such form as may be prescribed.

16 of 1926. (4) Every Trade Union registered under the Trade Unions Act, 1926 having valid registration immediately before the commencement of this Regulation shall be deemed to have been registered under this Regulation:

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

(5) The certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar,—

(i) on the application of the Trade Union verified in such manner as may be prescribed; or

(ii) on the information received by him regarding the contravention by the Trade Union of the provisions of this Regulation or the rules made thereunder or its constitution or rules; or

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

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

(6) A certificate of registration of a Trade Union shall be cancelled by the Registrar where a Tribunal has made an order for cancellation of registration of such Trade Union.

(7) While cancelling the certificate of registration of a Trade Union, the Registrar shall record the reasons for doing so and communicate the same in writing to the Trade Union concerned.

10. (1) Any person aggrieved by the refusal of the Registrar to grant registration to a Trade Union under section 9 or by cancellation of a certificate of registration under sub-section (5) of the said section, may within such period as may be prescribed, prefer an appeal to the Tribunal: Provided that the Tribunal may entertain the appeal after the limitation prescribed for preferring the appeal under this sub-section, if the appellant satisfies the Tribunal that such delay has been caused due to sufficient reason or unavoidable circumstances.

Appeal against non-registration or cancellation of registration

(2) The Tribunal may, after giving the parties concerned an opportunity of being heard, dismiss the appeal or pass an order directing the Registrar to register the Trade Union and to issue a certificate of registration or set aside the order of cancellation of certificate of registration, as the case may be and forward a copy of such order to the Registrar.

11. (1) All communications and notices to a registered Trade Union shall be sent, in such manner as may be prescribed, to the address of the head office of the Trade Union as entered in the register maintained by the Registrar.

Communication to Trade Union and change in its registration particulars

(2) The Trade Union shall inform the Registrar if the members of such Trade Union falls below ten per cent. of total workers or one hundred workers, whichever is less.

(3) The Trade Union shall inform the Registrar of any change in the particulars given by it in its application for registration and in its constitution or rules, in such manner as may be prescribed.

12. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Incorporation of a registered Trade Union.

13. The provisions of the following Acts, namely:—

Certain Acts not to apply to registered Trade Unions.

- 21 of 1860. (a) the Societies Registration Act, 1860;
- 2 of 1912. (b) the Co-operative Societies Act, 1912;
- 39 of 2002. (c) the Multi-State Co-operative Societies Act, 2002;
- 18 of 2013. (d) the Companies Act, 2013; and

(e) any other corresponding law relating to co-operative societies for the time being in force in any State, shall not apply to any registered Trade Union and the registration of any such Trade Union under any of the aforementioned Acts shall be void

14. (1) There shall be a negotiating union or a negotiating council, as the case may be, in an industrial establishment having registered Trade Union for negotiating with the employer of the industrial establishment, on such matters as may be prescribed.

Recognition of negotiating union or negotiating council

(2) Where only one Trade Union of workers registered under the provisions of this Chapter is functioning in an industrial establishment, then, the employer of such industrial establishment shall, subject to such criteria as may be prescribed, recognise such Trade Union as sole negotiating union of the workers.

(3) If more than one Trade Union of workers registered under this Regulation are functioning in an industrial establishment, then, the Trade Union having fifty-one per cent. or more workers on the muster roll of that industrial establishment, verified in such manner as may be prescribed,

supporting that Trade Union shall be recognised by the employer of the industrial establishment, as the sole negotiating union of the workers.

(4) If more than one Trade Union of workers registered under this Regulation are functioning in an industrial establishment, and no such Trade Union has fifty-one per cent. or more of workers on the muster roll of that industrial establishment, verified in such manner as may be prescribed, supporting that Trade union, then, there shall be constituted by the employer of the industrial establishment, a negotiating council for negotiation on the matters referred to in sub-section (1), consisting of the representatives of such registered Trade Unions which have the support of not less than twenty per cent. of the total workers on the muster roll of that industrial establishment so verified and such representation shall be of one representative for each twenty per cent. and for the remainder after calculating the membership on each twenty per cent.

(5) Where any negotiation on the matters referred to in sub-section (1) is held between an employer and a negotiating council constituted under sub-section (4), consequent upon such negotiation, any agreement is said to be reached, if it is agreed by the majority of the representatives of the Trade Unions in such negotiating council.

(6) Any recognition made under sub-section (2) or sub-section (3) or the negotiating council constituted under sub-section (4) shall be valid for three years from the date of recognition or constitution or such further period not exceeding five years, in total, as may be mutually decided by the employer and the Trade Union, as the case may be.

(7) The facilities to be provided by industrial establishment to a negotiating union or negotiating council shall be such as may be prescribed.

15. (1) The general funds of a registered Trade Union shall not be spent on any objects other than such objects as may be prescribed.

Objects of general fund, composition of separate fund and membership fee of Trade Union.

(2) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of such objects as may be prescribed.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (2) and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

(4) The subscriptions payable by the members of the Trade Union shall be such as may be prescribed.

16. (1) No suit or other legal proceeding shall be maintainable in any civil court against any registered Trade Union or any office-bearer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of

Immunity from civil suit in certain cases.

employment or that it is an interference with the trade, business, or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

45 of 1860.

17. No office-bearer or member of a registered Trade Union shall be liable to punishment under Section 61(1) of the Bharatiya Nyaya Sanhita, 2023 in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless such agreement is an agreement to commit an offence.

Criminal conspiracy in furtherance of objects of Trade Union

18. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Enforceability of agreements.

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

19. The books of account of a registered Trade Union and the list of members thereof shall be open to inspection by an office-bearer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

Right to inspect books of Trade Union.

20. Any person who has attained the age of fourteen years and is employed in a non hazardous industry may be a member of a registered Trade Union subject to any rules of the Trade Union, and may, subject to as aforesaid enjoy all the rights of a member and execute all instruments and given all acquaintances necessary to be executed or given under the rules.

Rights of minor to membership of Trade Union.

21. (1) A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union, if—

Disqualification of office bearers of Trade Unions.

(i) he has not attained the age of eighteen years;

(ii) he has been convicted by a court in India for any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has elapsed since his release;

(iii) the Tribunal has directed that he shall be disqualified for being chosen or for being office-bearer of a Trade Union for a period specified therein.

(2) No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected) in the Union or Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall be a member of the executive or other office-bearer of a Trade Union.

22. (1) Where a dispute arises between—

Adjudication of disputes of Trade Unions.

(a) one Trade Union and another; or

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

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

(d) where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union, an application may be made in such manner as may be prescribed to the Tribunal having jurisdiction over the area where the registered office of the Trade Union or Trade Unions is located for adjudication of such disputes.

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

23. (1) Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unorganised sector shall be persons actually engaged or employed in an establishment or industry with which the Trade Union is connected:

Proportion of office-bearers to be connected with industry.

Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

Explanation.—For the purposes of this sub-section, "unorganised sector" means any sector which the appropriate Government may, by notification, specify.

(2) Save as otherwise provided in sub-section (1), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation.—For the purposes of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

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

Change of name, amalgamation, notice of change and its effect.

(2) Any two or more registered Trade Unions may be amalgamated in such manner as may be prescribed.

(3) Notice in writing of every change of name and of every amalgamation signed in the case of a change of name, by the secretary and by seven members of the Trade Union changing its name, and in the case of an amalgamation, by the secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State in such manner as may be prescribed.

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

members of either Trade Union, the Registrar shall refuse to register the change of name.

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

(6) The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions in respect of amalgamation under this Regulation and Acts prevailing in that State have been complied with and that the Trade Union formed thereby is entitled to registration under the provisions of the law, register the Trade Union and the amalgamation shall have effect from the date of such registration.

(7) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

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

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

Dissolution.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

26. (1) Every registered Trade Union shall—

Annual returns.

(a) forward annually to the Registrar, on or before such date, in such form, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December;

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

(2) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

(3) For the purpose of examining the documents referred to in clauses (a) and (b) of sub-section (1), and sub-section (2), the Registrar or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than fifteen kilometres from the registered office of such Trade Union.

27. (1) Where the Central Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as Central Trade Union at the Central level, it may recognise such Trade Union or federation of Trade Unions as Central Trade Union in such manner and for such purpose, as may be prescribed, and if any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the Central Government.

Recognition of
Trade Unions at
Central and State
level.

(2) Where the Administrator of Dadra and Nagar Haveli and Daman and Diu is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as Union Territory Trade Union at the Union Territory level, it may recognise such Trade Union or federation of Trade Unions as Union Territory Trade Union in such manner and for such purpose, as may be prescribed, and if any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the Administrator of Dadra and Nagar Haveli and Daman and Diu Government.

CHAPTER IV STANDING ORDERS

28. (1) The provisions of this Chapter shall apply to every industrial establishment wherein three hundred or more than three hundred workers, are employed, or were employed on any day of the preceding twelve months.

Application of this
Chapter.

(2) Notwithstanding anything contained in sub-section (1), the provisions of this Chapter shall not apply to an industrial establishment in so far as the workers employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government, apply.

29. (1) The model standing orders relating to conditions of service and other matters incidental thereto or connected therewith shall be as specified by the Central Government.

Making of model
standing orders by
Central
Government and
temporary
application.

(2) Notwithstanding anything contained in sections 30 to 36, for the period commencing on the date on which this section becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Regulation come into operation under section 33 in that establishment, the model standing order referred to in sub-section (1) shall be deemed to be adopted in that establishment and the provisions of sub-section (2) of section 33 and section 35 shall apply to such model standing orders as they apply to the standing orders so certified

30. (1) The employer shall prepare draft standing orders, within a period of six months from the date of commencement of this Regulation, based on the model standing orders referred to in section 29 in respect of the matters specified in the First Schedule and on any other matter considered necessary by him for incorporation of necessary provisions in such standing orders for his industrial establishment or undertaking, considering the nature of activity in his industrial establishment or undertaking, provided such provision is not inconsistent with any of the provision of this Regulation and covers every matters set out in the First Schedule.

Preparation of draft standing orders by employer and procedure for certification.

(2) The employer shall consult the Trade Unions or recognised negotiating union or members of the negotiating council relating to the industrial establishment or undertaking, as the case may be, in respect of the draft of the standing order and thereafter forward the draft of the standing order electronically or otherwise to the certifying officer for certification.

(3) Where an employer adopts a model standing order of the Central Government referred to in section 29 with respect to matters relevant to his industrial establishment or undertaking, then, such model standing order shall be deemed to have been certified under the provisions of this section and employer shall forward the information in this regard to the concerned certifying officer in such manner as may be prescribed:

Provided that if the certifying officer has any observation, he may direct such employer to amend the standing order so adopted within such period as may be prescribed.

(4) The employer shall prepare the draft of the modifications required in the standing order, if any, in accordance with the provisions of this Regulation and forward electronically or otherwise to the certifying officer for certification of those modifications only within a period of six months from the date, the provisions of this Chapter becomes applicable to his industrial establishment.

(5) On receipt of the drafts referred to in sub-section (1) and sub-section (4), the certifying officer shall issue notice to—

(i) the Trade Union or negotiating union of the industrial establishment or undertaking, or members of the negotiating council; or

(ii) where there is no Trade Union operating, to such representatives of the workers of the industrial establishment or undertaking chosen in such manner as may be prescribed, for seeking their comments in the matter and after receipt of their comments give an opportunity of being heard to the negotiating union or negotiating council, or as the case may be, to the Trade Unions or the representatives of the workers and decide as to whether or not any modification or addition to such draft standing order is necessary to render the draft standing order certifiable, and shall make an order in writing in this regard:

Provided that the certifying officer shall complete such procedure for certification referred to in sub-sections (4) and (5) in respect of—

(a) the draft standing order so received within a period of sixty days from the date of the receipt of it; and

(b) the draft modifications in the standing order so received within a period of sixty days from the date of the receipt of such modifications, failing which such draft standing orders or, as the case may be, the modifications

in the standing order shall be deemed to have been certified on the expiry of the said period.

(6) The standing orders shall be certifiable under this Regulation, if—

(a) provision is made therein for every matter set out in the First Schedule which is applicable to the industrial establishment; and

(b) such orders are otherwise in conformity with the provisions of this Regulation.

(7) It shall be the function of the certifying officer or the appellate authority referred to in section 32 to adjudicate upon the fairness or reasonableness of the provisions of any standing orders keeping in view the provisions of the model standing orders referred to in section 29.

(8) The certifying officer shall certify the draft standing orders or the modifications in the standing orders referred to in sub-section (5), and shall within seven days thereafter send copies of the certified standing orders or the modifications in the standing orders, authenticated in such manner as may be prescribed, to the employer and to the negotiating union or negotiating council or the Trade Union or other representatives of the workers referred to in clause (ii) of sub-section (5).

(9) The draft standing orders under sub-section (1) or draft of the modifications proposed in the standing orders under sub-section (5) shall be accompanied by a statement giving such particulars, as may be prescribed, of the workers employed in the industrial establishment, the Trade Union to which they belong, and the negotiating union or negotiating council, if any.

(10) Subject to such conditions as may be prescribed, a group of employers in similar establishments may submit a joint draft of standing orders under this section and for the purposes of proceedings specified in sub-sections (1), (5), (6), (8) and (9), the expressions "employer", "Trade Union" and "negotiating union or negotiating council" shall respectively include all the employers, Trade Unions and negotiating unions or negotiating council of such similar establishments, as the case may be.

(11) Without prejudice to the foregoing provisions of this section, the standing orders relating to an industrial establishment or undertaking existing on the date of commencement of the relevant provisions of this Regulation, shall, in so far as is not inconsistent with the provisions of this Regulation or rules made thereunder, continue and be deemed to be the standing orders certified under sub-section (8) and accordingly the provisions of this Chapter shall apply thereon.

31. (1) Every certifying officer and the appellate authority referred to in section 32 shall have all the powers of a civil court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 384 and 385 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Certifying officer and appellate authority to have powers of civil court.

2 of 1974.

(2) Clerical or arithmetical mistakes in any order passed by a certifying officer, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that officer or successor in office of such officer.

32. An employer or Trade Union or the negotiating union or negotiating council, or where there is no negotiating union or negotiating council in an industrial establishment or undertaking, any union or such representative body of the workers of the industrial establishment or undertaking, if not satisfied with the order of the certifying officer given under sub-section (5) of section 30, may file an appeal within sixty days of receipt of the order of the certifying officer to the appellate authority appointed by the appropriate Government, by notification, and such authority shall dispose of the appeal in such manner as may be prescribed.

Appeals

33. (1) The standing orders or modified standing orders, as the case may be, shall, unless an appeal is preferred under section 32, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (8) of section 30, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent in such manner as may be prescribed.

Date of operation of standing orders and its availability.

(2) The text of a standing order as finally certified under this Regulation shall be maintained by the employer in such language and in such manner for the information of the concerned workers as may be prescribed

34. A copy of all standing orders as finally certified under this Regulation shall be filed by the certifying officer in a register maintained for the purpose or uploaded in electronic form or such other form as may be prescribed, and the certifying officer shall furnish a copy thereof to any person applying therefor on payment of such fee as may be prescribed.

Register of standing orders.

35. (1) The standing orders certified under sub-section (8) of section 30 shall not, except on an agreement between the employer and the workers, or a negotiating union or a Trade Union or other representative body of the workers, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

Duration and modification of standing orders.

(2) Subject to the provisions of sub-section (1), an employer or worker or a Trade Union or other representative body of the workers may apply to the certifying officer to have the standing orders modified in such application as may be prescribed, which shall be accompanied by such copies of the modifications proposed to be made, and where the modifications are proposed to be made by agreement between the employer and the workers or a Trade Union or other representative body of the workers, a certified copy of that agreement shall be filed alongwith the application.

(3) The foregoing provisions of this Regulation shall apply in respect of an application under sub-section (2) as they apply to the certification of the first time standing orders.

36. No oral evidence having the effect of adding to or otherwise varying or contradicting standing order as finally certified under this Chapter shall be admitted in any Court.

Oral evidence in contradiction of standing orders not admissible.

37. If any question arises as to the application, or interpretation, of the standing orders certified under sub-section (8) of section 30 or the modification made therein by an agreement entered into under sub-section (5) of that section, the employer or any worker or workers concerned or the Trade Union in relation to the workers employed in the industrial establishment or undertaking, wherein the question has arisen, may apply to the Tribunal, within the local limits of whose territorial jurisdiction such

Interpretation, etc., of standing orders.

establishment or the office, section or branch of the undertaking is situated, to decide the question and such Tribunal shall, after giving all the parties concerned a reasonable opportunity of being heard, decide the question and its decision shall be final and binding on the concerned employer and the workers.

38. (1) Where any worker is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, such investigation or inquiry, or where there is an investigation followed by an inquiry, both the investigation and inquiry shall be completed ordinarily within a period of ninety days from the date of suspension.

Time-limit for completing disciplinary proceedings and liability to pay subsistence allowance.

2) The standing orders certified under sub-section (8) of section 30 or modified under section 35 shall provide that where a worker is suspended as referred to in sub-section (1), the employer in relation to an industrial establishment or undertaking shall pay to such worker employed in such industrial establishment or undertaking subsistence allowance at the rates specified in sub-section (3) for the period during which such worker is placed under suspension pending investigation or inquiry into complaints or charges of misconduct against such worker.

(3) The amount of subsistence allowance payable under sub-section (2) shall be—

(a) at the rate of fifty per cent. of the wages which the worker was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and

(b) at the rate of seventy-five per cent. of such wages for the remaining period of suspension, if the delay in the completion of disciplinary proceedings against such worker is not directly attributable to the conduct of such worker.

39. The appropriate Government may, by notification, exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Chapter.

Power to exempt.

CHAPTER V NOTICE OF CHANGE

40. No employer, who proposes to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule, shall effect such change,—

Notice of change.

(i) without giving to the workers likely to be affected by such change a notice in such manner as may be prescribed of the nature of the change proposed to be effected; or

(ii) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement or award;

(b) where the workers likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians

in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Regulation or any other rules or Regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply;

(c) in case of emergent situation which requires change of shift or shift working, otherwise than in accordance with standing orders, in consultation with Grievance Redressal Committee;

(d) if such change is effected in accordance with the orders of the appropriate Government or in pursuance of any settlement or award.

41. Where the appropriate Government is of the opinion that the application of the provisions of section 40 to any class of industrial establishments or to any class of worker employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workers employed in any industrial establishment.

Power of appropriate Government to exempt.

CHAPTER VI

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

42. (1) Where any industrial dispute exists or is apprehended and the employer and the workers agree to refer the dispute to arbitration, they may, by a written agreement, refer the dispute to arbitration, and the reference shall be to such person or persons as an arbitrator or arbitrators as may be specified in the arbitration agreement.

Voluntary reference of disputes to arbitration.

(2) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Regulation.

(3) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(4) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer.

(5) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators:

Provided that—

(i) where such industrial dispute is the industrial dispute other than the termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the workers shall be represented before the arbitrator,—

(a) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or

(b) where there is no negotiating union or negotiating council, by the Trade Union; or

(c) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;

(i) where such industrial dispute relates to termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the concerned workers shall be represented in person or through a representative authorised by him.

(6) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

(7) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (5), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

26 of 1996. (8) Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section.

CHAPTER VII MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

43. (1) The appropriate Government may, by notification, appoint such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

Conciliation
officers.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

19 of 1952 **44.** (1) The appropriate Government may, by notification, constitute one or more Industrial Tribunals for the adjudication of industrial disputes and for performing such other functions as may be assigned to them under this Regulation.

Industrial Tribunal.

(2) Every Industrial Tribunal shall consist of two members to be appointed by the appropriate Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

(3) A bench of the Tribunal shall consist of a Judicial Member and an Administrative Member or single Judicial Member or single Administrative Member.

7 of 2017. (4) The qualifications for appointment, method of recruitment, term of office, salaries and allowances, resignation, removal and the other terms of conditions of service of the Judicial Member and the Administrative Member of the Tribunal constituted by the Central Government shall be in accordance with the rules made under section 184 of the Finance Act, 2017:

Provided that a person who has held a post below the rank of Joint Secretary to the Government of India or an equivalent rank in the Central Government or a State Government, shall not be eligible to be appointed as an Administrative Member of the Tribunal.

(5) The term of office of the Judicial Member and the Administrative Member of a Tribunal constituted by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under sub-section (1), their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(6) The salary and allowances and the terms and conditions of service of the Judicial Member or Administrative Member referred to in sub-section (2) and appointed by a Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall not be varied to his disadvantage after his appointment.

(7) The procedure of the Tribunal (including distribution of cases in the benches of the Tribunal) shall be such as may be prescribed, provided a bench consisting of a Judicial Member and an Administrative Member shall entertain and decide the cases only relating to—

- (a) the application and interpretation of standing order;
- (b) discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen dismissed;
- (c) illegality or otherwise of a strike or lockout;
- (d) retrenchment of workmen and closure of establishment; and
- (e) Trade Union disputes, and the remaining cases shall be entertained and decided by the bench of the Tribunal consisting either a Judicial Member or an Administrative Member of the Tribunal.

(8) The Judicial Member shall preside over the Tribunal where the bench of the Tribunal consists of one Judicial Member and one Administrative Member.

(9) (1) If, for any reason, a vacancy (other than a temporary absence) occurs in a Tribunal, then, such vacancy shall be filled up in such manner as may be prescribed, without prejudice to the provisions of sub-section (4) or sub-section (5), as the case may be, and the proceeding shall be continued before such Tribunal, from the stage at which the vacancy is filled.

(10) The appropriate Government may provide such number of officers and other staff as it thinks fit in consultation with the Judicial Member of the Tribunal which may be required for the due discharge of the functioning of the Tribunal.

45. No notification of the appropriate Government appointing any person as a Judicial Member or an Administrative Member of a Tribunal shall be called in question in any manner; and no act or proceeding before the Tribunal shall be called in question in any manner on the ground mainly of the existence of any vacancy in, or defect in the constitution of such Tribunal.

Finality of constitution of Tribunal.

46. The constitution of National Industrial Tribunals for the adjudication of industrial disputes involving questions of national importance or are of such a nature that industrial establishments situated in more than one State and its function shall be as prescribed by the Central Government.

National Industrial Tribunal.

47. (1) The decision of a Tribunal shall be by consensus of the members.

Decision of Tribunal or National Industrial Tribunal.

(2) If the members of a Tribunal differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the appropriate Government.

(3) The appropriate Government shall, on receipt of a reference made under sub-section (2), appoint a Judicial Member of other Tribunal or a National Industrial Tribunal, who shall hear the point or points himself and such point or points shall be decided according to the majority of the members of a Tribunal or a National Industrial Tribunal, as the case may be, who have first heard the case, including the Judicial Member of the other Tribunal who heard the case thereafter.

48. No person shall be appointed to, or continue in, the office of the member of a Tribunal, if—

Disqualifications for members of Tribunal and National Industrial Tribunal.

(a) he is not an independent person; or

(b) he has attained the age of sixty-five years.

Explanation.—For the purposes of this section "independent person" means a person who is unconnected with the industrial dispute referred to a Tribunal or with any industry directly affected by such dispute.

49. (1) Subject to the provisions of this Regulation and the rules that may be made in this behalf, an arbitrator, conciliation officer, Tribunal or National Industrial Tribunal shall follow such procedure as the arbitrator, conciliation officer, Tribunal or National Industrial Tribunal may deem fit.

Procedure and powers of arbitrator, conciliation officer, Tribunal and National Industrial Tribunal.

(2) A conciliation officer or an officer authorised in this behalf by the Tribunal or National Industrial Tribunal may, for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

5 of 1908. (3) The conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely: —

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and material objects;

(c) issuing commissions for the examination of witnesses;

45 of 1860. (d) in respect of such other matters as may be prescribed, and every inquiry or investigation by Tribunal or National Industrial Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267 of the Bharatiya Nyaya Sanhita of 2023

5 of 1908. (4) A conciliation officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Regulation, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.

(5) The appropriate Government may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessors or experts to advise a Tribunal, in respect of any proceeding before the said Tribunal.

45 of 1860. (6) All conciliation officers and the members of a Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(7) Subject to any rules made under this Regulation, the costs of, and incidental to, any proceeding before a Tribunal shall be in the discretion of that Tribunal and the Tribunal shall have full powers to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.

2 of 1974 (8) Every Tribunal shall be deemed to be civil court for the purposes of sections 345, 346, and 348 of the Code of Criminal Procedure, 1973.

5 of 1908. (9) Every award made, order issued or settlement arrived at by or before a Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a civil court under Order XXI of the Code of Civil Procedure, 1908 and for that purpose such Tribunal or National Industrial Tribunal shall be deemed to be a civil court.

50. (1) Where the application under sub-section (6) of section 53 relating to an industrial dispute involving discharge or dismissal or otherwise termination of a worker has been made to a Tribunal for adjudication, and, in the course of adjudication proceedings, the Tribunal is satisfied that the order of discharge or dismissal or otherwise termination was not justified, it may, by its award, set aside the order of discharge or dismissal or termination and direct reinstatement of the worker on such terms and conditions, if any, as it thinks fit, or give such other relief to the worker including the award of any lesser punishment in lieu of discharge or dismissal or otherwise termination, as the circumstances of the case may require.

Powers of Tribunal and National Industrial Tribunal to give appropriate relief in case of discharge or dismissal of worker.

(2) A Tribunal may, in the interest of justice, grant such interim relief to the worker referred to in sub-section (1) during the pendency of the industrial dispute as the circumstances of the case may require:

Provided that in any proceeding under this sub-section the Tribunal shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

14 of 1947.	<p>51. (1) On and from the date of commencement of this Regulation, the cases pending immediately before such commencement—</p> <p>(a) in the Labour Court and the Tribunal constituted under the Industrial Disputes Act, 1947, shall be transferred to the Tribunal having corresponding jurisdiction under this Regulation;</p>	Transfer of pending cases.
14 of 1947.	<p>52. A presiding officer of a Labour Court or Tribunal constituted under the Industrial Disputes Act, 1947, holding office as such immediately before the commencement of this Regulation and is qualified to be appointed under this Regulation, shall be the Judicial Member of the Tribunal and shall continue as such for the remaining period of his office.</p>	Adjustment of services of presiding officers under repealed Act.
	<p>53. (1) Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer shall, hold conciliation proceedings in such manner as may be prescribed:</p> <p>Provided that the conciliation officer shall not hold any such proceedings relating to the industrial dispute after two years from the date on which such industrial dispute arose.</p> <p>(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.</p> <p>(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the appropriate Government or an officer authorised in this behalf by the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.</p> <p>(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send to the concerned parties and to the appropriate Government a full report, in the electronic or other form as may be prescribed, setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.</p> <p>(5) Notwithstanding anything contained in sub-section (4), the conciliation officer shall send the report to the concerned parties and the appropriate Government within forty-five days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:</p> <p>Provided that where a conciliation officer receives notice under section 62, he shall send the report to the concerned parties and to the appropriate Government within fourteen days of the commencement of the conciliation proceedings:</p> <p>Provided further that subject to the approval of the conciliation officer, the time may be extended by such period as may be agreed upon in writing by the concerned parties to the dispute.</p> <p>(6) Any concerned party may make application in the prescribed form to the Tribunal in the matters not settled by the conciliation officer under this section within ninety days from the date on which the report under sub-</p>	Conciliation and adjudication of dispute.

section (4) is received to the concerned party and the Tribunal shall decide such application in the prescribed manner.

54. (1) Reference to and functions of National Industrial Tribunal for the matters related to national importance or the disputes in the industrial establishments situated in more than one State shall be as prescribed by the Central Government.

Reference to and functions of National Industrial Tribunal

(2) Where an industrial dispute has been referred under sub-section (1) or transferred under section 92 by the Central Government to a National Industrial Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring or transferring such industrial dispute or further period extended by the Central Government, submit its award to that Government.

55. (1) The award of—

Form of award, its communication and commencement.

(i) a Tribunal delivered by a bench consisting of a Judicial Member and an Administrative Member or a single Judicial Member or a single Administrative Member shall be in writing and shall be signed electronically or otherwise, as the case may be, by both the Judicial Member and the Administrative Member or either by the Judicial Member or the Administrative Member by whom the award is delivered;

(ii) a National Industrial Tribunal, shall be as prescribed by the Central Government.

(2) Every arbitration award and every award of Tribunal shall be communicated to the parties concerned and the appropriate Government.

(3) An award made under this Regulation shall become enforceable on the expiry of thirty days from the date of its communication under sub-section (2):

Provided that—

(a) if the appropriate Government is of the opinion in any case, where the award has been given by a Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion in any case, where the award has been given by a National Industrial Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(4) Where any declaration has been made in relation to an award under the proviso to sub-section (3), the appropriate Government or the Central Government, as the case may be, may, within ninety days from the date of communication of the award under sub-section (2), make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before The Parliament.

(5) Where any award as rejected or modified by an order made under sub-section (4) is laid before the Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (4) is made in pursuance of a declaration under the proviso to sub-section (3), the award shall become

enforceable on the expiry of the period of ninety days referred to in sub-section (4).

(6) Subject to the provisions of sub-section (3) and sub-section (5) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (3) or sub-section (5), as the case may be.

56. Where in any case, a Tribunal or a National Industrial Tribunal by its award directs reinstatement of any worker and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such worker, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the worker had not been employed in any establishment during such period and an affidavit by such worker had been filed to that effect in such Court:

Payment of full wages to worker pending proceedings in higher Courts

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such worker had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.

57. (1) A settlement arrived at by agreement between the employer and worker otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Persons on whom settlements and awards are binding.

(2) Subject to the provisions of sub-section (3), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(3) A settlement arrived at in the course of conciliation proceedings under this Regulation or an arbitration or an award of a Tribunal or National Industrial Tribunal which has become enforceable shall be binding on—

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workers, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

58. (1) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

Period of operation of settlements and awards.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months

from the date on which the memorandum of settlement is signed by the parties to the dispute, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of sixty days from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year from the date on which the award becomes enforceable under section 55:

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit:

Provided further that the appropriate Government may, before expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or part of it to the Tribunal, if the award is made by the Tribunal for decision whether the period of operation should not, by reason of such change, be shortened and the decision of the Tribunal on such reference shall be final.

(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of sixty days has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(7) No notice given under sub-section (2) or sub-section (6) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be.

59. (1) Where any money is due to a worker from an employer under a settlement or an award or under the provisions of Chapter IX or Chapter X, the worker himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the worker, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Recovery of money due from employer.

Provided that every such application shall be made within one year from the date on which the money became due to the worker from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any worker is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Regulation, be decided by such Tribunal as may be specified in this behalf by the appropriate Government within a period not exceeding three months:

Provided that where the Tribunal considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit.

(3) For the purposes of computing the money value of a benefit referred to in sub-section (2), the Tribunal may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Tribunal and the Tribunal shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(4) The decision of the Tribunal shall be forwarded by it to the appropriate Government and any amount found due by the Tribunal may be recovered in the manner provided for in sub-section (1).

(5) Where workers employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workers.

60. (1) A conciliation proceeding shall be deemed to have commenced on the date on which the first meeting is held by the conciliation officer in an industrial dispute after the receipt of the notice of strike or lock-out by the conciliation officer.

Commencement and conclusion of proceedings.

(2) A conciliation proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, and failure of conciliation is recorded by the conciliation officer; or

(c) when a reference is made to a National Industrial Tribunal, under this Regulation, during the pendency of conciliation proceedings.

(3) Proceedings before an arbitrator or a Tribunal or a National Industrial Tribunal under this Regulation shall be deemed to have commenced on the date of filing application or appeal or on the date of reference of the dispute for arbitration or adjudication, as the case may be, and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable.

61. There shall not be included in any report or award under this Regulation, any information obtained by a conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, in the course of any investigation or inquiry as to a Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such conciliation officer, arbitrator, Tribunal, or National Industrial Tribunal, if the Trade Union, person, firm

Certain matters to be kept confidential.

or company, in question has made a request in writing to the conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer, or the arbitrator, or the presiding officer of a Tribunal or a National Industrial Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the Trade Union or the person, firm or company in question, as the case may be:

45 of 1860. Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Bhartiya Nyaya Sanhita, 2023.

CHAPTER VIII STRIKES AND LOCK-OUTS

62. (1) No person employed in an industrial establishment shall go on strike, in breach of contract—

Prohibition of strikes and lock-outs.

(a) without giving to the employer notice of strike, as hereinafter provided, within sixty days before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or

(e) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or

(f) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (5) of section 42; or

(g) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

(2) No employer of an industrial establishment shall lock-out any of his workers—

(a) without giving them notice of lock-out as hereinafter provided, within sixty days before locking-out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or

(e) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or

(f) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (5) of section 42; or

(g) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

(3) The notice of strike or lock-out under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner, as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any person employed by him any such notices as are referred to in sub-section (1) or gives to any person employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe and to the conciliation officer, the number of such notices received or given on that day.

63. (1) A strike or lock-out shall be illegal, if it is—

Illegal strikes and lock-outs.

(i) commenced or declared in contravention of section 62; or

(ii) continued in contravention of an order made under sub-section (7) of section 42.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the filing of the application relating to such industrial dispute in the Tribunal or of the reference of such industrial dispute to an arbitrator or a National Industrial Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Regulation or the continuance thereof was not prohibited under sub-section (7) of section 42.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

64. No person shall knowingly spend or apply any money in direct furtherance or support of any illegal strike or lock-out.

Prohibition of financial aid to illegal strikes or lock-outs.

CHAPTER IX LAY-OFF, RETRENCHMENT AND CLOSURE

65. (1) Sections 67 to 69 (both inclusive) shall not apply to industrial establishments to which Chapter X applies; or

Application of sections 67 to 69.

(a) to industrial establishments in which less than fifty workers on an average per working day have been employed in the preceding calendar month; or

(b) to industrial establishments which are of a seasonal character or in which work is performed intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

63 of 1948. Explanation.—In this section and in sections 67, 68 and 69, industrial establishment shall mean a—

(i) factory as defined in clause (s) of sub-section (1) of section 2 of the Dadra Nagar Haveli Daman & Diu Occupational Safety, Health and Working Conditions Regulation, 2025; or

35 of 1952 (ii) mine as defined under the Factories Act, 1948; or

(iii) plantation as defined under the Factories Act, 1948;

69 of 1951 **66.** In this Chapter, continuous service in relation to a worker, means the uninterrupted service of such worker, including his service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the worker.

Definition of continuous service.

Explanation 1.—For the purposes of this section, where a worker is not in continuous service for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the worker during a period of twelve months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a worker employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the worker during a period of six months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(i) ninety-five days in the case of worker employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Explanation 2.—For the purposes of Explanation 1, the number of days on which a worker has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by or under this Regulation or any other law applicable to the industrial establishment for the time being in force; or

(ii) he has been on leave on full wages earned in the previous years; or

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; or

53 of 1961. (iv) in the case of a female, she has been on maternity leave, so however, that the total period of such maternity leave does not exceed the period as specified in the Maternity Benefit Act, 1961.

67. Whenever a worker (other than a badli worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off:

Rights of workers laid off for compensation, etc.

Provided that if during any period of twelve months, a worker is so laid-off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days, if there is an agreement to that effect between the worker and the employer:

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the worker in accordance with the provisions contained in section 70 at any time after the expiry of the first forty-five days of the lay-off and when he does so, any compensation paid to the worker for having been laid-off during the preceding twelve months may be set off against the compensation payable for retrenchment.

Explanation.— For the purposes of this section "badli worker" means a worker who is employed in an industrial establishment in the place of another worker whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such, if he has completed one year of continuous service in the establishment.

68. Notwithstanding that workers in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Duty of an employer to maintain muster rolls of workers.

69. No compensation shall be paid to a worker who has been laid-off—

Workers not entitled for compensation in certain cases.

(i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of eight kilometres from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the worker, provided that the wages which would normally have been paid to the worker are offered for the alternative employment also;

(ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

(iii) if such laying-off is due to a strike or slowing-down of production on the part of workers in another part of the establishment.

70. No worker employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

Conditions precedent to retrenchment of workers.

(a) the worker has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice;

(b) the worker has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in such manner as may be prescribed is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification.

71. Where any worker in an industrial establishment who is a citizen of India, is to be retrenched and he belongs to a particular category of workers in that establishment, then, in the absence of any agreement between the employer and the worker in this behalf, the employer shall ordinarily retrench the worker who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other worker.

Procedure for retrenchment.

72. Where any worker is retrenched and the employer proposes to take into his employment any person within one year of such retrenchment, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment and such retrenched workers who offer themselves for re-employment shall have preference over other persons.

Re employment of retrenched worker.

73. Where the ownership or management of an establishment is transferred, whether by agreement or by operation of law, from the employer in relation to that establishment to a new employer, every worker who has been in continuous service for not less than one year in that establishment immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 70 as if the worker had been retrenched:

Compensation to workers in case of transfer of establishment.

Provided that nothing in this section shall apply to a worker in any case where there has been a change of employers by reason of the transfer, if—

(a) the service of the worker has not been interrupted by such transfer;

(b) the terms and conditions of service applicable to the worker after such transfer are not in any way less favourable to the worker than those applicable to them immediately before the transfer; and

(c) the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

74. (1) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in such manner as may be prescribed, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking:

Sixty days' notice to be given of intention to close down any undertaking.

Provided that nothing in this section shall apply to—

(i) an industrial establishment in which less than fifty workers are employed or were employed on any day in the preceding twelve months;

(ii) an industrial establishment set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or an extraordinary situation such as natural calamities or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period, as may be specified in the order.

75. (1) Where an establishment is closed down for any reason whatsoever, every worker who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 70, as if the worker had been retrenched:

Compensation to workers in case of closing down of undertakings.

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the worker under clause (b) of section 70, shall not exceed his average pay for three months.

Explanation.—An industrial establishment which is closed down by reason merely of—

(i) financial difficulties (including financial losses); or

(ii) accumulation of un-disposed stocks; or

(iii) the expiry of the period of the lease or license granted to it; or

(iv) in case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which operations are carried on, shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

(2) Notwithstanding anything contained in sub-section (1), where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals in the area in which such operations are carried on, no worker referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 70, if—

(a) the employer provides the worker, at the place located within a radius of twenty kilometres from such undertaking engaged in mining operation is closed down, with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

(b) the service of the worker has not been interrupted by such alternative employment; and

(c) the employer is, under the terms of such alternative employment or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment.

67 of 1957 (3) For the purposes of sub-sections (1) and (2), the expressions "minerals" and "mining operations" shall have the meanings respectively assigned to them in clauses (a) and (d) of section 3 of the Mines and Minerals (Regulation and Development) Act, 1957.

(4) Where any undertaking set up for the construction of buildings, bridges, roads, canals, dams or other construction work is closed down on account of the completion of the work within two years from the date on which the undertaking had been set up, no worker employed therein shall be entitled to any compensation under clause (b) of section 70, but if the construction work is not so completed within two years, he shall be entitled to notice and compensation under that section for every completed year of continuous service or any part thereof in excess of six months.

76. (1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under Chapter IV:

Effect of laws inconsistent with this Chapter.

Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or any award, contract or service or otherwise, a worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Regulation, the worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Chapter.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workers in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.

CHAPTER X SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

77. (1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which **not less than three hundred workers**, or such higher number of workers as may be notified by the appropriate Government, were employed on an average per working day in the preceding twelve months.

Application of this Chapter.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

(3) For the purposes of this Chapter, "industrial establishment" means—

35 of 1952 (i) factory as defined in clause (s) of sub- section (1) of section 2 of the Dadra Nagar Haveli Daman & Diu Occupational Safety, Health and Working Conditions Regulation, 2025; or

69 of 1951 (ii) mine as defined in as defined under the Factories Act, 1948; or

(iii) plantation as as defined under the Factories Act, 1948;

78. (1) No worker (other than a badli worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except with the prior permission of the appropriate Government, obtained on an application made in this behalf, unless such lay-off is due to shortage of power, natural calamity, and in the case of a mine, such lay-off is due to fire, flood, excess of inflammable gas or explosion.

Prohibition of lay-off.

(2) An application for permission under sub-section (1) shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

(3) Where the workers (other than badli workers or casual workers) of industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in such manner as may be prescribed, to the appropriate Government for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted as applied for on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government.

(6) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (4) within the prescribed time from the date on which such order is made or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workers had been laid-off and the workers shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.

(10) The provisions of section 67 (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

Explanation.—For the purposes of this section, a worker shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the worker) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the worker having regard to the facts and circumstances of his case, subject to the condition that the wages which would normally have been paid to the worker are offered for the alternative appointment also.

79. (1) No worker employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(a) the worker has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant

Conditions precedent to retrenchment of workers to which Chapter X applies.

or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers

(4) Where an application for permission has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government.

(5) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (3) within the prescribed time from the date on which such order is made or refer the matter or, as the case may be, cause it to be referred to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the worker and the worker shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every worker who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof, in excess of six months.

80. (1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, electronically or otherwise, apply in such manner as may be prescribed, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workers in such manner as may be prescribed:

Procedure for closing down an industrial establishment.

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(3) Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted as applied for on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government.

(4) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (2) within the prescribed time from the date on which such order is made or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workers shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every worker who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months.

81. Notwithstanding that workers in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Duty of an employer to maintain muster rolls of workers.

82. The provisions of sections 66, 71, 72, 73 and section 76 in Chapter IX shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of this Chapter apply.

Certain provisions of Chapter IX to apply to industrial establishment to which this Chapter applies.

CHAPTER XI WORKER RE-SKILLING FUND

83. (1) The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund (hereafter in this section referred to as "fund").

Worker re- skilling fund.

(2) The fund shall consist of—

(a) the contribution of the employer of an industrial establishment an amount equal to fifteen days wages last drawn by the worker immediately before the retrenchment, or such other number of days as may be notified by the Central Government, for every retrenched worker in case of retrenchment only;

(b) the contribution from such other sources as may be prescribed by the appropriate Government.

(3) The fund shall be utilised by crediting fifteen days wages last drawn by the worker to his account who is retrenched, within forty-five days of such retrenchment, in such manner as may be prescribed.

CHAPTER XII UNFAIR LABOUR PRACTICES

84. No employer or worker or a Trade Union, whether registered under this Regulation, or not, shall commit any unfair labour practice specified in the Second Schedule.

Prohibition of unfair labour practice.

CHAPTER XIII OFFENCES AND PENALTIES

85. (1) Notwithstanding anything contained in section 84, for the purpose of imposing penalty under sub-sections (3), (5), (7), (8), (9), (10), (11) and (20) of section 86 and sub-section (7) of section 89, the appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

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 such provisions.

(3) Where a person fails to pay the penalty referred to in sub-section (2) within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with fine which shall not be less than fifty thousand rupees but may extend up to two lakh rupees.

86. (1) An employer who contravenes the provisions of section 78 or section 79 or section 80 shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to ten lakh rupees.

Penalties.

(2) An employer who after conviction for an offence under section 78 or section 79 or section 80 again commits the same offence under section 78 or section 79 or section 80, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than five lakh rupees, but which may extend up to twenty lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(3) An employer who contravenes the provisions of section 67 or section 70 or section 73 or section 75 shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(4) An employer who after conviction for an offence under section 67 or section 70 or section 73 or section 75 again commits the same offence under section 67 or section 70 or section 73 or section 75, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than one lakh rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(5) Any person who commits any unfair labour practice as specified in the Second Schedule shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to two lakh rupees.

(6) Any person who after conviction for any unfair labour practice again commits the same offence, then, he shall, for committing the second or subsequent offence, be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(7) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any of the provisions of this Regulation, every office-bearer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such office-bearer or person, every member of the executive of the Trade Union, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend to ten thousand rupees and any continuing default shall be punishable with an additional penalty of fifty rupees per day so long as the default continues.

(8) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 26 or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which shall not be less than two thousand rupees, but which may extend to twenty thousand rupees.

(9) Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become

a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which shall not be less than five thousand rupees, but which may extend to twenty thousand rupees.

(10) An employer who fails to submit draft standing orders as required by section 30, or who modifies his standing orders otherwise than in accordance with section 35, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees and in the case of a continuing offence with an additional fine of two thousand rupees per day till the offence continues.

(11) An employer who does any act in contravention of the standing orders finally certified under this Regulation shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees.

(12) Any person who after conviction under sub-section (11) again commits the same offence, then, he shall, for committing the second or subsequent offence be punishable with fine which shall not be less than two lakh rupees, but which may extend to four lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(13) Any worker who commences, continues or otherwise acts in furtherance of a strike which is illegal under this Regulation, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend up to ten thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(14) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Regulation, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to one lakh rupees or with imprisonment for a term which may extend to one month, or with both.

(15) Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Regulation, shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(16) Any person who knowingly spends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(17) Any person who commits a breach of any term of any settlement or award, which is binding on him under this Regulation, shall be punishable with fine which shall not be less than twenty thousand rupees, but which may extend to two lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(18) Where the breach under sub-section (17) is a continuing one, the offender shall be punishable with an additional fine which may extend to one thousand rupees for every day during which the breach continues after the first conviction and the court trying the offence, if it fines the offender,

may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been affected by such breach.

(19) Any person who wilfully discloses any such information as is referred to in section 61 in contravention of the provisions of that section shall, on a complaint made by or on behalf of the Trade Union or individual business affected, be punishable with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one month, or with both.

(20) Any person who contravenes any other provision of this Regulation not covered under sub-sections (1) to (19) or the rules or Regulations framed under this Regulation shall be punishable with fine which may extend to one lakh rupees.

87. (1) No court shall take cognizance of any offence punishable under this Regulation, save on a complaint made by or under the authority of the appropriate Government.

Cognizance of offences.

2 of 1974

(2) Notwithstanding anything contained in the Bharatiya Nagarik Surakhsha Sanhita, 2023, no court inferior to that of the Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this Regulation.

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

Offences by companies.

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this 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, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

6 of 2009.

(a) "company" means any body corporate and includes—

(i) a firm; or

(ii) a limited liability partnership registered under the Limited Liability Partnership Act, 2008; or

(iii) other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

2 of 1947.

89. (1) Notwithstanding anything contained in the Bharatiya Nagarik Surakhsha Sanhita, 2023, any offence punishable under this Regulation, not being an offence punishable with imprisonment only, or with

Composition of offences.

imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted Officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent. of the maximum fine provided for such offence punishable with fine only and for a sum of seventy-five per cent. provided for such offence punishable with imprisonment for a term which is not more than one year or with fine, in the manner as may be prescribed:

Provided that such amount of composition shall be credited to the Social Security Fund established under section 141 of the Dadra and Nagar Haveli and Daman and Diu Social Security Regulation, 2025.

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of three years from the date—

(a) of commission of a similar offence which was earlier compounded;

(b) of commission of similar offence for which such person was earlier convicted.

(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.

(4) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) in writing, to the notice of the adjudicating officer appointed under sub-section (1) of section 85 before whom the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

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

(8) No offence punishable under the provisions of this Regulation shall be compounded except under and in accordance with the provisions of this section.

CHAPTER XIV MISCELLANEOUS

90. (1) Where an industrial dispute pertaining to an establishment or undertaking is already pending before a conciliation officer or an Arbitrator or a Tribunal or a National Industrial Tribunal, as the case may be, with regard to matters not covered by the notice of change issued by an employer under section 40, no employer shall—

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.

(a) in regard to any matter connected with such dispute, alter to the prejudice of the workers concerned in such dispute the conditions of service applicable to them immediately before the commencement of such proceedings; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise any worker concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute referred in sub-section (1), the employer may, in accordance with standing orders applicable to a worker concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the worker—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that worker immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that worker:

Provided that no such worker shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any proceeding in respect of an industrial dispute, take any action against any protected worker concerned in such dispute—

(a) by altering, to the prejudice of such protected worker, the conditions of service applicable to him immediately before the commencement of such proceeding; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected worker.

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—For the purposes of this sub-section, a "protected worker" in relation to an establishment, means a worker who, being a member of the executive or other office-bearer of a registered Trade Union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workers to be recognised as protected workers for the purposes of sub-section (3) shall be one per cent. of the total number of workers employed therein subject to a minimum number of five protected workers and a maximum number of one hundred protected workers and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workers among various Trade Unions, if any, connected with the establishment and the manner in which the workers may be chosen and recognised as protected workers.

(5) Where an employer makes an application to conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit:

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further periods as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

91. Where an employer contravenes the provisions of section 90 during the pendency of proceedings before conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, any employee aggrieved by such contravention, may make a complaint in writing in such manner as may be prescribed—

Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.

(a) to such conciliation officer, and the conciliation officer shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(b) to such arbitrator, Tribunal or National Industrial Tribunal and on receipt of such complaint, the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Regulation and shall submit his or its award to the appropriate Government and the provisions of this Regulation shall apply accordingly.

92. (1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Regulation pending before a Tribunal and transfer the same to another Tribunal, as the case may be, for the disposal of the proceeding and the Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred.

Power to transfer certain proceedings.

(2) The Central Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding pending under this Regulation before a Tribunal constituted by the Central Government or the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu and transfer to a National Industrial Tribunal for disposal of the proceeding and the National Industrial Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred.

(3) The Central Government may, by notification, and for reasons to be stated therein, empower a Tribunal constituted by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu to entertain and dispose of the cases arising within their respective jurisdiction under the provisions of this Regulation where the appropriate Government is the Central Government.

93. (1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Regulation shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any Trade Union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the Union or society, anything to the contrary in rules of a Trade Union or society notwithstanding.

Protection of persons.

(2) Nothing in the rules of a Trade Union or society requiring the settlement of dispute in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the civil court may, in lieu of ordering a person who has been expelled from membership of a Trade Union or society to be restored to membership, order that he be paid out of the funds of the Trade Union or society such sum by way of compensation or damages as that court thinks just.

94. (1) A worker who is a party to a dispute shall be entitled to be represented in any proceeding under this Regulation by—

Representation of parties.

(a) any member of the executive or other office-bearer of a registered Trade Union of which he is a member;

(b) any member of the executive or other office-bearer of a federation of Trade Unions to which the Trade Union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any Trade Union, any member of the executive or other office-bearer of any Trade Union connected with, or by any other worker employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Regulation by—

(a) an officer of an association of employer of which he is a member;

(b) an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Regulation or any proceedings before Tribunal or National Industrial Tribunal.

(4) Notwithstanding anything contained in sub-section (3), in any proceeding before a Tribunal or a National Industrial Tribunal, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Tribunal or National Industrial Tribunal, as the case may be.

95. (1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Tribunal or National Industrial Tribunal as it may think fit.

Removal of doubts in interpretation of award or settlement.

(2) A Tribunal or National Industrial Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties.

96. (1) Where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings that adequate provisions exist to fulfil the objects of any provision of this Regulation, it may, by notification, exempt, conditionally or unconditionally such establishment or undertaking or, class of establishments or undertakings from that provision of this Regulation.

Power to exempt.

(2) Notwithstanding anything contained in sub-section (1), where the appropriate Government is satisfied in relation to any new industrial establishment or new undertaking or class of new industrial establishments or new undertakings that it is necessary in the public interest so to do, it may, by notification, exempt, conditionally or unconditionally, any such new establishment or new undertaking or class of new establishments or new undertakings from all or any of the provisions of this Regulation for such period from the date of establishment of such new industrial establishment or new undertaking or class of new establishments or new undertakings, as the case may be, as may be specified in the notification:

14 of 1947. Provided that any notification issued by a Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under the Industrial Disputes Act, 1947, prior to the commencement of this Regulation, to achieve the purpose as is specified in this sub-section in the Union Territory, shall remain in force after such commencement for its remaining period as if the provisions of this Regulation have not been brought into force to the extent they defeat any purpose to be achieved by such notification issued by that Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

Explanation.—For the purposes of this sub-section, the expression "new industrial establishment or new undertaking or class of new industrial establishments or new undertakings" means such industrial establishment or undertaking or class of industrial establishments or undertakings which are established within a period as may be specified in the notification.

97. 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.

Jurisdiction of civil courts barred.

98. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Regulation or any rules made thereunder.

Protection of action taken in good faith.

99. (1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Regulation:

Power of appropriate Government to make rules.

Provided that the appropriate Government may, if it is satisfied that circumstances exist which render it necessary or expedient in the public interest so to do, dispense with the condition of previous publication or reduce the required time period for inviting objections or suggestions on such previous publication to the extent as it may deem fit.

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

- (a) written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding to arrive at a settlement under clause (zi) of section 2;
- (b) constitution of Works Committee and choosing of representatives of employer and workers engaged in the establishment under section 3;
- (c) manner of choosing members from the employer and the workers for Grievance Redressal Committee under sub-section (2) of section 4;
- (d) application in respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker under sub-section (5) of section 4;
- (e) manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the conciliation officer under sub-section (8) of section 4;
- (f) the payment of a subscription by members of the Trade Union and donation from such members and others under clause (f) of section 7;
- (g) manner of annual audit under clause (j) of section 7;
- (h) form of declaration to be made by an affidavit and the manner of making the same under clause (a) of sub-section (1) of section 8;
- (i) general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars under sub-section (2) of section 8;
- (j) the form of application for registration under sub-section (1), and the form of issuing certificate of registration to be issued by the Registrar to the applicant Trade Union under sub-section (2) of section 9;
- (k) the form of entering the name and other particulars of Trade Union in a register maintained by the Registrar in this behalf under sub-section (3) of section 9;
- (l) verification of application of the Trade Union under sub-section (5) of section 9;
- (m) period within which appeal is to be preferred by Trade Union to Tribunal under sub-section (1) of section 10;
- (n) sending of communication and notices under sub-section (1) and the manner to inform the Registrar under sub-section (3) of section 11;
- (o) matters on which negotiating union or negotiating council, as the case may be, in an industrial establishment may negotiate with the employer of the industrial establishment under sub-section (1) and the criteria to be followed by the employer of industrial establishment under sub-section (2) of section 14;
- (p) manner of verification of workers on the muster roll of the industrial establishment, under sub-sections (3) and (4) and the facilities to be

- provided by industrial establishment to a negotiating union or negotiating council under sub-section (7) of section 14;
- (q) the objects under sub-section (1) and sub-section (2) and the subscription payable under sub-section (4) of section 15;
 - (r) manner of making application for adjudication before the Tribunal under sub-section (1) of section 22;
 - (s) manner of amalgamation under sub-section (2), and the manner of sending signed amalgamation to the Registrar of a different State under sub-section (3) of section 24;
 - (t) distribution of funds of the Trade Union on dissolution by Registrar under sub-section (2) of section 25;
 - (u) the date before which a general statement shall be forwarded annually to the Registrar, the particulars to be contained in general statement and its form, the person by whom and the manner in which such general statement shall be audited under clause (a) of sub-section (1) of section 26;
 - (v) manner and purpose of recognition of a Trade Union or a federation of Trade Unions by the Union Territory of Dadra and Nagar Haveli and Daman and Diu as a State Trade Union at the State level and the authority and the manner of deciding dispute by it under sub-section (2) of section 27;
 - (w) the manner of forwarding information to the certifying officer under sub-section (3) of section 30 and the period within which the amendment of standing order is to be done as observed by the certifying officer under the proviso thereof;
 - (x) manner of choosing representatives of the workers of the industrial establishment or undertaking for issuing notice by certifying officer, where there is no Trade Union operating, under sub-section (5) and the manner of authentication of certified standing orders under sub-section (8) of section 30;
 - (y) statement to be accompanied with draft standing orders under sub-section (9) of section 30;
 - (z) conditions for submission of draft standing orders by group of employers in similar establishment under sub-section (10) of section 30;
 - (za) manner of disposal of appeal by the appellate authority under section 32;
 - (zb) the manner of sending copies of the order of the appellate authority under sub-section (1) and the language and the manner of maintaining standing order under sub-section (2) of section 33;
 - (zc) form of register for filing finally certified standing orders by the certifying officer and fee for furnishing certified copy of such orders under section 34;
 - (zd) application for modification of standing orders to be made before certifying officer under sub-section (2) of section 35;

- (ze) the manner of giving of notice of the nature of the change proposed to be effected under clause (i) of section 40;
- (zf) form of arbitration agreement and the manner to be signed by the parties thereto under sub-section (3) of section 42;
- (zg) manner of issuance of notification where an industrial dispute has been referred to arbitration under sub-section (5) of section 42;
- (zh) manner of choosing representatives of the workers where there is no Trade Union under the proviso to sub-section (5) of section 42;
- (zi) manner of filling up the vacancy under sub-section (9) of section 44;
- (zj) the procedure for selection, salaries and allowances and other terms and conditions of Judicial and Administrative Members of the National Industrial Tribunal under sub-section (6) of section 46;
- (zk) such other matters in respect of which a conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Regulation of Civil Procedure, 1908 under sub-section (3) of section 49;
- (zl) manner of holding conciliation proceedings under sub-section (1), form of full report under sub-section (4), and the form of application and the manner of deciding such application under sub-section (6), of section 53;
- (zm) the number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given, and the manner of giving such notice, under sub-section (4) of section 62;
- (zn) manner of giving notice of lock-out under sub-section (5) and the authority under sub-section (6) of section 62;
- (zo) manner of serving notice before retrenchment of a worker employed in the industry who has been in continuous service for not less than one year by an employer on the appropriate Government or such authority as may be specified by the appropriate Government by notification under clause (c) of section 70;
- (zp) manner in which the employer shall give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment under section 72;
- (zq) manner in which the employer shall serve notice on the appropriate Government stating clearly the reasons for the intended closure of the undertaking under sub-section (1) of section 74;
- (zr) manner of making application by the employer stating clearly the reasons for the intended lay-off and the manner of serving copy of such application to workers under sub-section (2) of section 78;
- (zs) manner of applying to the appropriate Government for permission to continue the lay-off by the employer under sub-section (3) of section 78;

- (zt) time-limit for review under sub-section (7) of section 78;
- (zu) manner of making application by the employer stating clearly the reasons for the intended retrenchment and the manner of serving copy of such application to workers under sub-section (2) of section 79;
- (zv) time-limit for review under sub-section (6) of section 79;
- (zw) manner of making application by the employer stating clearly the reasons for the intended closing down of an undertaking of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (1) of section 80;
- (zx) time-limit for review under sub-section (5) of section 80;
- (zy) contribution from such other sources to be made to the worker re-skilling fund under clause (b) of sub-section (2) of section 83;
- (zz) manner of utilisation of fund under sub-section (3) of section 83;
- (zza) manner of composition of offence by a Gazetted Officer specified under sub-section (1) of section 89;
- (zzb) manner of making application for the compounding of an offence specified under sub-section (4) of section 89;
- (zzc) manner of making complaint by an aggrieved employee under section 91;
- (zzd) manner of authorisation of worker for representing in any proceeding under sub-section (1) of section 94;
- (zze) manner of authorisation of employer for representing in any proceeding under sub-section (2) of section 94;
- (zzf) any other matter which is required to be, or may be, prescribed under the provisions of this Regulation.

(3) The Central Government shall make rules for the—

(a) manner of recognition of a Trade Union or federation of Trade Unions by the Central Government as a Central Trade Union at the Central level and the authority and the manner of deciding dispute by it under sub-section (1) of section 27; and

(b) manner of holding an enquiry under sub-section (1) of section 85.

(4) Every rule made under this section and notification issued under clause (p) of section 2, by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

100. The appropriate 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 direction, be exercisable also,—

Delegation of powers.

101. (1) The Central Government may, by notification, add to or alter or amend the First Schedule or the Second Schedule or the Third Schedule and on any such notification being issued, the First Schedule or the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly.

Power to amend Schedules.

(2) Every notification issued by the Central Government under sub-section (1) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the modification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that notification.

102. In the Finance Act, 2017, in the Eighth Schedule, against serial number 1, in column (3), for the words and figures "the Industrial Disputes Act, 1947", the words and figures "the Dadra and Nagar Haveli and Daman and Diu Industrial Relations Regulation, 2025 in respect of the Union Territory of Dadra and Nagar Haveli and Daman and Diu" shall be substituted.

Amendment of Act 7 of 2017.

103. (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Regulation as may appear to it to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of three years from the date of commencement of this Regulation.

(2) Every order made under this section shall be laid before each House of Parliament.

104. (1) In the notification issued under sub-section (3) of section 1 for the commencement of any provision of this Regulation, the Government may specify that the provisions of—

Repeal and savings.

16 of 1926. (a) the Trade Unions Act, 1926;

20 of 1946. (b) the Industrial Employment (Standing Orders) Act, 1946; and

14 of 1947. (c) the Industrial Disputes Act, 1947,

shall stand repealed with effect from the date appointed in the notification in this behalf and the remaining provisions of the enactments referred to in clauses (a) to (c) shall remain in force till they are repealed by like notifications in the like manner.

(2) Notwithstanding such repeal under sub-section (1), anything done or any action taken under the provisions of the enactments so repealed

including any rule, Regulation, notification, nomination, appointment, order or direction made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Regulation and shall be in force to the extent they are not contrary to the provisions of this Regulation.

10 of 1897. (3) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

THE FIRST SCHEDULE

[See sections 2 (zj), 30 (1), (6) and 101 (1)]

MATTERS TO BE PROVIDED IN STANDING ORDERS UNDER THIS CODE

1. Classification of workers, whether permanent, temporary, apprentices, probationers, badlis or fixed term employment.
2. Manner of intimating to workers periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workers arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workers.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workers against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be specified by the appropriate Government by notification.

THE SECOND SCHEDULE

[See sections 2 (zo), 84, 86 (5) and 101(1)]

UNFAIR LABOUR PRACTICES

I. ON THE PART OF EMPLOYERS AND TRADE UNIONS OF EMPLOYERS

(1) To interfere with, restrain from, or coerce, workers in the exercise of their right to organise, form, join or assist a Trade Union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say,—

- (a) threatening workers with discharge or dismissal, if they join a Trade Union;
 - (b) threatening a lock-out or closure, if a Trade Union is organised;
 - (c) granting wage increase to workers at crucial periods of Trade Union organisation, with a view to undermining the efforts of the Trade Union organisation.
- (2) To dominate, interfere with or contribute support, financial or otherwise, to any Trade Union, that is to say,—
- (a) an employer taking an active interest in organising a Trade Union of his workers; and
 - (b) an employer showing partiality or granting favour to one of several Trade Unions attempting to organise his workers or to its members, where such a Trade Union is not a recognised Trade Union.
- (3) To establish employer sponsored Trade Unions of workers.
- (4) To encourage or discourage membership in any Trade Union by discriminating against any worker, that is to say,—
- (a) discharging or punishing a worker, because he urged other workers to join or organise a Trade Union;
 - (b) discharging or dismissing a worker for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Code);
 - (c) changing seniority rating of workers because of Trade Union activities;
 - (d) refusing to promote workers to higher posts on account of their Trade Union activities;
 - (e) giving unmerited promotions to certain workers with a view to creating discord amongst other workers, or to undermine the strength of their Trade Union;
 - (f) discharging office-bearers or active members of the Trade Union on account of their Trade Union activities.
- (5) To discharge or dismiss workers,—
- (a) by way of victimisation;
 - (b) not in good faith, but in the colourable exercise of the employer's rights;
 - (c) by falsely implicating a worker in a criminal case on false evidence or on concocted evidence;
 - (d) for patently false reasons;
 - (e) on untrue or trumped up allegations of absence without leave;
 - (f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

- (g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the worker, thereby leading to a disproportionate punishment.
- (6) To abolish the work of a regular nature being done by workers, and to give such work to contractors as a measure of breaking a strike.
- (7) To transfer a worker mala fide from one place to another, under the guise of following management policy.
- (8) To insist upon individual workers, who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.
- (9) To show favouritism or partiality to one set of workers regardless of merit.
- (10) To employ workers as badli workers, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workers.
- (11) To discharge or discriminate against any worker for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.
- (12) To recruit worker during a strike which is not an illegal strike.
- (13) Failure to implement award, settlement or agreement.
- (14) To indulge in acts of force or violence.
- (15) To refuse to bargain collectively, in good faith with the recognised Trade Unions.
- (16) Proposing or continuing a lock-out deemed to be illegal under this Code.

II. ON THE PART OF WORKERS AND TRADE UNIONS OF WORKERS

- (1) To advise or actively support or instigate any strike deemed to be illegal under this Code.
- (2) To coerce workers in the exercise of their right to self-organisation or to join a Trade Union or refrain from, joining any Trade Union, that is to say—
 - (a) for a Trade Union or its members to picketing in such a manner that non-striking workers are physically debarred from entering the work places;
 - (b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workers or against managerial staff.
- (3) For a recognised union to refuse to bargain collectively in good faith with the employer.
- (4) To indulge in coercive activities against certification of a bargaining representative.

(5) To stage, encourage or instigate such forms of coercive actions as wilful, "go-slow", squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.

Explanation 1.—For the removal of doubts, it is clarified that "go-slow" shall mean an occasion when more than one worker in an establishment conjointly work more slowly and with less effort than usual to try to persuade the employer of the establishment to agree to higher pay or better service condition or such other demand.

Explanation 2.—For the purposes of Explanation 1, the expression "usual" shall mean,—

(i) where the standard has been specified for a worker for his work either daily, weekly or monthly basis, such work; and

(ii) where no such standard has been specified such rate of work which is the average of work in the previous three months calculated on daily or weekly or monthly basis, as the case may be.

(6) To stage demonstrations at the residence of the employers or the managerial staff members.

(7) To incite or indulge in wilful damage to employer's property connected with the industry.

(8) To indulge in acts of force or violence or to hold out threats of intimidation against any worker with a view to prevent him from attending work.

THE THIRD SCHEDULE [See sections 40 and 101 (1)]

CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

1. Wages, including the period and mode of payment.
2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workers under any law for the time being in force.
3. Compensatory and other allowances.
4. Hours of work and rest intervals.
5. Leave with wages and holidays.
6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders.
7. Classification by grades.
8. Withdrawal of any customary concession or privilege or change in usage.
9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders.

10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workers.

11. Any increase or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not occasioned by circumstances over which the employer has no control.

**UT Administration of Dadra Nagar Haveli and Daman & Diu
Department of Labour & Employment,
Daman-396210**

No. DDD/SS Regulation-2025/158**Dated:-17-06-2025**

PUBLIC NOTICE

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

With the changing industrial scenario, there is a need felt to have a Regulation based on the Code on Social Security, 2020 to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors.

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

Sd/–

(Priyanshu Singh)

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

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

NO. OF 2025

A Regulation to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organized or unorganised or any other sectors and for matters connected therewith or incidental thereto.

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

CHAPTER I
PRELIMINARY
(DRAFT REGULATION)

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

Short title, extent, commencement and application.

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

Provided that the provisions of this Regulation shall not be applicable to any industrial establishment or undertaking carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil fields, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government including establishments of the contractors for the purposes of such establishment, corporation, other authority, public sector undertakings or any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government.

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

(4) The applicability of the Chapters specified in columns (1) and (2) of the First Schedule shall, without prejudice to the applicability of the other provisions of this Regulation, be such as is specified in corresponding entry in column (3) of that Schedule.

(5) The Central Government may, after giving not less than two months' notice of its intention so to do, by notification, apply the provisions of this Regulation to any establishment employing not less than such number of persons as may be specified in the notification.

(6) Notwithstanding anything contained in sub-section (4), an establishment to which any Chapter applies at the first instance shall continue to be applied thereafter even if the number of employees therein at any subsequent time falls below the threshold specified in the First Schedule in respect of that Chapter.

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

Definitions.

(1) "agent" when used in relation to an establishment, means every person, whether appointed as such or not, who Regulationing or purporting to Regulation on behalf of the owner, takes part in the management, control, supervision or direction of such establishment or part thereof;

(2) "aggregator" means a digital intermediary or a market place for a buyer or user of a service to connect with the seller or the service provider;

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

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

(4) "audio-visual production" means audio-visual produced wholly or partly in India and includes—

- (i) animation, cartoon depiction, audio-visual advertisement;
- (ii) digital production or any of the activities in respect of making thereof; and
- (iii) features films, non-feature films, television, web-based serials, talk shows, reality shows and sport shows;

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

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

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

(8) "career centre" means any office (including employment exchange, place or portal) established and maintained in the manner prescribed by the Central Government for providing such career services (including registration, collection and furnishing of information, either by the keeping of registers or otherwise, manually, digitally, virtually or through any other mode) as may be prescribed by the Central Government, which may, inter alia, relate generally or specifically to—

- (i) persons who seek to employ employees;

- (ii) persons who seek employment;
- (iii) occurrence of vacancies; and
- (iv) persons who seek vocational guidance and career counselling or guidance to start self-employment;
- (9) "child", for the purposes of Chapter IV, includes a stillborn child;

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

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

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

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

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

(15) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

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

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

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

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

(18) "contribution" means the sum of money payable by the employer, under this Regulation, to the Central Board and to the Corporation, as the case may be, and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Regulation;

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

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

(21) "dependant" means any of the following relatives of deceased employee, namely:—

(a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother;

(b) if wholly dependant on the earnings of the employee at the time of his death, a legitimate or adopted son or a daughter who has attained the age of eighteen years and who is infirm; wherein the word "eighteen" occurring in this sub-clause shall be deemed to have been substituted by the word "twenty-five";

(c) if wholly or in part dependent on the earnings of the employee at the time of his death,—

(i) a widower;

(ii) a parent other than a widowed mother;

(iii) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;

(iv) a minor brother or an unmarried sister or a widowed sister if a minor;

(v) a widowed daughter-in-law;

(vi) a minor child of a pre-deceased son;

(vii) a minor child of a pre-deceased daughter where no parent of the child is alive, or;

(viii) a grandparent if no parent of the employee is alive.

Explanation.—For the purposes of sub-clause (b) and items (vi) and (vii) of sub-clause (c), references to a son, daughter or child include an adopted son, daughter or child, respectively;

52 of 1961.

(22) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment, either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:

Provided that for the purposes of Chapter V, the term "employee" shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government, or as the case may be, the Administrator of Dadra and Nagar Haveli and Daman and Diu may add to the said Schedule, by notification, for the purposes of that Government;

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

(a) in relation to an establishment which is a factory, the occupier of the factory;

(b) in relation to mine, the owner of the mine or agent or manager having requisite qualification under the law for the time being in force and appointed by the owner or agent of the mine as such;

(c) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs

are entrusted to a manager or managing director, such manager or managing director;

(d) contractor; and

(e) legal representative of a deceased employer;

(24) "employment injury" means a personal injury to an employee, caused by accident or an occupational disease, as the case may be, arising out of and in the course of his employment,—

(i) for the purposes of Chapter V, whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India;

(25) "establishment" means—

(a) a place where any industry, trade, business, manufacture or occupation is carried on; or

(b) a factory, motor transport undertaking, newspaper establishment, audiovisual production, building and other construction work or plantation; or

(c) a mine, port or vicinity of port where dock work is carried out

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

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

(a) whereon ten or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(b) whereon twenty or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

(c) but does not include a mine, or a mobile unit belonging to the Armed Forces of the Union, railways running shed or a hotel, restaurant or eating place.

Explanation 1.—For computing the number of employees for the purposes of this clause, all the employees in (different groups and relays) a day shall be taken into account.

Explanation 2.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(28) "family" means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:—

(a) a spouse;

(b) a minor legitimate or adopted child dependent upon the employee or an unorganised worker, as the case may be;

(c) a child who is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, and who is—

(i) receiving education, till he attains the age of twenty-one years; and

(ii) an unmarried daughter;

(d) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, so long as the infirmity continues;

(e) dependent parents (including father-in-law and mother-in-law of a woman employee), whose income from all sources does not exceed such income as may be prescribed by the Central Government;

in case the employee or an unorganised worker, as the case may be, is unmarried and his parents are not alive, a minor brother or sister wholly dependent upon the earnings of the Insured Person ;

(29) "fixed term employment" means the engagement of an employee on the basis of a written contract of employment for a fixed period:

Provided that—

- (a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent employee doing the same work or work of a similar nature; and
- (b) he shall be eligible for all benefits, under any law for the time being in force, available to a permanent employee proportionately according to the period of service rendered by him even if his period of employment does not extend to the required qualifying period of employment;

(30) "gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship;

(31) "home-based worker" means a person engaged in, the production of goods or services for an employer in his home or other premises of his choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

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

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

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

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

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

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

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

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

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

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

45 of 1860. (40) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy, but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code;

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

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

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

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

Provided that—

- 18 of 2013. (a) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;
- (b) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;
- (c) in the case of a factory owned or controlled by Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu or any local authority, the person or persons appointed to manage the affairs of the factory by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu or the local authority or such other authority as may be prescribed by the Central Government, shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier;

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

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

(47) "permanent partial disablement" means, where the disablement is of a permanent nature, such disablement as reduces the earning capacity of an employee

in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:

Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement;

(48) "permanent total disablement" means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent.;

(49) "plantation" means—

(a) any land used or intended to be used for—

- (i) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;
- (ii) growing any other plant, which admeasures five hectares or more and in which ten or more persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, by notification, so directs.

Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the piece of land first mentioned shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more;

(b) any land which the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares:

Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Regulation; and

(c) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (a) and sub-clause (b); but does not include factory on the premises;

(50) "platform work" means a work arrangement outside of a traditional employer employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment;

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

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

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

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

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

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

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

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

(59) "seasonal factory " means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of ground-nuts, the manufacture of indigo, lac, sugar (including gur) or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year in a manufacturing process as the Central Government may, by notification, specify;

(60) "self-employed worker" means any person who is not employed by an employer, but engages himself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu;

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

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

(63) "social security" means the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Regulation;

(64) "Social Security Organisation" means any of the following organisations established under this Regulation, namely:—

- (a) the Central Board of Trustees of Employees' Provident Fund constituted under section 4;
- (b) the Employees' State Insurance Corporation constituted under section 5;
- (c) the National Social Security Board for Unorganised Workers constituted under section 5;
- (d) the State Unorganised Workers' Social Security Board constituted under section 5;
- (e) the State Building and other Construction Workers' Welfare Boards constituted under section 6; and

(f) any other organisation or special purpose vehicle declared to be the social security organisation by the Central Government;

(g) "State Government" includes—

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

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

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

(66) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service, as the age on the attainment of which the employee shall vacate the employment:

(67) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of the injury;

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

(69) "unorganised sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;

14 of 1947. (70) "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act, 1947 or Chapters III to VII of this Regulation;

(71) "vacancy", for the purposes of Chapter XI, means an unoccupied post (including newly created post, post of trainee, post to be filled through apprentice or any unoccupied post created in an establishment by any other means) in a cadre or occupation for the purpose of employing a person and carrying remuneration;

(72) "wages" means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

(a) basic pay;

(b) dearness allowance; and

(c) retaining allowance, if any,

but does not include—

(a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(d) any conveyance allowance or the value of any travelling concession;

(e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

- (f) house rent allowance;
- (g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
- (h) any overtime allowance;
- (i) any commission payable to the employee;
- (j) any gratuity payable on the termination of employment;
- (k) any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment, under any law for the time being in force:

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

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

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

(73) "wage worker" means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, as the case may be;

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

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

Registration and
cancellation of an
establishment.

Provided that the establishment which is already registered under any other Central labour law for the time being in force shall not be required to obtain registration again under this Regulation and such registration shall be deemed to be registration for the purposes of this Regulation:

(2) The manner of making application for cancellation of the registration under sub-section (2), the conditions subject to which the registration shall be cancelled and the procedure of cancellation and other matters relating thereto, shall be such as may be prescribed by the appropriate Government.

4. (1) Constitution of Board of Trustees of Employees' Provident Fund shall be as prescribed by the Central Government under the Central Act. Constitution of Board of trustees of employees provident fund
5. (1) The constitution of the National Social Security Board and its functions shall be as prescribed by the Central Government under the corresponding Central Act. National Social security board and state unorganized workers board
- (2) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall, by notification, constitute a Union Territory Board to be known as Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Social Security Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Regulation, in such manner as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.
- (3) The Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Social Security Board shall consist of the following members, namely:—
- (a) Commissioner-cum-Secretary (Labour), DNH & DD as Chairperson
 - (b) Additional Labour Commissioner (Daman / DNH / Diu)
 - (c) one member representing the Central Government in the Ministry of Labour and Employment;
 - (d) thirty-one members to be nominated by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, out of whom—
 - (i) seven representing the unorganised workers;
 - (ii) seven representing employers of unorganised workers
 - (iii) two members representing the Local Bodies of the Union Territory of Dadra and Nagar Haveli and Daman and Diu;
 - (iv) five members representing eminent persons from civil society;
 - (v) ten members representing the Departments concerned in the Union Territory of Dadra and Nagar Haveli and Daman and Diu; and
 - (vi) Member-Secretary as notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.
- (4) All members except Chairperson of the Union Territory Unorganised Workers' Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.
- (5) The manner in which members shall be nominated from each of the categories specified in clause (d) of sub-section (10), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board shall be such as may be prescribed by the Administrator of Dadra and Nagar Haveli and Daman and Diu :
- Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.
- (6) The term of the Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board shall be three years.
- (7) The Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board shall meet at least once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed by the Administrator of Dadra and Nagar Haveli and Daman and Diu.
- (8) The Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board shall perform the following functions, namely:—

- (a) recommend the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu for framing suitable schemes for different sections of the unorganised sector workers;
- (b) advise the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu on such matters arising out of the administration of this Regulation as may be referred to it;
- (c) monitor such social welfare schemes for unorganised workers as are administered by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu;
- (d) review the record keeping functions performed at the district level;
- (e) review the progress of registration and issue of cards to unorganised sector workers;
- (f) review the expenditure from the funds under various schemes; and
- (g) undertake such other functions as are assigned to it by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu from time to time.

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

6. (1) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the Dadra and Nagar Haveli and Daman and Diu Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this section and Chapter VI.

(2) The Building Workers' Welfare Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Building Workers' Welfare Board shall consist of a chairperson to be nominated by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, one member to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu: Provided that the Building Workers' Welfare Board shall include an equal number of members representing the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, the employers and the building workers and that at least one member of the Board shall be a woman.

(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Building Workers' Welfare Board, and the manner of filling of casual vacancies of the members of the Building Workers' Welfare Board, shall be such as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(5) (a) The Building Workers' Welfare Board shall appoint a Secretary and such officers and employees as it considers necessary for the efficient discharge of its functions under this Regulation.

(b) The Secretary of the Building Workers' Welfare Board shall be its chief executive officer.

Constitution of
State Building
Workers'
Welfare Boards.

(c) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Building Workers' Welfare Board shall be such as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(6) The Building Workers' Welfare Board shall perform the following functions, namely:—

- (a) provide death and disability benefits to a beneficiary or his dependants;
- (b) make payment of pension to the beneficiaries who have completed the age of sixty years;
- (c) pay such amount in connection with premium for Group Insurance Scheme of the beneficiaries as may be prescribed by the appropriate Government;
- (d) frame educational schemes for the benefit of children of the beneficiaries as may be prescribed by the appropriate Government;
- (e) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed by the appropriate Government;
- (f) make payment of maternity benefit to the beneficiaries;
- (g) frame skill development and awareness schemes for the beneficiaries;
- (h) provide transit accommodation or hostel facility to the beneficiaries;
- (i) formulation of any other welfare scheme for the building worker beneficiaries by Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu in concurrence with the Central Government; and
- (j) make provision and improvement of such other welfare measures and facilities as may be prescribed by the Central Government.

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

may refer to it for advice.

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

- (a) is or at any time has been adjudged an insolvent; or
- (b) is found to be a lunatic or becomes of unsound mind; or
- (c) is or has been convicted of any offence involving moral turpitude; or

(d) is an employer in an establishment and has defaulted in the payment of any dues under this Regulation ;

(e) is a member of a Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, when he ceases to be such member of the Parliament or State Legislative Assembly, as the case may be; or

(f) is a member of Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, and he becomes a—

- (i) Minister of Central or State Government; or
- (ii) Speaker or Deputy Speaker of House of the People or a State Legislative Assembly; or
- (iii) Deputy Chairman of the Council of States.

Explanation 1.—If any question arises whether any person is disqualified under clause (d), it shall be referred to the appropriate Government and the decision of the appropriate Government on any such question shall be final.

Disqualification and removal of a member of any social security organization

Explanation 2.—Clause (f) shall not apply in case of persons who are members of the Social Security Organisation ex officio, by virtue of being a Minister.

(2) The Administrator of Dadra and Nagar Haveli and Daman and Diu may remove any member of Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board and the Building Workers' Welfare Board from his office, who,—

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or

(b) is absent without leave of the Social Security Organisation of which he is a member for more than three consecutive meetings of the Social Security Organisation or a Committee thereof;

(c) in the opinion of Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, has so abused the position of his office as to render that member's continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member in the opinion of Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu:

Provided that no person shall be removed under clauses (b) and (c), unless that person has been given an opportunity to show cause as to why he should not be removed:

(3) Any member of a Social Security Organisation or a Committee thereof may at any time resign from his office in writing under his hand addressed to the Administrator of Dadra and Nagar Haveli and Daman and Diu, as the case may be, which had made his appointment and on acceptance of such resignation, his office shall become vacant.

(4) If in a Social Security Organisation or a Committee thereof, Administrator of Dadra and Nagar Haveli and Daman and Diu, is of the opinion that—

(a) any member thereof representing employers or the employees or the unorganised workers, as the case may be, ceases to adequately represent so; or

(b) any member thereof representing to be an expert in a specified area, is later on found not to possess sufficient expertise in that area; or

(c) having regard to exigencies of circumstances or services in the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, the member thereof representing the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu cannot continue to represent the Government, then, Administrator of Dadra and Nagar Haveli and Daman and Diu may, by order, remove such member from his office:

Provided that no person shall be removed under clause (a) or clause (b), unless that person has been given an opportunity to show cause as to why he should not be removed.

(5) If any member of a Social Security Organisation or a Committee thereof, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration of the Social Security Organisation or a Committee thereof, then, he shall, as soon as may be possible after such fact of interest has come to his knowledge, disclose the nature of the interest and such disclosure shall be recorded in the proceedings of the Social Security Organisation or the Committee thereof, as the case may be, and such member, thereafter, shall not take part in any proceeding or decision of the Social Security Organisation, or a Committee thereof relating to that matter.

8. (1) A Social Security Organisation or any Committee thereof shall meet at such intervals and observe such procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed by the Central Government under the corresponding Central Act.

Procedure for
transaction of
business of
Social Security

Organisation,
etc..

(2) All orders and decisions of the Social Security Organisation shall be authenticated by the Secretary (Labour), Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu or such other officer as may be notified by the appropriate Government and all other instruments issued by the Social Security Organisation shall be authenticated by the signature of such officer as may be authorised by an order by the respective Social Security Organisations.

(3) No act done or proceeding taken by a Social Security Organisation or any Committee thereof shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Social Security Organisation or the Committee thereof, as the case may be.

(4) Such members of a Social Security Organisation or any Committee thereof shall be entitled for such fee and allowances as may be prescribed by the Central Government.

9. (1) If the Administrator of Dadra and Nagar Haveli and Daman and Diu, is of the opinion that the Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board or the Building Workers' Welfare Board or any of the Committee thereof, as the case may be, is unable to perform its functions, or, has persistently made delay in the discharge of its functions or has exceeded or abused its powers or jurisdiction, then the Administrator of Dadra and Nagar Haveli and Daman and Diu may, by notification, supersede the Union Territory Unorganised Workers' Board or the Building Workers' Welfare Board, or any of the Committees thereof, as the case may be, and reconstitute it in such manner as may be prescribed by the Central Government:

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

Provided that, before issuing a notification under this sub-section on any of the grounds specified herein, Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall give an opportunity to the Dadra and Nagar Haveli and Daman and Diu Unorganised Workers' Board or the Building Workers' Welfare Board or any Committee thereof, as the case may be, to show cause as to why it should not be superseded and shall consider the explanations and objections raised by it and take appropriate action thereon.

(2) After the supersession of the Union Territory Unorganised Workers' Board or the Building Workers' Welfare Board, or any of the Committee thereof, as the case may be, and until it is reconstituted, the Administrator of Dadra and Nagar Haveli and Daman and Diu shall make such alternate arrangements for the purpose of administration of the relevant provisions of this Regulation, as may be prescribed by the Central Government.

(3) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall cause, a full report of any action taken by it under this section and the circumstances leading to such action, to be laid before each House of Parliament, at the earliest opportunity and in any case not later than three months from the date of the notification of supersession issued under sub-section (1).

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

State Board,
Regional Boards,
local committees,
etc.

11. Notwithstanding anything contained in this Regulation, the Central Government may, by notification,—

Entrustment of
additional
functions to
Social Security
Organisations.

(i) assign additional functions to a Social Security Organisation including administration of any other Act or scheme relating to social security subject to such provisions as may be specified in this behalf in the notification:

Provided that while the additional function of administering the Act or scheme are assigned under this clause to a Social Security Organisation, the officer or authority of such organisation, to whom such function has been assigned, shall exercise the powers under the enactment or scheme required for discharging such function in the manner as may be specified in the notification:

Provided further that the Social Security Organisations may assign such additional functions to existing officers or appoint or engage new officers necessary for such purpose, if such functions may not be performed and completed with the assistance of its personnel as existing immediately before the assignment of the additional functions;

(ii) specify the terms and conditions of discharging the functions under clause (i) by the Social Security Organisation;

(iii) provide that the expenditure incurred in discharging the functions specified in clause (i) including appointment or engagement of personnel necessary for proper discharge of such functions shall be borne by the Central Government;

(iv) specify the powers which the Social Security Organisation shall exercise while discharging the functions specified in clause (i); and

(v) provide that any expenditure referred to in clause (iii) shall be made by the Social Security Organisation after prior approval of the Central Government.

CHAPTER III

GRATUITY

12. (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

Payment of
gratuity

(a) on his superannuation; or

(b) on his retirement or resignation; or

(c) on his death or disablement due to accident or disease; or

(d) on termination of his contract period under fixed term employment; or

(e) on happening of any such event as may be notified by the Central Government:

45 of 1955

Provided that in case of working journalist as defined in clause (f) of section 2 of the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years:

Provided further that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed term employment or happening of any such event as may be notified by the Central Government:

Provided also that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the competent authority as may be notified by the appropriate Government who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed by the appropriate Government, until such minor attains majority.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages or such number of days as may be notified by the Central Government, based on the rate of wages last drawn by the employee concerned:

Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days' wages for each season:

Provided also that in the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on
(3) The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),—

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(b) the gratuity payable to an employee may be wholly or partially forfeited—

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided such offence is committed by him in the course of his employment.

Explanation 1.— For the purposes of this Chapter, employee does not include any such person who holds a post under the Central Government or the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu and is governed by any other Act or by any rules providing for payment of gratuity.

Explanation 2.— For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease, resulting in such disablement.

Explanation 3.— For the purposes of this section, it is clarified that in the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen

13. For the purposes of this Chapter,— (A) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or Regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Regulation;

(B) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (A), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—

(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

Continuous
service.

(i) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) two hundred and forty days, in any other case;

(b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) one hundred and twenty days, in any other case.

Explanation.— For the purposes of this clause, the number of days on which an employee has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;

(ii) he has been on leave with full wages, earned in the previous year; (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twenty-six weeks;

(C) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (A), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during such period.

14. (1) Each employee, who has completed one year of service, shall make, a nomination within such time, in such form and in such manner, as may be prescribed by the appropriate Government.

Nomination.

(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Chapter amongst more than one nominee.

(3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family shall be void.

(4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed by the appropriate Government, a fresh nomination in favour of one or more members of his family

(5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written intimation in such form and in such manner as may be prescribed by the appropriate Government, of his intention to do so.

(6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the form prescribed by the appropriate Government, in respect of such interest.

(7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody

20 of 1946
14 of 1947

15. (1) A person who is eligible for payment of gratuity under this Chapter or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed by the appropriate Government, for payment of such gratuity.

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the competent authority specifying the amount of gratuity so determined.

(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(4) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits: Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the competent authority for the delayed payment on this ground.

(5) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Chapter or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the competent authority such amount as he admits to be payable by him as gratuity.

(b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the competent authority in the form prescribed by the appropriate Government for deciding the dispute.

(c) The competent authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the competent authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.

(d) The competent authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

(e) As soon as may be after a deposit is made under clause (a), the competent authority shall pay the amount of the deposit—

(i) to the applicant where he is the employee; or

(ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or heir of the employee if the competent authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(6) For the purpose of conducting an inquiry under sub-section (5), the competent authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses.

Determination of
amount of
gratuity.

45 of 1860. (7) Any inquiry under this section shall be a judicial proceeding within the meaning of section 193, section 228 and for the purpose of section 196 of the Indian Penal Code.

(8) Any person aggrieved by an order under sub-section (5) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the competent authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (5), or deposits with the appellate authority such amount.

(9) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify, or reverse the decision of the competent authority.

16. (1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or the control of, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, shall, subject to the provisions of sub-section (2), obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity under this Chapter, from any insurance company regulated by the Authority as defined under clause (b) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999:

41 of 1999.

Provided that different dates may be appointed for different establishments or class of establishments or for different areas.

(2) The appropriate Government may, subject to such conditions as may be prescribed by the Central Government, exempt any employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement, and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed by the Central Government from the provisions of sub-section (1).

(3) For the purposes of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed by the Central Government get his establishment registered with the competent authority in the manner prescribed by the appropriate Government and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).

(4) The appropriate Government may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund, in such manner as may be prescribed.

Compulsory insurance.

(5) Where an employer fails to make any payment by way of premium in respect of the insurance referred to in sub-section (1) or by way of contribution to an approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Chapter (including interest, if any, for delayed payments) forthwith to the competent authority

43 of 1961.

Explanation.— In this section, "approved gratuity fund" shall have the same meaning as assigned to it in sub-section (5) of section 2 of the Income-tax Act, 1961.

17. (1) The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification.

Competent
authority

(2) Where more than one competent authority has been appointed for any area, the appropriate Government may, by general or special order, regulate the distribution of business among them.

(3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under reference to assist him in holding the inquiry relating thereto.

CHAPTER IV

MATERNITY BENEFIT

18. (1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

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

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

(3) Without prejudice to the provisions of section 21, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do, during the period specified in sub-section (4), any work which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be—

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 62.

Explanation.— For the purposes of this section, the expression "any work of arduous nature" shall mean any work which involve or require strenuous effort or is difficult and tiring in nature.

19. (1) Subject to the other provisions of this Regulation, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day.

Right to payment
of maternity
benefit.

Explanation.—For the purposes of this sub-section, "the average daily wage" means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the

date from which she absents herself on account of maternity, subject to the minimum rate of wage fixed or revised under the Dadra and Nagar Haveli and Daman and Diu Wages Regulation, 2025.

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery.

Explanation.— For the purposes of calculating the period under this sub-section, the days on which a woman has actually worked in the establishment, the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the expected date of her delivery shall be taken into account.

(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the expected date of her delivery:

Provided that the maximum period entitled to maternity benefit by a woman having two or more surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:

Provided further that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

Explanation.— For the purposes of this sub-section, "child" includes a stillborn child.

(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(5) In case the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

20. Every woman entitled to the payment of maternity benefit under this Chapter, shall, notwithstanding the application of ESI to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 32.

Continuance of payment of maternity benefit in certain cases.

21. (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Chapter may give notice in writing in such form as may be prescribed by the Central Government, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Chapter may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

Notice of claim for maternity benefit and payment thereof.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than eight weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.

(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed by the Central Government that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed by the Central Government that the woman has been delivered of a child.

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Chapter if she is otherwise entitled to such benefit or amount and in any such case an Inspector-cum-Facilitator may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.

22. If a woman entitled to maternity benefit or any other amount under this Chapter, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 19, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 21 and in case there is no such nominee, to her legal representative.

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

23. Every woman entitled to maternity benefit under this Chapter shall also be entitled to receive from her employer a medical bonus of three thousand five hundred rupees or such amount as may be notified by the Central Government, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

Payment of medical bonus.

24. (1) In case of miscarriage, or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.

Leave for miscarriage, etc.

(2) In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

(3) A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy shall, on production of such proof as may be prescribed by the Central Government, be entitled, in addition to the period of absence allowed to her under section 21, or, as the case may be, under sub-section (1), to leave with wages at the rate of maternity benefit for a maximum period of one month.

25. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of such duration as may be prescribed by the Central Government, for nursing the child until the child attains the age of fifteen months.

Nursing breaks.

26. (1) Every establishment to which this Chapter applies, in which fifty employees or such number of employees as may be prescribed by the Central Government, are employed shall have the facility of crèche within such distance as may be prescribed by the Central Government, either separately or along with common facilities:

Creche facility.

Provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the intervals of rest allowed to her:

Provided further that an establishment may avail common crèche facility of the Central Government, Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, municipality or private entity or provided by non Governmental organisation or by any other organisation or group of establishments who may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.

(2) Every establishment to which this Chapter applies shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit available under this Chapter.

27. (1) When a woman absents herself from work in accordance with the provisions of this Chapter, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service:

Dismissal for absence during pregnancy.

Provided that the discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus under this Chapter, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided further that where the dismissal is for any gross misconduct as may be prescribed by the Central Government, the employer may, by order in writing, communicated to the woman, deprive her of the maternity benefit or medical bonus, or both.

(2) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed under sub-section (1), may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to the competent authority, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, or discharged or dismissed, shall be final.

28. No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Chapter shall be made by reason only of—

No deduction of wages in certain cases.

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

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

29. A woman who works for remuneration during the period she has been permitted by an employer to absent herself for availing the maternity benefits provided under this Chapter shall not be entitled to receive maternity benefit for such period.

Forfeiture of maternity benefit.

30. An abstract of the provisions of this Chapter and the rules relating thereto in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

Duties of employer.

31. (1) Any woman claiming that,—

(a) maternity benefit or any other amount to which she is entitled under this Chapter and any person claiming that payment due under this Chapter has been improperly withheld;

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

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Chapter, may make a complaint to the Inspector-cum-Facilitator.

(2) The Inspector-cum-Facilitator may, on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that—

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his order in writing;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Chapter, may pass such orders as he deems just and proper according to the circumstances of the case.

(3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government.

(4) The decision of the authority referred to in sub-section (3), where an appeal has been preferred to it under that sub-section or of the Inspector-cum-Facilitator where no such appeal has been preferred, shall be final.

CHAPTER V

EMPLOYEE'S COMPENSATION

32. (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring in his premises which results in death or serious bodily injury, the person required to give the notice shall, within seven days of the death or serious bodily injury, send a report to the competent authority giving the circumstances attending the death or serious bodily injury:

Provided that where the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu has so specified, the person required to give the notice may instead of sending such report to the competent authority send it to the authority to whom he is required to give the notice.

Explanation.— For the purposes of this sub-section, "serious bodily injury" means an injury which involves, or in all probability will involve the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.

(2) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by notification, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the competent authority.

33. (1) If personal injury is caused to an employee by accident or an occupational disease listed in the Third Schedule arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

(a) in respect of such injury which does not result in the total or partial disablement of the employee for a period exceeding three days; and

(b) in respect of such injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to—

(i) the employee having been at the time thereof under the influence of drink or drugs, or

Reports of fatal accidents and serious bodily injuries.

Employer's liability for compensation.

(ii) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or
(iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

(2) An accident or an occupational disease referred to in sub-section (1) shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident or at the time of contracting the occupational disease, referred to in that sub-section, acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(a) such accident or contracting of such occupational disease would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(b) the act is done for the purpose of, and in connection with, the employer's trade or business.

(3) If an employee employed in any employment specified in the Second Schedule contracts any disease specified in the Third Schedule, being an occupational disease peculiar to that employment whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months, then, such disease shall be deemed to be an injury by accident within the meaning of this section and unless the contrary is proved, the accident shall be deemed to have arisen out of and in the course of the employment.

(4) An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and his employment is established.

(5) The Central Government or the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, after giving, by notification, not less than three months' notice of its intention so to do, may, by a like notification, modify or add any description of employment to the employments specified in the Second Schedule, and occupational diseases specified in the Third Schedule and shall specify in the case of employments so modified or added, the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply within the Union Territory of Dadra and Nagar Haveli and Daman and Diu, as if such diseases had been declared by this Regulation to be occupational diseases peculiar to those employments.

(6) Save as provided by sub-sections (2), (3) and (4), no compensation shall be payable to an employee in respect of any accident or disease unless the accident or disease is directly attributable to a specific injury by accident or disease arising out of and in the course of his employment.

(7) Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any accident or disease if he has instituted in a civil court a suit for damages in respect of the accident or disease against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of such accident or disease—

(a) if he has instituted a claim to compensation in respect of the accident or disease before a competent authority; or

(b) if an agreement has been made between the employee and his employer providing for the payment of compensation in respect of the accident or disease in accordance with the provisions of this Chapter.

34. If death or injury is caused to any worker or a member of his family as a result of the collapse of a house provided by the employer in a plantation, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to a natural calamity, the employer shall be liable to pay compensation under section 35 and the Sixth Schedule, so far as may be applicable.

Compensation in case of death of or injury in plantation.

Explanation.— For the purposes of this section, the expression "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, and includes a person employed on contract for more than sixty days in a year, but does not include—

- (i) a medical officer employed in the plantation;
- (ii) any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed the amount as determined by the appropriate Government, by notification, from time to time;
- (iii) any person employed in the plantation primarily in a managerial or administrative capacity, notwithstanding that his monthly wages do not exceed the amount as determined by the appropriate Government, by notification, from time to time;
- (iv) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges, drains or canals.

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

Amount of compensation.

(a) where death results from the injury, an amount equal to fifty per cent. of the monthly wages of the deceased employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more;

(b) where permanent total disablement results from the injury, an amount equal to sixty per cent. of the monthly wages of the injured employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more:

Provided that the Central Government may, by notification, from time to time, enhance the amount of compensation specified in clauses (a) and (b).

Explanation.— For the purposes of clauses (a) and (b), "relevant factor", in relation to an employee means the factor specified in column (3) of the Sixth Schedule relating to factors against the corresponding entry in column (2) thereof, specifying the number of years which are the same as the completed years of the age of the employee on his last birthday immediately preceding the date on which the compensation fell due;

(c) where permanent partial disablement results from the injury,—

(i) in the case of an injury specified in Part II of the Fourth Schedule, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and

(ii) in the case of an injury not specified in the Fourth Schedule, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the medical practitioner) permanently caused by the injury.

Explanation 1.— For the purposes of this clause, where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

Explanation 2.— In assessing the loss of earning capacity under sub-clause (ii), the medical practitioner shall have due regard to the percentage of loss of earning capacity in relation to different injuries specified in the Fourth Schedule;

(d) where temporary disablement, whether total or partial, results from the injury, a half-monthly payment of the sum equivalent to twenty-five per cent. Of monthly wages of the employee, to be paid in accordance with the provisions of sub-section (4).

(2) Notwithstanding anything contained in sub-section (1), while fixing the amount of compensation payable to an employee in respect of an accident which occurred outside

India, the competent authority shall take into account the amount of compensation, if any, awarded to such employee in accordance with the law of the country in which the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the employee in accordance with the law of that country.

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

(4) The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day—

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more; or

(ii) after the expiry of a waiting period of three days from the date of disablement, where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever is shorter:

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the employee is entitled, the amount of any payment or allowance which the employee has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and such payment or allowance which the employee has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation;

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the employee before the accident exceeds half the amount of such wages which he is earning after the accident.

(5) The employee shall be reimbursed, the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment, by his employer.

(6) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-

Power of
InspectorcumFaci
literator to direct
payments to be
made.

month a sum proportionate to the duration of the disablement in that half-month.

(7) If the injury of the employee results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the competent authority a sum of not less than fifteen thousand rupees or such amount as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, for payment of the same to the eldest surviving dependant of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependant or was not living with his dependant at the time of his death, to the person who actually incurred such expenditure:

Provided that the Central Government may, by notification from time to time, enhance the amount specified in this sub-section.

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

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the competent authority or made to the employee, as the case may be, without prejudice to the right of the employee to make any further claim.

(3) Where any employer is in default in paying the compensation due under this Chapter within one month from the date it fell due, the competent authority shall,—

(a) direct that the employer shall, in addition to the amount of the arrears, pay interest at such rate as may be prescribed by the Central Government, on the amount due; and

(b) if in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent. of such amount of arrears by way of damages:

Provided that an order for the payment of damages shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause as to why it should not be passed.

(4) The interest and the damages payable under sub-section (3) shall be paid to the employee or his dependant, as the case may be.

37. For the purposes of this Chapter, the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:—

(a) where the employee has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the employee shall be one twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(b) where the whole of the continuous period of service immediately preceding the accident during which the employee was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the employee shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by an employee employed on the same work by the same employer, or, if there was no employee so employed, by an employee employed on similar work in the same locality;

(c) in other cases including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b), the monthly wages shall be thirty times the total wages earned in respect of the last continuous period

Compensation to be paid when due and damages for default.

Method of calculating monthly wages for purposes of compensation.

of service immediately preceding the accident from the employer who is liable to pay

compensation, divided by the number of days comprising such period.
Explanation.—For the purposes of this section, "a period of service" shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

38. (1) Any half-monthly payment payable under this Chapter, either under an agreement between the parties or under the order of a competent authority, may be reviewed by the competent authority, on the application either of the employer or of the employee accompanied by the certificate of a medical practitioner that there has been a change in the condition of the employee or, subject to such conditions as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu on application made without such certificate.

Review.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Chapter, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the employee is entitled less any amount which he has already received by way of half-monthly payments.

39. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the competent authority be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the competent authority, as the case may be.

Commutation of half monthly payments.

40. (1) No payment of compensation in respect of an employee whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the competent authority, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Distribution of compensation.

Provided that, in the case of a deceased employee, an employer may make to any dependant, advances on account of compensation of an amount equal to three months' wages of such employee and so much of such amount as does not exceed the compensation payable to that dependant shall be deducted by the competent authority from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than five thousand rupees which is payable as compensation may be deposited with the competent authority on behalf of the person entitled thereto.

(3) The receipt of the competent authority shall be a sufficient discharge in respect of any compensation deposited with him.

(4) (a) On the deposit of any money under sub-section (1) as compensation in respect of a deceased employee, the competent authority shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation.

(b) If the competent authority is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer

by whom it was paid.

(c) The competent authority shall, on an application by the employer, furnish a statement showing in detail all disbursements made.

(5) The compensation deposited in respect of a deceased employee shall, subject to any deduction made under sub-section (1), be apportioned by order by the

competent authority among the dependants of the deceased employee or any of them in such proportion as the competent authority thinks fit, or may, in the discretion of the competent authority, be allotted to any one dependant: Provided that the competent authority shall not make any order under this sub-section without hearing the dependants and shall record reasons in the order for the apportionment of such compensation among dependants or any of them, as the case may be.

(6) Where any compensation deposited with the competent authority is payable to any person, other than a woman or a person under legal disability, the competent authority may pay the compensation to the person entitled thereto.

(7) Where any lump sum deposited with the competent authority is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the competent authority may direct; and where a half-monthly payment is payable to any person under a legal disability, the competent authority may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the employee or to any other person, whom the competent authority thinks fit to provide for the welfare of the employee.

(8) Where, on application made to him in this behalf or otherwise, the competent authority is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the competent authority as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the competent authority may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause as to why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(9) Where the competent authority varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner as specified in sub-section (10).

(10) The competent authority may recover as an arrear of land revenue any amount referred to in sub-section (9), and for such purpose the competent authority shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.

41. (1) No claim for compensation shall be entertained by a competent authority unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or, in case of death, within two years from the date of death:

Provided that where the accident is the contracting of a disease in respect of which the provisions of sub-section (3) of section 33 are applicable, the accident shall be deemed to have occurred on the first of the days during which the employee was continuously

absent from work in consequence of the disablement caused by the disease:

Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the employee to absent himself from work,

Notice and claim.

the period of two years shall be counted from the day the employee gives notice of the disablement to his employer:

Provided also that if an employee who, having been employed in an employment for a continuous period specified under sub-section (3) of section 33 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected.

(2) The want of or any defect or irregularity, in a notice given under sub-section (1), shall not be a bar to the entertainment of a claim—

(a) if the claim is preferred in respect of the death of an employee resulting from an accident which occurred on the premises of the employer, or at any place where the employee at the time of the accident was working under the control of the employer or of any person employed by him, and the employee died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed had knowledge of the accident from any other source at or about the time when it occurred:

Provided that the competent authority may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time as provided under sub-section (1), if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(3) Every such notice shall give the name and address of the person injured and shall state the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed.

(4) The appropriate Government may require that any class of employers as may be prescribed by that Government shall maintain, at their premises at which employees are employed, a notice-book, in such form as may be prescribed by that Government, which shall be readily accessible at all reasonable times to any injured employee employed on

the premises and to any person acting bona fide on his behalf.

(5) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or where possible, electronically or, where a notice-book is maintained, by entry in the notice-book.

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

(a) masters of ships or seamen; or

(b) captain and other members of crew of aircraft;

(c) persons recruited by companies registered in India and working as such abroad;

(d) persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 as drivers, helpers, mechanics, cleaners or other employees.

Special provisions relating to accidents occurring outside Indian territory.

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

- (a) a seamen, but not the master of the ship;
- (b) a member of crew of an aircraft, but not the captain of the aircraft;
- (c) in case of persons recruited by companies registered in India and working as such abroad, on the local agent of the company;
- (d) in case of persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees, on the local agent of the owner of the motor vehicle, in the country of the accident:

Provided that where the accident happened and the disablement commenced on board, the ship or aircraft, as the case may be, then, it shall not be necessary for any seaman or members of the crew of aircraft to give any notice of the accident.

(3) The claim of compensation shall be made—

- (a) in the case of the death of an employee referred to in sub-section (1), one year after the news of the death has been received by the claimant;
- (b) in the case where the ship or the aircraft as the case may be, has been or is deemed to have been lost with all hands, eighteen months of the date on which the ship or the aircraft was, or is deemed to have been, so lost:

Provided that the competent authority may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

(4) Where an injured employee referred to in sub-section (1) is discharged or left behind in any part of India or in any foreign country, then, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;
- (b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and
- (c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused, and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(5) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law for the time being in force relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this section shall not be a bar to the maintenance of proceedings under this Chapter in respect of any personal injury, if such proceedings under this Chapter are commenced within one month from the date on which the certificate of the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu

to that effect Government was furnished to the person commencing the proceedings.

43. (1) Where an employee has given notice of an accident, he, shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a medical practitioner, submit himself for such examination, and any employee who is in receipt of a half-monthly payment under this Chapter shall, if so required, submit himself for such examination from time to time:

Provided that an employee shall not be required to submit himself for examination by a medical practitioner at more than such frequent interval as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

(2) If an employee, on being required to do so by the employer under sub-section (1) or by the competent authority at any time, refuses to submit himself for examination by a medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If an employee, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves the vicinity of the place in which he was employed without having been so examined, his right to compensation shall be suspended until he returns and offers himself for such examination:

Provided that where such employee proves before the medical practitioner that he could not so submit himself for medical examination due to the circumstances beyond his control and he was also handicapped to communicate such information in writing, the medical practitioner may after recording such reasons in writing, condone the delay and his right to compensation shall be revived as if no such suspension was made.

(4) Where an employee, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the competent authority may, if he thinks fit, direct the payment of compensation to the dependants of the deceased employee.

(5) Where under sub-section (2) or sub-section (3), a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (ii) of sub-section (4) of section 35, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured employee has refused to be attended by a medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the employee has not thereafter been regularly attended by a medical

practitioner or having been so attended has deliberately failed to follow his instructions

and that such refusal, disregard or failure was unreasonable in the circumstances of the

case and that the injury has been aggravated thereby, the injury and resulting disablement

shall be deemed to be of the same nature and duration as they might reasonably have been

expected to be if the employee had been regularly attended by a medical practitioner, whose instructions he had followed, and compensation, if any, shall be payable accordingly.

44. (1) Where any employer in the course of or for the purposes of his trade or business contracts with a contractor for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the employer, the employer shall be liable to pay to any employee employed in the execution of the work any compensation, which he would have been liable to pay if that employee had

been immediately employed by him; and that the amount of compensation shall be calculated with reference to the wages of the employee under the employer by whom he is immediately employed.

(2) Where the employer is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the employee could have recovered the compensation and where a contractor who is himself an employer is liable to pay compensation or to indemnify an employer under this section, he shall be entitled to be indemnified by any person standing to him in relation of a contractor from whom the employee could have recovered the compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the competent authority.

(3) Nothing in this section shall be construed as preventing an employee from recovering compensation referred to in sub-section (2) from the contractor instead of the employer.

(4) The provisions of this section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the employer has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

45. Where an employee has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 44 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

46. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Chapter to any employee, then, in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the employee, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the employee than they would have been under the employer.

(2) If the liability of the insurers to the employee is less than the liability of the employer to the employee, the burden of proof shall lie on the employee for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1), the contract of the employer with the insurers is void or voidable by reason of non-compliance on the

Contracting.

Remedies of employer against stranger.

Insolvency of employer.

part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premium), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the employee:

Provided that the provisions of this sub-section shall not apply in any case in which the employee fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under the Insolvency and Bankruptcy Code, 2016 or under the provisions of the Companies Act, 2013 are in the distribution of the assets of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation, the liability accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and the provisions of that Code and Act shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if applications were made for that purpose under section 80, and a certificate of the competent authority as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) The provisions of this section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

47. (1) Where a competent authority receives information from any source that an employee has died as a result of an accident arising out of and in the course of his employment, he may send by registered post or where possible, electronically a notice to the employee's employer requiring him to submit, within thirty days of the service of the notice, a statement, in such form as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, giving the circumstances attending the death of the employee, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death and a copy of such notice shall also be sent by the competent authority in the same manner to the dependants of such employee ascertained by the competent authority.

(2) If the employer is of the opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of the opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability

(4) Where the employer has so disclaimed liability, the competent authority, after such inquiry as he may think fit, may inform any of the dependants of the deceased employee, that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit

(5) Where in the opinion of the competent authority, a dependant of the deceased employee is not in a position to engage an advocate to file a claim for compensation, the competent authority may provide an advocate to such dependant, from the panel

Power to require from employers statements regarding fatal accidents.

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of advocates maintained by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

48. (1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman, or a person under a legal disability, a memorandum thereof shall be sent by the employer to the competent authority, who shall, on being satisfied as to its genuineness, record the memorandum in a register, electronically or otherwise, in such manner as may be prescribed by the appropriate Government:

Registration of agreements.

Provided that—

- (a) no such memorandum shall be recorded before seven days after communication by the competent authority of notice to the parties concerned;
- (b) the competent authority may at any time rectify the register;
- (c) where it appears to the competent authority that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, the competent authority may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as the competent authority thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Code notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force.

9 of 1872

(3) Where a memorandum of any agreement, the registration of which is required under this section, is not sent to the competent authority as required by this section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Chapter, and notwithstanding anything contained in the proviso to sub-section (1) of section 35, shall not, unless the competent authority otherwise directs, be entitled to deduct more than half of any amount paid to the employee by way of compensation whether under the agreement or otherwise.

49. (1) If any question arises in any proceedings under this Chapter as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not an employee) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a competent authority.

Reference to competent authority

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Chapter required to be settled, decided or dealt with by a competent authority or to enforce any liability incurred under this Chapter.

50. (1) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by notification, appoint any person who is or has been a member of a Union Territory Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the

Appointment of competent authority

appropriate Government to be a competent authority for the purposes of this Chapter and for such area as may be specified in the notification.

(2) Where more than one competent authority has been appointed for any area, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may, by general or special order, regulate the distribution of business amongst them.

(3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

51. (1) Where any matter under this Chapter is to be done by or before a competent authority, the same shall, subject to the provisions of this Chapter and in the manner prescribed in this behalf by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu, be done by or before the competent authority for the area in which—

(a) the accident took place which resulted in the injury; or

(b) the employee or in case of his death, the dependant claiming the compensation ordinarily resides; or

(c) the employer has his registered office:

Provided that no matter shall be processed before or by a competent authority, other than the competent authority having jurisdiction over the area in which the accident took place, except in the manner as prescribed by the Central Government under the corresponding Central Act.

(2) If a competent authority, other than the competent authority with whom any money has been deposited under section 40, proceeds with a matter under this Chapter, the former may for the proper disposal of the matter call for transfer of any records or moneys remaining with the latter and on receipt of such a request, he shall comply with the same.

(3) If a competent authority is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other competent authority, whether in the Union Territory of Dadra and Nagar Haveli and Daman and Diu or not, he may, subject to rules made under this Regulation relating to this Chapter, order such matter to be transferred to such other competent authority either for report or for disposal, and, if he does so, shall forthwith transmit to such other competent authority all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the manner as may be prescribed by the Central Government any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that the competent authority shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard.

(4) The competent authority to whom any matter is so transferred shall, subject to rules made under this Regulation relating to this Chapter, inquire therein to and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(5) On receipt of a report from a competent authority to whom any matter has been transferred for report under sub-section (3), the competent authority by whom it was referred shall decide the matter referred to in conformity with such report.

Venue of
proceedings and
transfer.

(6) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may transfer any matter from any competent authority appointed by it to any other competent authority appointed by it.

52. (1) Where an accident occurs in respect of which liability to pay compensation under this Chapter arises, a claim for such compensation may, subject to the provisions of this Chapter, be made before the competent authority.

Form of application.

(2) Subject to the provisions of sub-section (1), no application for the settlement of any matter by competent authority, other than an application by a dependant or joint application by dependants for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(3) An application to a competent authority for claim under sub-section (1) or settlement under sub-section (2) may be made electronically or otherwise in such form and in such manner accompanied by such fee, if any, as may be prescribed by the Central Government.

(4) The time-limit for the disposal of applications under this section and the costs incidental to the proceedings under this section to be imposed by the competent authority shall be such as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu.

53. (1) Where any sum has been deposited by an employer as compensation payable in respect of an employee whose injury has resulted in death, and in the opinion of the competent authority such sum is insufficient, the competent authority may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

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

(2) If the employer fails to show cause to the satisfaction of the competent authority, the competent authority may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

5 of 1908
2 of 1974

54. The competent authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such competent authority is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the competent authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973.

Powers and procedure of competent authority.

55. Any appearance, application or act required to be made or done by any person before or to a competent authority (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector-cum-Facilitator appointed under sub-section (1) of section 81 or by any other officer specified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu in this behalf, authorised in writing by such person, or, with the permission of the competent authority, by any other person so authorised.

Appearance of parties.

56. The competent authority shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be authenticated under the hand of the competent authority or in the manner as may be prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu and shall form part of the record:

Method of recording evidence.

Provided that, if the competent authority is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause

such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

57. A competent authority may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Power to submit cases.

58. (1) An appeal shall lie to the High Court from the following orders of a competent authority under this Chapter, namely:—

Appeal against order of competent authority.

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(b) an order awarding interest or damages under section 36;

(c) an order refusing to allow redemption of a half-monthly payment;

(d) an order providing for the distribution of compensation among the dependants of a deceased employee, or disallowing any claim of a person alleging himself to be such dependant;

(e) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 44; or

(f) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order referred to in clause (c), unless the amount in dispute in the appeal is not less than ten thousand rupees or such higher amount as the Central Government may, by notification, specify:

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the competent authority, or in which the order of the competent authority gives effect to an agreement arrived at by the parties:

Provided also that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the competent authority to the effect that the appellant has deposited with him the amount payable under the order appealed against.\

(2) The period of limitation for an appeal under this section shall be sixty days from the date of passing of the order.

36 of 1963.

(3) The provisions of section 5 of the Limitation Act, 1963, shall be applicable to appeal under this section.

CHAPTER VI

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

59. (1) There shall be levied and collected a cess for the purposes of social security and welfare of building workers at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by notification, from time to time, specify

Levy and collection of cess.

Explanation.—For the purposes of this sub-section, the cost of construction shall not include,—

(a) the cost of land; and

(b) any compensation paid or payable to an employee or his kin under Chapter V.

(2) The cess levied under sub-section (1) shall be collected from every employer undertaking building or other construction work in such manner and at such time, including deduction at source in relation to a building or other construction work of

a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority or such other authority notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu is required, as may be prescribed by the Central Government.

(3) The proceeds of the cess collected under sub-section (2) shall be deposited by the local authority or such other authority notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu to the Building Workers' Welfare Board in such manner as may be prescribed by the Central Government.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), the cess leviable under this Chapter including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed by the Central Government on the basis of the quantum of the building or other construction work involved.

60. If any employer fails to pay any amount of cess payable under section 59 within such time as may be prescribed by the appropriate Government, such employer shall be liable to pay interest at such rate as may be prescribed by the Central Government, on the amount of cess, to be paid, for the period from the date on which such payment is due till such amount is actually paid.

Interest payable
on delay in
payment of cess

61. Notwithstanding anything contained in this Chapter, the appropriate Government may, by notification, exempt any employer or class of employers in a State from the payment of cess payable under this Chapter where such cess is already levied and payable under any corresponding law in force in the Union Territory of Dadra and Nagar Haveli and Daman and Diu.

Power to
exempt from
cess.

62. (1) The employer shall, within sixty days or such period as may be notified by the Central Government of the completion of his each building and other construction work, pay such cess (adjusting the advance cess already paid under section 59 payable under this Chapter on the basis of his self-assessment on the cost of construction worked out on the basis of the documents and in the manner prescribed by the Central Government and after such payment of cess, he shall file a return under clause (d) of section 82.

Self-assessment
of cess

(2) If the officer or the authority to whom or to which the return has been filed under sub-section (1) finds any discrepancy in the payment under the self-assessment and the payment required under the return referred to in that sub-section, then, he or it shall, after making or causing to be made such inquiry as he or it thinks fit and after such inquiry make the appropriate assessment order

(3) An order of assessment made under sub-section (2) shall specify the date within which the cess shall be paid by the employer, if any.

63. If any amount of cess payable by any employer under section 62 is not paid within the date specified in the order of assessment made under sub-section (2) of that section, it shall be deemed to be in arrears and the authority prescribed by the Central Government in this behalf may, after making such inquiry as it deems fit, impose on such employer a penalty not exceeding the amount of cess:

Penalty for non
payment of cess
within the
specified time

Provided that, before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

64. (1) Any employer aggrieved by an order of assessment made under section 62 or by an order imposing penalty made under section 63 may, within such time as

Appeal to
appellate
authority.

may be prescribed by the Central Government, appeal to such appellate authority in such form and in such manner as may be prescribed by the Central Government.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed by the appropriate Government.

(3) After the receipt of any appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

65. Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be registered by the officer authorised by the Building Workers' Welfare Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government.

Cessation
as
Beneficia
ry

66. (1) A building worker who has been registered as a beneficiary under section 65 shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:

Registration of
Building
Workers as
Beneficiary

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, then, he shall be eligible to get such benefits as may be prescribed by the Central Government.

Explanation.—For computing the period of three years under this sub-section as a beneficiary registered with a Building Workers' Welfare Board, there shall be added any period for which a person had been a beneficiary registered with any other such Board immediately before his registration with the Building Workers' Welfare Board.

67. (1) There shall be constituted by a Building Workers' Welfare Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto—

Building & Other
Construction
Workers'
Welfare Fund
and its
application

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

(b) any grants and loans made to the Building Workers' Welfare Board by the Central Government; and

(c) all sums received by the Building Workers' Welfare Board from such other sources as may be decided by the Central Government.

(2) The Building and Other Construction Workers' Welfare Fund shall be applied for meeting—

(a) expenses of the Building Workers' Welfare Board in the discharge of its functions under sub-section (6) of section 6;

(b) salaries, allowances and other remuneration of the members, officers and other employees of the Building Workers' Welfare Board; and

(c) expenses on objects and for purposes authorised by this Code.

(3) No Building Workers' Welfare Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members,

officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year

CHAPTER VII

SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS

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

Framing of schemes for unorganised workers.

life and disability cover;

- (i) health and maternity benefits;
- (ii) old age protection;
- (iii) education; and
- (iv) any other benefit as may be determined by the Central Government.

(2) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall frame and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—

- (i) provident fund;
- (ii) employment injury benefit;
- (iii) housing;
- (iv) educational schemes for children;
- (v) skill upgradation of workers;
- (vi) funeral assistance; and
- (vii) old age homes.

(3) Any scheme notified by the Central Government under sub-section (1), may be—

- (i) wholly funded by the Central Government; or
- (ii) partly funded by the Central Government and partly funded by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu ; or
- (iii) partly funded by the Central Government, partly funded by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the Central Government; or
- (iv) funded from any source including corporate social responsibility fund within the meaning of the Companies Act, 2013 or any other such source as may be specified in the scheme.

(4) Every scheme notified by the Central Government under sub-section (1) shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to all or any of the following, namely:—

- (i) scope of the scheme;
- (ii) authority to implement the scheme;
- (iii) beneficiaries of the scheme;
- (iv) resources of the scheme;
- (v) agency or agencies that will implement the scheme;
- (vi) redressal of grievances; and
- (vii) any other relevant matter,

and a special purpose vehicle may also be constituted by the Central Government for the purpose of implementation of any such scheme.

69. (1) Any scheme notified by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under sub-section (2) of section 68 may be—
- (a) wholly funded by the Union Territory of Dadra and Nagar Haveli and Daman and Diu
 - ; or
 - (b) partly funded by the Union Territory of Dadra and Nagar Haveli and Daman and Diu, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the Union Territory of Dadra and Nagar Haveli and Daman and Diu; or
 - (c) funded from any source including corporate social responsibility fund referred to in clause (iv) of sub-section (3) of section 68 or any other such source as may be specified in the scheme.
- (2) The Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu may seek financial assistance from the Central Government for the schemes framed by it.
- (3) The Central Government may provide such financial assistance to the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu for the purpose of schemes for such period and on such terms and conditions as it may deem fit.
70. The Government formulating and notifying the scheme under this Chapter shall provide therein the form and manner of keeping the records electronically or otherwise relating to the scheme and the authority by whom such records shall be maintained:
- Provided that such records shall, as far as may be possible, bear continuous number
- for the purpose of proper management of the scheme and for avoiding any duplication and overlapping in records.
71. The appropriate Government may set up a toll free call centre or helpline or such facilitation centres as may be considered necessary from time to time to perform any or more of the following functions, namely:—
- (a) to disseminate information on available social security schemes for the unorganised workers, gig workers and platform workers;
 - (b) to facilitate filing, processing and forwarding of application forms for registration of unorganised workers, gig workers and platform workers;
 - (c) to assist unorganised workers, gig workers and platform workers to obtain registration; and
 - (d) to facilitate the enrolment of the registered unorganised workers, gig workers and platform workers in the social security schemes.
72. (1) Every unorganised worker, gig worker or platform worker shall be required to be registered for the purposes of this Chapter, subject to the fulfilment of the following conditions, namely:—
- (a) he has completed sixteen years of age or such age as may be prescribed by the Central Government;
 - (b) he has submitted a self-declaration electronically or otherwise in such form and in such manner containing such information as may be prescribed by the Central Government.
- (2) Every eligible unorganised worker, gig worker or platform worker referred to in sub-section (1) shall make an application for registration in such form along with such documents including Aadhaar number as may be prescribed by the Central Government and such worker shall be assigned a distinguishable number to his application:

Funding of State Government schemes.

Record keeping

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

Registration of unorganized workers, gig workers and platform workers

Provided that the system of electronic registration maintained by the appropriate Government shall also provide for self registration by any such worker in such manner as may be prescribed by the Central Government.

(3) A registered unorganised worker, gig worker or platform worker shall be eligible to avail the benefit of the concerned scheme framed under this Chapter.

(4) The Central Government, or as the case may be, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu shall make such contribution in a scheme as may be specified therein.

Explanation.—For the purposes of this section, the term "Aadhaar" shall have the same meaning as is assigned to it in section 97.

73. (1) The Central Government may frame and notify, from time to time, suitable social security schemes for gig workers and platform workers on matters relating to—

schemes for gig workers and platform workers

- (a) life and disability cover;
- (b) accident insurance;
- (c) health and maternity benefits;
- (d) old age protection;
- (e) crèche; and
- (f) any other benefit as may be determined by the Central Government.

(2) Every scheme framed and notified under sub-section (1) may provide for—

- (a) the manner of administration of the scheme;
- (b) the agency or agencies for implementing the scheme;
- (c) the role of aggregators in the scheme;
- (d) the sources of funding of the scheme; and

(e) any other matter as the Central Government may consider necessary for the efficient administration of the scheme.

(3) Any scheme notified by the Central Government under sub-section (1), may be—

wholly funded by the Central Government; or

(a) partly funded by the Central Government and partly funded by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu

; or

(c) wholly funded by the contributions of the aggregators; or

(d) partly funded by the Central Government, partly funded by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu and partly funded through contributions collected from the beneficiaries of the scheme or the aggregators, as may be specified in the scheme framed by the Central Government; or

(e) funded from corporate social responsibility fund within the meaning of Companies Act, 2013; or

(f) any other source.

(4) The contribution to be paid by the aggregators for the funding referred to in clause (ii) of sub-section (1) of section 96, shall be at such rate not exceeding two per cent., but not less than one per cent., as may be notified by the Central Government, of the annual turnover of every such aggregator who falls within a category of aggregators, as are specified in the Seventh Schedule:

Provided that the contribution by an aggregator shall not exceed five per cent. of the amount paid or payable by an aggregator to gig workers and platform workers.

Explanation.—For the purposes of this sub-section, the annual turnover of an aggregator shall not include any tax, levy and cess paid or payable to the Central Government.

(5) The date of commencement of contribution from aggregator under this section shall be notified by the Central Government.

(6) The constitution and functions of the National Social Security Board shall be as prescribed by the Central Government under the corresponding Central Acts.

(7) (i) The Central Government may provide that—

- (a) the authority to collect and to expend the proceeds of contribution collected;
- (b) the rate of interest to be paid by an aggregator in case of delayed payment, less payment or non-payment of contribution;
- (c) self-assessment of contribution by aggregators;
- (d) conditions for cessation of a gig worker or a platform worker; and
- (e) any other matter relating to smooth functioning of the social security scheme notified under this section,

shall be such as may be prescribed by that Government.

(ii) The Central Government may by notification, exempt such aggregator or class of aggregators from paying of contribution under sub-section (4), subject to such conditions as may be specified in the notification.

Explanation.—For the purposes of this section, an aggregator having more than one business shall be treated as a separate business entity or aggregator.

CHAPTER VIII

FINANCE AND ACCOUNTS

74. Each of the Social Security Organisations shall maintain proper accounts of its income and expenditure in such form and in such manner as the appropriate Government may, after consultation with the Comptroller and Auditor-General of India, specify.

Accounts

75. (1) The accounts of each of the Social Security Organisations shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the respective Social Security Organisation to the Comptroller and Auditor-General of India.

Audit

(2) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of a Social Security Organisation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and to inspect any of the offices of the Social Security Organisation.

(3) The accounts of a Social Security Organisation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Social Security Organisation which shall along with its comments on the audit report of the Comptroller and Auditor-General of India forward the same to the appropriate Government

76. (1) Each of the Social Security Organisations shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the appropriate Government before such date as may be fixed by it in that behalf.

Budget Estimates

(2) The budget shall contain provisions adequate in the opinion of the appropriate Government for the discharge of the liabilities incurred by the Social Security Organisation and for the maintenance of a working balance.

77. (1) Each of the Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities and the budget finally adopted by the Social Security Organisation.

Annual Report

(2) The appropriate Government shall cause a copy of the annual report, budget and the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the respective Social Security Organisation thereon to be laid before each House of Parliament.

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

Valuation of Assets and liabilities

shall have a valuation of its assets and liabilities made by a valuer or actuary, as the case may be, appointed, with the prior approval of the appropriate Government, by such Social Security Organisation or the establishment, as the case may be, in the following manner, namely:—

- (a) in case of Central Board, as prescribed by the Central Government;
- (b) in case of Corporation, as prescribed by the Central Government ;
- (c) in case of any other Social Security Organisation or establishment, as specified by the appropriate Government, by order:

Provided that the appropriate Government, if it considers necessary, may direct such valuation to be made at such intervals other than provided in this section.

79. (1) A Social Security Organisation (may, subject to such conditions as may be prescribed by the appropriate Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation is established.

Holding of Property, etc., by social security organization

(2) Subject to such conditions as may be prescribed by the appropriate Government, a Social Security Organisation may, from time to time invest any moneys vested in it, which are not immediately required for expenses properly defrayable and may, subject to as aforesaid, from time to time re-invest or realise such investments:

(3) Each of the Social Security Organisations may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, raise loans and take measures for discharging such loans.

(4) Each of the Social Security Organisations may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, constitute for the benefit of its officers and staff or any class of them, such provident or other benefit funds as it may think fit;

80. Subject to the conditions as may be prescribed by the appropriate Government, where any of the Social Security Organisations is of the opinion that the amount of contribution, cess, interest and damages due to it, under this Regulation, is irrecoverable, the concerned Social Security Organisation may sanction the writing off of the said amount in such manner as may be prescribed by the appropriate Government:

Writing off of losses

CHAPTER IX

AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY

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

Appointment of Inspector cum Facilitators and their powers.

(2) The appropriate Government in respect of provisions of this Regulation

, may, by notification, lay down an inspection scheme which may provide for generation of a web-based inspection and calling of information relating to the inspection under this Regulation

electronically and such scheme shall, inter alia, have provisions to cater to special circumstances for assigning inspections and calling for information from the establishment or any other person.

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

(a) assignment of unique number to each establishment (which will be same as the registration number allotted to that establishment), each Inspector-cum-Facilitator and each inspection in such manner as may be notified in respect of provisions of this Regulation, by the appropriate Government;

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

(4) Subject to the provisions of sub-section (4), the Inspector-cum-Facilitator may,—

(a) examine any person who is found in any premises of the establishment, whom the Inspector-cum-Facilitator has reasonable cause to believe, is an employee of the establishment;

(b) require any person whom the Inspector-cum-Facilitator has reasonable cause to believe, is an employer of the establishment, to produce any document or to give any information, which is in his power with respect to any of the purposes for which the inspection is made;

(c) search, seize or take copies of such register, record of wages or notices or portions thereof as the Inspector-cum-Facilitator may consider relevant in respect of an offence under this Code and which the Inspector-cum-Facilitator has reason to believe has been committed by the employer;

(d) bring to the notice of the appropriate Government defects or abuses not covered by any law for the time being in force; and

(e) exercise such other powers as may be prescribed by the appropriate Government.

(5) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator for the purposes of sub-section (6) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

82. An employer of an establishment shall—

(a) maintain records and registers in the form prescribed by the appropriate Government, electronically or otherwise, containing such particulars and details with regard to persons employed, muster roll, wages and such other particulars and details, in such manner, as may be prescribed by the appropriate Government including—

(i) number of days for which work performed by employees;

(ii) number of hours of work performed by the employees;

(iii) wage paid;

(iv) leave, leave wages, wages for overtime work and attendance;

(v) employees identification number, by whatever nomenclature it may be called;

(vi) details as to cess paid in respect of building and other construction work;

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Maintenance
of records,
registers,
returns, etc.

- (vii) total number of employees (regular, contractual or fixed term employment) on the day specified;
- (Viii) persons recruited during a particular period;
- (ix) occupational details of the employees; and
- (x) vacancies for which suitable candidates were not available during the specified period.
- (b) display notices at the workplaces of the employees in such manner and form as may be prescribed by the appropriate Government;
- (c) issue wage slips to the employees, in electronic forms or otherwise; and
- (d) file such return electronically or otherwise to such officer or authority in such manner and during such periods as may be prescribed by the appropriate Government:

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

Employer not to reduce wages, etc.

84. (1) Any amount due from an employer or any other person in relation to an establishment including any cess payable, charges, interest, damages, or benefit or any other amount may, if the amount is in arrear, be recovered in the manner specified in this section and sections 85 to 87.

Recovery of amount due.

(2) Where any amount is in arrear under this Regulation, the competent authority shall issue to the Recovery Officer referred to in sub-section (4), a certificate electronically or otherwise, specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below, namely:—

- (a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, of the employer;
- (b) appointing a receiver for the management of the movable or immovable properties of the defaulter;
- (c) arrest of the employer and his detention in prison;

Provided that the attachment and sale of any property under this section shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount or arrears specified in the certificate, the Recovery Officer may move such proceeding against the property of the employer for recovery of the whole or any part of such arrears.

(3) The competent authority may issue a certificate under sub-section (2), notwithstanding that proceeding for recovery of the arrears by any other mode has been taken.

(4) The competent authority may forward the certificate issued under this section, to the Recovery Officer within whose jurisdiction the employer—

- (a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or
- (b) resides or any movable or immovable property of, the establishment or, the employer is situated.

(5) Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officer and the Recovery Officer to whom a certificate is sent by the competent authority, —

(a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified by him, specifying the amount to be recovered, to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the competent authority

85. (1) When the competent authority issues a certificate to a Recovery Officer under section 84, it shall not be open to the employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall be entertained by the Recovery Officer.

Validity of certificate and amendment thereof.

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

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

(4) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the competent authority may grant time to the employer for payment of the amount recoverable under the certificate and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(5) Where a certificate for the recovery of amount has been issued, the competent authority shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

(6) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued under section 84 has been modified in appeal or other proceeding under this Code, resulting in reduction of the demand but the order is the subject matter of further proceeding under this Regulation

, the competent authority shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(7) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Regulation, the competent authority shall, when the order being the subject matter of such appeal or other proceeding becomes final and conclusive, amend the certificate or withdraw it, as the case may be in consonance with such finality or conclusion.

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

Other modes of recovery

(2) If any amount is due from any person to any employer who is in arrears, the officer of such Social Security Organisation authorised in this behalf, may, require such person to deduct from the said amount the arrears so due, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of any officer of such Social Security Organisation so authorised in this behalf:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

(3) (a) The officer of Social Security Organisation authorised in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently hold money for or on account of the employer or, as the case may be, the establishment, to pay to officer authorised in this behalf either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the employer in respect of arrears or the whole of the money when it is equal to or less than that amount.

(b) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the employer jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(c) A copy of the notice shall be forwarded to the employer at his last address known officer of Social Security Organisation authorised in this behalf and in the case of a joint account to all the joint holders at their last addresses so known.

(d) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.

(e) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(f) Where a person to whom a notice under this sub-section is sent objects to it by statement on oath that the sum demanded or any part thereof is not due to the employer or that he does not hold any money for or on account of the employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the officer of Social Security Organisation authorised in this behalf, to the extent of his own liability to the employer on the date of the notice, or to the extent of the employer's liability for any sum due under this Regulation, whichever is less.

(g) The officer of Social Security Organisation authorised in this behalf, may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(h) The officer of Social Security Organisation authorised in this behalf, shall grant a receipt for any amount paid in compliance with a notice issued under this sub-

section, and the person so paying shall be fully discharged from his liability to the employer to the extent of the amount so paid.

(i) Any person discharging any liability to the employer after the receipt of a notice under this sub-section shall be personally liable to the officer of Social Security Organisation authorised in this behalf, to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this Regulation, whichever is less.

(j) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the officer of Social Security Organisation authorised in this behalf, he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceeding may be moved against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 84 to 87 and the notice shall have the same effect as an attachment of amount in arrears by the Recovery Officer in exercise of his powers under section 84.

(4) The officer of Social Security Organisation authorised in this behalf, may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.

43 of 1961.

(5) The officer of Social Security Organisation authorised in this behalf, if so authorised by the Central Government by general or special order, recover any arrears of amount due from an employer or, as the case may be, from the establishment by distraint and sale of his or its movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961.

87. The provisions of the Second Schedule and the Third Schedule to the Incometax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to the amount in arrears of the amount mentioned in section 84 of this Regulation instead of to the income-tax:

Application of certain provisions of Income-tax Act.

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

CHAPTER X OFFENCES AND PENALTIES

88. If any person,—

- (a) being an employer, fails to pay any contribution which he is liable to pay under this Regulation or rules, Regulations or schemes made thereunder; or
- (b) deducts or attempts to deduct from the wages of an employee, the whole or any part of employer's contribution; or
- (c) in contravention of the provisions of this Regulation, reduces the wages or any privilege or benefits admissible to an employee; or
- (d) in contravention of the rules, Regulations or schemes made or framed under this Regulation, relating to such Chapters, dismisses, discharges, reduces in rank or otherwise penalises a woman employee; or
- (e) fails or refuses to submit any return, report, statement or any other information required under this Regulation or any rules, Regulations or schemes made or framed thereunder; or
- (f) obstructs any Inspector-cum-Facilitator or other officer or staff of the Social Security Organisation or a competent authority in the discharge of his duties; or

Penalty for failure to pay contributions, etc.

- (g) fails to pay any amount of gratuity to which an employee is entitled under this Regulation ; or
- (h) fails to pay any amount of compensation to which an employee is entitled under this Regulation or
- (i) fails to provide any maternity benefit to which a woman is entitled under this Regulation ; or
- (j) fails to send to a competent authority a statement which he is required to send under any of the provision of this Regulation; or
- (k) fails to produce on demand by the Inspector-cum-Facilitator any register or document in his custody kept in pursuance of this Regulation or the rules, Regulations or schemes made or framed thereunder; or
- (l) fails to pay the cess for building workers which he is liable to pay under this Regulation ; or
- (m) is guilty of any contravention of or non-compliance with any of the requirements of this Regulation or the rules or the Regulations or schemes made or framed thereunder in respect of which no special penalty is provided in this Chapter; or
- (n) obstructs executive officer in exercising his functions under Chapter XI; or
- (o) dishonestly makes a false return, report, statement or information to be submitted thereunder; or
- (p) fails or makes default in complying with any condition subject to which exemption under section 98 was granted; or
- (q) fails to pay any administrative or inspection charges payable under any of the schemes framed under this Regulation

he shall be punishable,—

(i) where he commits an offence under clause (a), with imprisonment for a term which may extend to three years, but—

(a) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of one lakh rupees;

(b) which shall not be less than two months but may be extended to six months, in any other case and shall also be liable to fine of fifty thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term;

(ii) where he commits an offence under clause (g), with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both;

(iii) where he commits an offence under any of the clauses (d), (f), (i), (k), (l) or (o), with imprisonment for a term which may extend to six months or with a fine which may extend to fifty thousand rupees, or with both;

(iv) where he commits an offence under any of the clauses (b), (c), (e), (h), (j), (m), (n), (p) or (q), with fine which may extend to fifty thousand rupees

89. Whoever, having been convicted by a court of an offence punishable under this Regulation, commits the same offence shall, for second, or every subsequent such offence, be punishable with imprisonment for a term which may extend to two years and with fine of two lakh rupees:

Provided that where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation which under this Code he is liable to pay, he shall, for such second or subsequent offence, be punishable with imprisonment for a term which may extend to three years but which shall not be less than two years and shall also be liable to fine of three lakh rupees

Enhanced punishment in certain cases after previous conviction.

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

Offences by companies.

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

Explanation.—For the purposes of this section,—

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

(b) "Director", in relation to a firm, means a partner in the firm.

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

Cognizance of offences.

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

(3) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Chapter.

(4) Notwithstanding anything contained in sub-section (1), a single complaint may be filed under that sub-section by more than one aggrieved persons if they are aggrieved by the same or similar offence committed at a place or different places within the jurisdiction of the court.

92. Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator or any other officer notified for the purposes of the offences, shall, before initiation of prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to the employer to comply with the aforesaid relevant provisions by way of a written direction, which shall lay down a time period for such compliance, and, if the employer complies with the direction within such period, then, no such proceeding shall be initiated against the employer; but no such opportunity shall be accorded to an employer, if the violation of the same nature of such provisions is repeated within a period of three years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of this Chapter

Prior opportunity before prosecution.

2 of 1974

93. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed for the first time, punishable under this Chapter, being an offence—

Compounding of offences.

(i) punishable with fine only; or

(ii) punishable with imprisonment for a term which is not more than one year and also with fine,

may, on an application made, either before or after the institution of any prosecution, be compounded by an officer authorised by the appropriate Government, in such manner as may be prescribed by the appropriate Government the amount—

(i) in the case of an offence punishable with fine only, the half of the maximum fine provided for that offence; and

(ii) in the case of an offence punishable with imprisonment for a term which is not more than one year and also with fine, the three-fourth of the maximum fine provided for that offence.

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of three years from the date—

(i) of commission of a similar offence which was earlier compounded; or

(ii) of commission of similar offence for which such person was earlier convicted.

(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.

(4) Every application for the compounding of an offence shall be made in such form and in such manner as may be prescribed by the appropriate Government

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation

(6) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the court in which the prosecution is pending in writing by the officer referred to in sub-section (1), and on such notice of the compounding of the offence being given to the court, the person against whom the offence is so compounded shall be discharged.

(7) Any person who fails to comply with the order made by the officer referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

CHAPTER XI

EMPLOYMENT INFORMATION AND MONITORING

94. (1) The appropriate Government may, by notification, require that from such date as may be specified in the notification, the employer in every establishment or any class or category of establishments, before filling up any vacancy in any employment in that establishment or such class or category of establishments, as the case may be, shall report or cause to be reported, that vacancy to such career centre as may be specified in the notification, and the employer shall thereupon comply with such requisition.

Reporting of
vacancies to
career centres.

(2) For the purposes of sub-section (1), the appropriate Government may prescribe the following, namely:—

(i) the manner in which the vacancies, referred to in sub-section (1), shall be reported to the career centres electronically or otherwise;

(ii) the form in which such vacancies shall be reported to the career centres; and

(iii) the manner and form of filing the return by the employer, to the concerned career centre.

(3) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the career centre to fill any vacancy merely because such vacancy has been reported.

(4) The executive officer shall have access to any record or document in the possession of any employer required to furnish any information or returns for the purposes of this Chapter and may enter, at any reasonable time, any premises where he believes such record or document to be and inspect or take copies of such records or documents or ask any question necessary for obtaining any information required.

95. (1) The provisions of section 94 shall not apply in relation to vacancies,—
- (a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment in plantation; or
 - (b) in any employment in domestic service; or
 - (c) in any employment connected with the staff of Parliament or any State Legislature; or
 - (d) in any employment the total duration of which is less than ninety days; or
 - (e) in any class or category of establishments as may be notified by the Central Government; or
 - (f) in any establishment (other than Government establishment) with less than twenty or such number of employees as may be notified by the Central Government; and
 - (g) in any other employment as may be notified by the Central Government.

Exclusions from application of this Chapter.

(2) Unless the Central Government, by notification direct, the provisions of this Chapter shall not apply in relation to—

- (a) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or through independent recruitment agencies such as Union Public Service Commission, Staff Selection Commission or a State Public Service Commission or any other agencies as may be notified by the Central Government; or
- (b) vacancies in an employment which carries a monthly remuneration of less than an amount notified by the appropriate Government.

CHAPTER XII MISCELLANEOUS

96. (1) The establishment of Central Government a Social Security Fund for social security and welfare of the unorganised workers, gig workers and platform workers and the sources of the fund shall be as prescribed by the Central Government under the corresponding Central Acts.

Social Security Fund.

(2) There shall be established by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu

a Social Security Fund for the welfare of the unorganised workers in which there shall be credited the amount received from—

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

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

Application of Aadhaar.

- (a) registration as member or beneficiary; or
- (b) seeking benefit whether in kind, cash or medical sickness benefit or pension, gratuity or maternity benefit or any other benefit or for withdrawal of fund; or
- (c) availing services of career centre; or

- 18 of 2016 (d) receiving any payment or medical attendance as Insured Person himself or for his dependants,
under this Regulation or rules, Regulations or schemes made or framed thereunder,
18 of 2016 shall establish his identity or, as the case may be, the identity of his family members or dependants through Aadhaar number and for such purpose the expression "Aadhaar" shall have the meaning as defined in clause (a) of section 2 of the Aadhaar (The Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016:

Provided that any foreigner employee shall obtain and submit Aadhaar number for establishing his identity, as soon as possible, on becoming resident within the meaning of clause (v) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

- 18 of 2016 (2 For the purposes of sub-section (1), the Aadhaar number issued to an individual shall be in accordance with the provisions of section 3 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

98. (1) Notwithstanding anything contained in this Code, the appropriate Government may, by notification, and subject to the conditions which may include the eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption, as may be prescribed by the Central Government in this behalf, grant exemption to an establishment or class of establishments (including factory or other establishments under the control of Central Government or Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu or local bodies) or employees or class of employees, from any or all of the provisions of this Regulation or the scheme framed thereunder as may be specified in the notification and may renew for further period such exemption by like notification:

Power to
exempt
establishment.

Provided that no such exemption,—

- (i) in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, without prior consultation with the Central Board; and

(2) The appropriate Government may, in the notification referred to in sub-section (1), specify therein conditions as may be prescribed by that Government, which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption:

Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, the terms and conditions of exemption shall be specified in such respective schemes.

(3) The exemption granted under sub-section (1) to an establishment or class of establishments or an employee or class of employees, as the case may be, shall be initially for a period of three years from the date of publication of such notification and may be extended by the appropriate Government to the extent of such period as may be prescribed by the Central Government:

Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, exemption may be extended for such period as may be specified in such respective schemes.

(4) The exemption granted under sub-section (1) shall only be granted if the employees in the establishment or class of establishments or an employee or the class of employees so exempted are otherwise in receipt of benefits substantially similar or superior to the benefits provided in the provisions of the Regulation or the scheme framed thereunder.

(5) For the purposes of administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the fund created, and any other matter specified in the scheme for any exempted establishment or class of establishments, or employees or class of employees, a Board of Trustees shall be constituted by the employer which will be a legal entity which can sue and can be sued and the conditions for management of the trust shall be prescribed by the appropriate Government as part of the conditions for exemption:

Provided that conditions for administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the fund created, in respect of exemption from Provident Fund Scheme, Pension Scheme and Insurance Scheme shall be specified in such respective schemes.

(6) If employer in relation to any establishment or class of establishments or employee or class of employees in respect of whom the exemption has been granted under sub-section (1), fails to comply with any of the conditions specified under this section, then, the appropriate Government may on such failure, cancel the exemption so granted.

(7) Where any exemption granted under sub-section (1) is cancelled, the entire amount of surplus and reserves, if any, and accumulations to the credit of every employee, to whom such exemption applied, in the exempted fund of the establishment in which he is employed, shall be transferred to the respective statutory fund created under this Code within such time and manner as specified in the conditions for grant of exemption:

Provided that in respect of any cancellation of exemption from the Provident Fund Scheme, Pension Scheme and Insurance Scheme, the time limit, form and manner of transfer of accumulations of exempted employees from the exempted funds to such respective funds shall be specified in such respective schemes.

(8) Notwithstanding anything contained in this section, the employer of an establishment exempted under sub-section (1), after the resolution of the Board of Trustees of the establishment to that effect may make an application to the appropriate Government for surrender of the exemption granted under that sub-section from the date specified in the application and the appropriate Government may on receipt of that application, allow the employer to remit the contribution in the statutory funds under this Regulation from the date specified in the application and process the application for cancellation of exemption and on such cancellation, the employer and the Board of Trustees shall transfer accumulation of each employee and surplus and reserves from the fund referred to in sub-section (5), to the concerned statutory funds under this Code within such time and in such manner as may be notified by the appropriate Government:

99. Where an employer transfers his establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to

Liability in
case of
transfer of

whom the establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any liabilities, cess or any other amount payable under this Regulation in respect of the periods up to the date of such transfer:

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

45 of 1860.

100. Every member of a Social Security Organisation and the officers and staff thereof, any Inspector-cum-Facilitator, competent authority, Authorised Officer, Recovery Officer and any other person discharging any function under this Regulation, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members, officers and staff to be public servants.

101. No suit, prosecution or other legal proceeding shall lie against —

- (i) the Central Government;
- (ii) a State Government;
- (iii) a Social Security Organisation;
- (iv) a competent authority;
- (v) any officer or staff of a Social Security Organisation; or

any other person or authority, discharging the functions or exercising the powers under this Regulation, for anything which is in good faith done or intended to be done in pursuance of this Code or of any rules, Regulations or schemes made or framed thereunder.

Protection of action taken in good faith.

102. If the appropriate Government is satisfied in the manner prescribed by it that any establishment or any other person has misused any benefit provided to him under this Regulation or rules, Regulations or schemes made or framed thereunder, then, such Government may, by notification, deprive such establishment or other person, as the case may be, from such benefit for such time as may be specified in the notification:

Provided that no such order shall be passed unless an opportunity of being heard is given to such establishment or other person, as the case may be:

Misuse of benefits.

103. The Central Government may give directions to—

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

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

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

Power to frame schemes.

105. (1) Notwithstanding anything contained in any other law for the time being in force, the amount standing to be credited in favour of the employee under Chapters III, IV or V of any member of any fund under this Regulation, or of any exempted employee in a provident fund maintained by his employer, shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by such employee or member or the exempted employee, as the case may be.

Protection against attachment, etc.

(2) Any amount standing to the credit of a member in the fund or of an exempted employee in a provident fund maintained by his employer at the time of the death of such member or the exempted employee, as the case may be, and payable to his nominee or in case of failure of nomination, to his family under the scheme or the rules of the fund shall, subject to any deduction authorised by the said scheme or rules, as the case may be, vest in the nominee or such family and shall be free from any debt or other liability incurred by the deceased or the nominee before his death and shall also not be liable to attachment under any decree or order of any court

(3) Notwithstanding anything contained in any other law for the time being in force, any amount due under the Chapters referred to in sub-section (1) shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016.

106. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the First Schedule, Fourth Schedule, Fifth Schedule, Sixth Schedule and Seventh Schedule by way of addition or deletion therein and upon such addition or deletion, the Schedules shall stand to have been amended accordingly.

Power to
amend
Schedule.

(2) If the appropriate Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the Second Schedule and Third Schedule by way of addition therein and not otherwise, and upon such addition, the Schedules shall stand to have been amended accordingly.

107. Notwithstanding anything contained in this Regulation, the Board constituted under sub-section (1) of section 18 of the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, shall, after the commencement of this Regulation, continue to exercise the powers and discharge the functions of the corresponding organisation under this Regulation, till a new Board is constituted under this Regulation or till the respective time period under the repealed enactment expire, whichever is earlier.

Transitional
provisions.

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

Power of
appropriate
Government
to make rules.

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

(a) the amount in connection with premium for Group Insurance Scheme of the beneficiaries under clause (c), the educational schemes for the benefit of children of the beneficiaries under clause (d) and the medical expenses for treatment of major ailments of a beneficiary or, such dependant under clause (e) of sub-section (6) of section 6;

(b) bank or other financial institution in which the gratuity shall be invested for the benefit of minor under the third proviso to sub-section (1) of section 12;

(c) the time, form and manner of nomination by an employee under sub-section (1), the time to make fresh nomination under sub-section (4), the form and manner of modification of a nomination under sub-section (5) and the form for fresh nomination under sub-section (6) of section 14;

- (d) time within which and the form in which a written application shall be made under sub-section (1) and the form of application to the competent authority under clause (b) of sub-section (5) of section 15;
- (e) the manner of registration of an establishment by the employer under sub-section (3) and the manner of composition of the Board of Trustees of the approved gratuity fund and the manner in which the competent authority may recover the amount of the gratuity payable to an employee from the insurer under sub-section (4) of section 16;
- (f) the qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 17;
- (g) authority to whom an appeal may be preferred under sub-section (3) of section 31;
- (h) class of employers and the form of notice-book under sub-section (4) of section 41;
- (i) the manner of recording the memorandum in a register by the competent authority under sub-section (1) of section 48;
- (j) such other experience and qualifications for appointment as a competent authority under sub-section (1) of section 50;
- (k) time limit to pay the amount of cess under section 60;
- (l) fees for appeal under sub-section (2) of section 64;
- (m) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (1), conditions to invest moneys, re-invest or realise investments under sub-section (2) terms to raise loans and take measures for discharging such loans under sub-section (3) and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds under sub-section (4) of section 79;
- (n) conditions and manner of writing off irrecoverable dues under section 80;
- (o) other powers of Inspector-cum-Facilitator under clause (e) of sub-section (6) of section 81;
- (p) form and manner for maintenance of records and registers and other particulars and details under clause (a), manner and form for display of notices at the work places of the employees under clause (b) and the manner and period of filing returns to the officers or authority under clause (d) of section 82;
- (q) the form and manner of application for compounding of an offence under sub-section (4) of section 93;
- (r) the manner and form for reporting vacancies and form for filing the return by the employer, to the concerned career centre under sub-section (2) of section 94;

(s) the time within which the Central Board or the Corporation, as the case may be, shall forward its view to the appropriate Government under sub-section (1), conditions which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption under sub-section (2) and conditions for management of the trust under sub-section (5) of section 98;

(t) manner of determining the misuse of any benefit by an establishment or by any other person under section 102; and

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

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

Power of
Central
Government
to make rules.

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

(a) manner of establishment and maintenance of career centre and the career services under clause (8), the income of dependant parents (including father-in-law and mother-in-law of a woman employee), under sub-clause (e) of clause (28) and other authority who shall be deemed to be the occupier under sub-clause (c) and the matters which are directly related to the condition of ship, for which the owner of ship shall be deemed to be the occupier under the proviso to the said sub-clause (c) of clause (44), of section 2;

(b) the manner of administration of the funds vested in the Central Board under sub-section (1),

(c) other welfare measures and facilities under clause (j) of sub-section (6) of section 6;

(d) the intervals at which Social Security Organisation or any Committee thereof shall meet and the procedure in regard to the transaction of business at meetings under sub-section (1), and the fee and allowances of members of such Social Security Organisation or Committee under sub-section (4) of section 8;

(e) manner of reconstitution of State Unorganised Workers' Board or the Building Workers' Welfare Board or any of the Committees under sub-section (1) and the alternate arrangements for the purpose of administration of the relevant provisions of this Regulation under sub-section (2) of section 9;

(f) the manner of obtaining an insurance by every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under sub-section (1) and conditions to exempt and manner of establishing an approved gratuity fund under sub-section (2) and the time limit to get establishment registered by the employer under sub-section (3), of section 16;

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

- (h) the proof of miscarriage or medical termination of pregnancy under sub-section (1), the proof of tubectomy operation under sub-section (2) and the proof of illness under sub-section (3) of section 24;
- (i) the duration of breaks under section 25;
- (j) the number of employees and distance for crèche facility under sub-section (1) of section 26;
- (k) gross misconduct under the second proviso to sub-section (1) of section 27;
- (l) rate of interest to be paid by the employer under clause (a) of sub-section (3) of section 36;
- (m) the manner of notice under sub-section (1) and the manner of transmitting money under sub-section (3), of section 51;
- (n) the form, manner and fee for application for claim or settlement under sub-section (3) of section 52;
- (o) the manner and time of collection of cess under sub-section (2), manner of deposit of the cess so collected under sub-section (3), and the uniform rate or rates of advance cess under sub-section (4) of section 59;
- (p) the rate of interest in case of delayed payment of cess under section 60;
- (q) the manner of self-assessment of cess under sub-section (1) of section 62;
- (r) the authority to inquire and impose penalty under section 63;
- (s) time limit to prefer appeal, appellate authority, form and manner of appeal under sub-section (1) of section 64;
- (t) manner of registration as beneficiary under section 65;
- (u) benefits of a beneficiary under sub-section (2) of section 66;
- (v) eligible age for registration under clause (a) and form and manner of information under clause (b), of sub-section (1) and the form of application, documents for registration and manner of self registration under sub-section (2), of section 72;
- (w) carrying out the matters specified in clause (i) of sub-section (7) of section 73;
- (x) manner of compounding of offences under sub-section (1) of section 93;
- (y) eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption under sub-section (1); and extension period of exemption under sub-section (3) of section 98; and

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

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

Power of State Government to make rules.

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

- a) the manner of exercising the powers and performance of functions by Union Territory Unorganised Workers' Board under sub-section (2), the manner of nomination of members of the Board, their term of office and other conditions of service, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the Board under sub-section (5), and the time, place and rules of procedure relating to the transaction of business at its meetings under sub-section (7) of section 5;
- b) the terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Building Workers' Welfare Board and the manner of filling of casual vacancies of such members, under sub-section (4), the terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the said Board under clause (c) of sub-section (5) of section 6;
- c) the amount to be deposited towards the expenditure of the funeral of the employee with the competent authority by the employer under sub-section (7) of section 35;
- d) conditions when application for review is made without certificate of a medical practitioner under sub-section (1) of section 38;
- e) the frequent interval for medical examination under the proviso to sub-section (1) of section 43;
- f) the form of statement to be submitted by the employer under sub-section (1) of section 47;
- (g) the manner in which matters may be dealt with by or before a competent authority under sub-section (1) of section 51;
- (h) time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 52;
- (i) the manner of authentication of memorandum under section 56;
- (j) such other sources of funding and the manner of administering and expending of the fund under sub-section (2) of section 96; and
- (k) any other matter which is required to be, or may be, prescribed by the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under the provisions of this Regulation.

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

Prior publication of rules, regulations, etc

- (a) the date to be specified after a draft of such rules, Regulations and schemes under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rules, Regulations and schemes is published for general information in the Official Gazette;
- (b) such rules, Regulations and schemes shall finally be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Regulation:

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

112. (1) The Central Government may, by notification, make rules for the transfer to any foreign country of money deposited with a competent authority under Chapter V which has been awarded to or may be due to, any person residing or about to reside in such foreign country and for the receipt, distribution and administration in the Union Territory of Dadra and Nagar Haveli and Daman and Diu of any money deposited under the law relating to employees' compensation in any foreign country, which has been awarded to, or may be due to any person residing or about to reside in the Union Territory of Dadra and Nagar Haveli and Daman and Diu :

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

Provided that no sum deposited under Chapter V in respect of fatal accidents shall be so transferred without the consent of the employer concerned after the competent authority receiving the sum has passed orders determining its distribution and apportionment under section 40.

(2) Where money deposited with a competent authority has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Regulation regarding distribution by the competent authority of compensation deposited with him shall cease to apply in respect of any such money

113. (1) Every rule, Regulation, notification and scheme made or framed by the Central Government or the Corporation, as the case may be, under this Code shall be laid, as soon as may be after it is made or framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, Regulation, notification or scheme, as the case may be, or both Houses agree that the rule, Regulation, notification or scheme, as the case may be, should not be made, such rule, Regulation, notification or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, Regulation, notification or scheme, as the case may be.

Laying of rules, regulations and schemes, etc.

(2) Every rule and scheme made or framed, and every notification issued by, the Union Territory Administration of Dadra and Nagar Haveli and Daman and Diu under this Regulation, shall be laid as soon as may be after it is made or framed, before before each House of Parliament.

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

Effect of laws and agreements inconsistent with this Code.

Provided that where under any such award, agreement, contract of service or otherwise, a person is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Regulation, the person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Regulation.

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

115. The appropriate Government may, by notification, direct that all or any of the powers and functions which may be exercised or performed by that Government may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers' Board, Building Workers' Welfare Board or any officer or authority subordinate to the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers' Board, Building Workers' Welfare Board.

Delegation of powers.

116. (1) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Regulation, as may be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Regulation.

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

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

Repeal and savings.

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| 8 of 1923. | 1. The Employee's Compensation Act, 1923; |
| 31 of 1959. | 2. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; |
| 53 of 1961. | 3. The Maternity Benefit Act, 1961; |
| 39 of 1972. | 4. The Payment of Gratuity Act, 1972; |
| 33 of 1981. | 5. The Cine-Workers Welfare Fund Act, 1981; |
| 28 of 1996. | 6. The Building and Other Construction Workers' Welfare Cess Act, 1996; |

7. The Unorganised Workers' Social Security Act, 2008.

33 of 2008.

(2) Notwithstanding such repeal,— (a) anything done or any action taken under the enactments so repealed including any rule, Regulation, notification (including the notifications issued by the States), scheme, appointment, order or direction made thereunder or any benefit provided or given under any provision of such enactments, rules, Regulations, notifications or schemes made thereunder for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code including any rule, Regulation, notification, scheme, appointment, order or direction made thereunder and shall be in force to the extent they are not contrary to the provisions of this Regulation including any rule, Regulation, notification, scheme, appointment, order or direction made thereunder till they are repealed under the corresponding provisions of this Code including any rule, Regulation, notification, scheme, appointment, order or direction made thereunder by the appropriate Government;

(b) any exemption given under any enactments so repealed shall continue to be in force till its validity expires or it ceases to be in operation under the provisions of this Regulation or till any direction is made thereunder for such purpose.

10 of 1897 (3) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

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